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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

WILLOW WOOD

This Declaration of Covenants, Conditions and Restrictions for Willow Wood is made on the date hereinafter set forth by the Declarant (hereinafter defined).

Declarant is the owner of the Property (as herein defined). Declarant desires to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property. This Declaration (as defined herein) is intended to provide a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. In furtherance of such plan, Declarant has caused or intends to cause Willow Wood Homeowners' Association, Inc. to be formed as a Texas nonprofit corporation to own, operate, and maintain the Common Areas (as defined herein) and to administer and enforce the provisions of this Declaration.

Declarant hereby declares that all of the Property shall be held, sold, used and conveyed subject to the easements, restrictions, covenants and conditions contained in this Declaration, which shall run with the title to the Property. This Declaration shall be binding upon all parties having any right, title or interest in any portion of the Property, their heirs, successors, successors-in-title and assigns, and shall inure to the benefit of Declarant, the Association (hereinafter defined), the ACA (hereinafter defined) and each owner of any portion of the Property.

ARTICLE I
DEFINITIONS

1.1 "**Annexable Property**" means the real property that is described on Exhibit "A-1" attached hereto.

1.2 **"ACA or "Architectural Control Authority"** shall have the meaning provided such terms in **Section 6.2** herein.

1.3 **"ACA Standards"** means standards adopted by the ACA regarding architectural and related matters, including, without limitation, architectural design, placement of improvements, landscaping, color schemes, exterior finishes and materials and similar features which may be either recommended or required by the ACA for use within the Property.

1.4 **"Association"** means Willow Wood Homeowners' Association, Inc., a Texas nonprofit corporation established for the purposes set forth herein.

1.5 **"Association Fencing"** means that certain fencing installed by Declarant or designee, if Declarant so elects.

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

1.7 **"Builder"** means any person or entity who purchases one or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such person's or entity's business.

1.8 **"City"** means the City of McKinney, Texas.

1.9 **"Class B Control Period"** means the period commencing upon the date of this Declaration and expiring upon the earlier of: (i) ten years after conveyance of the first Lot to a person or entity other than a partner of Declarant or a Builder, or (ii) a date that Declarant in writing elects to terminate the Class B Control Period. For purposes of determining the number of Lots within the Development, the final subdivision plats, when Recorded against the entire Development showing each residential building site, shall be the determining documentation.

1.10 **"Class Vote"** means a vote that is counted or tallied for each separate class of voting Members and requires the specific percentage from each class of Members.

1.11 **"Common Area", "Common Areas" and "Common Open Space"** means all areas (including the improvements thereon) within the Property, existing from time to time, owned or to be owned by the Association for the common use and enjoyment of the Members.

1.12 **"Common Expenses"** means the actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Member(s) and/or the Common Maintenance Areas, but excluding any expenses incurred for the initial or original construction of improvements within the Property.

1.13 **"Common Maintenance Areas"** means the Common Areas, if any, and any areas within public rights-of-way, easements (public and private), portions of a Lot, public parks, private streets, landscaping, entry feature, fence or similar areas that the Board of Directors deems necessary or appropriate to maintain for the common benefit of the Members.

1.14 **"County"** means the Collin County, Texas.

1.15 **"Declarant"** means McKinney 306 Partners, LP, a Texas limited partnership, and its successors and assigns who are designated as such in writing by Declarant, and who consent in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor or assign in a document that is Recorded. There may be more than one Declarant if Declarant makes a partial assignment of the Declarant status.

1.16 **"Declaration"** means this Declaration of Covenants, Conditions and Restrictions for Renaissance and any amendments and supplements thereto made in accordance with its terms.

1.17 **"Designated Interest Rate"** means the interest rate designated by the Board of Directors from time to time, subject to any interest limitations under Texas law. If the Board of Directors fails to designate an interest rate, then the interest rate shall be the lesser of 12% per annum or the highest rate permitted by Texas law. The Designated Interest Rate is also subject to the limitations in **Section 11.6** herein.

1.18 **"Development"** means the Property and the Annexable Property.

1.19 **"Dwelling"** means any residential dwelling situated upon any Lot.

1.20 **"Lot"** or "**Lots**" means any separate residential building parcel(s) shown on a Recorded subdivision plat of the Property or any part thereof, but only if such parcel(s) has in place the infrastructure (including utilities and streets) necessary to allow construction of a single-family home thereon. Common Areas and areas deeded to a governmental authority or utility, together with all improvements thereon, shall not be included as part of a Lot.

1.21 **"Member"** means any person, corporation, partnership, joint venture or other legal entity that is a member of the Association pursuant to the terms in **Article III** herein.

1.22 **"Owner"** means the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a Recorded contract for sale, then the purchaser (rather than the fee Owner) will be considered the Owner.

1.23 "**Phase**" means each phase of the Development as reflected on the recorded plat thereof (or any amendment or supplement thereto) recorded in the plat record of Collin County, Texas. Presently it is contemplated that the Property described on **Exhibit "A"** attached hereto will consist of only one Phase.

1.24 **"Property"** means the real property described on **Exhibit "A"** attached hereto (other than areas dedicated to the City or County) and such additional property as is brought within the jurisdiction of the Association and made subject to this Declaration.

1.25 **"Record," "Recording" or "Recorded"** means the filing of a legal instrument in the Public Records of Collin County, State of Texas, or such other place as may be designated as the official location for filing deeds, plats, and similar documents affecting title to real property.

1.26 **"Supplemental Declaration"** means a Recorded instrument, which subjects additional property to this Declaration and/or imposes restrictions and obligations on the land described in the instrument.

1.27 **"Vacant Lot"** means a Lot that does not have thereon a Dwelling that has been occupied at any time (past or current) for residential purposes.

ARTICLE II
PROPERTY RIGHTS

2.1 **Owners' Easements of Use and Enjoyment.** Every Owner shall have a right and non-exclusive easement of use, access and enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to any limitations set forth herein, including, without limitation, the following:

a. **Rules.** The right of the Association to establish and publish rules and regulations governing the use of the Common Areas and/or the Lots.

b. **Suspension of Rights to Use Common Areas.** Subject to Section 209.006 of the Texas Property Code (as amended), the right of the Association to suspend the right of use of the Common Areas of an Owner for any period during which any assessment against such Owner's Lot remains unpaid.

c. **Conveyance of Common Area.** The right of the Association, subject to the provisions hereof, to dedicate, sell or transfer all or any part of the Common Areas. However, no such dedication, sale or transfer will be effective unless there is a 67% or greater Class Vote approving such action.

d. **Mortgage Common Area.** The right of the Association, subject to the provisions hereof, to mortgage or lien all or any part of the Common Areas. However, the Common Areas cannot be mortgaged or liened without a 67% or greater Class Vote approving such action.

2.2 **Prohibitions on Easement of Use and Enjoyment.** Each Owner's right and easement of use and enjoyment in and to the Common Areas is further limited as follows:

a. **No Transfer without Lot.** An Owner's right and easement of use and enjoyment in and to the Common Areas shall not be conveyed, transferred, alienated or encumbered separate and apart from an Owner's Lot and such right and easement of use and enjoyment in and to the Common Areas shall be deemed to be conveyed, transferred, alienated or encumbered upon the sale of any Owner's Lot, notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may not refer to the Common Areas.

b. **No Partition.** Except as provided in **Section 2.1.c** herein, the Common Areas shall remain undivided and no action for partition or division of any part thereof shall be permitted.

2.3 **Right to Delegate Use and Enjoyment of Common Areas.** Any Owner may extend his or her right of use and enjoyment of the Common Areas to the members of his or her family, lessees and guests as applicable, subject to the terms in this Declaration, the Bylaws of the Association (the "**Bylaws**"), and any reasonable rules of the Board of Directors. An Owner who leases his or her Dwelling is deemed to have assigned all such rights to the lessee of such Dwelling.

ARTICLE III
MEMBERSHIP AND VOTING

3.1 **Membership - Owners.** Every Owner by virtue of ownership of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot.

3.2 **Voting Rights.** The Association shall have the following two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant during the Class B Control Period. Class A Members shall be entitled to one vote for each

Lot owned. However, when more than one person holds an interest in any Lot, all such persons shall be members, but only one vote in total may be cast per Lot as the Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. The Association shall have no affirmative obligation to take any action to determine which Owner is the person designated to cast the Lot's vote. If the Owners fail to advise the Association of the person designated to cast the Lot's vote, then the Lot's vote shall be suspended if more than one person or entity seeks to exercise it.

Class B. The Class B Member shall be Declarant. The Class B Member is entitled to five votes for each Lot owned by the Class B Member. The Class B membership shall cease and be converted to Class A membership upon expiration of the Class B Control Period; provided, however, notwithstanding the foregoing, at such time as 80% of the Lots (as herein defined) within any Phase of the Development have been improved with a Dwelling thereon and conveyed to persons or entities other than a partner of Declarant or a Builder, Declarant's status at a Class B Member with respect to such Phase shall cease and be converted to Class A membership.

ARTICLE IV
ASSESSMENTS

4.1 **Obligation to Pay Assessments.** Subject to the terms of this **Article IV**, the Declarant, for each Lot it owns, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not such covenant will be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges, (ii) special assessments as provided in **Section 4.5** herein, and (iii) specific assessments as provided in **Section 4.9** herein.

4.2 **Personal Obligation to Pay Assessments.** Each such assessment, together with interest at the Designated Interest Rate, late charges, costs and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of such Lot at the time when the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no mortgagee under a Recorded mortgage or beneficiary of a Recorded deed of trust shall be liable for unpaid assessments, which accrued prior to such acquisition of title. In addition, no mortgagee shall be required to collect assessments.

4.3 **Purpose of Annual and Special Assessments.** Annual assessments and special assessments levied by the Association shall be used for Common Expenses. The Association shall establish and maintain a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Maintenance Areas.

4.4 **Maximum and Actual Annual Assessment.** Until January 1st of the year immediately following the conveyance of the first Lot to an Owner who is not Declarant or a Builder, the maximum annual assessment shall be $500.00 per Lot, which shall be payable in quarterly installments of $125.00. The Board of Directors may fix the actual annual assessment at an amount not in excess of the specified maximum annual assessment. From and after January

1st of the year immediately following the conveyance of the first Lot to an Owner who is not Declarant or a Builder, the maximum annual assessment may be increased as follows:

a. **Maximum Increase Without Vote.** Without a vote of the Members in accordance with **Subsection b** below, the Board of Directors may increase the maximum annual assessment each year by up to 10% above the maximum annual assessment for the previous year. The Board of Directors may increase the maximum annual assessment with or without increasing the actual annual assessment.

b. **Maximum Increase With Vote.** The maximum annual assessment may be increased more than 10% above the prior year's maximum annual assessment amount by a 67% or greater Class Vote of Members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present approving such action.

4.5 **Special Assessments.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment to cover expenses that the Board of Directors determines, in its sole discretion, would more appropriately be handled outside of the regular operating budget, provided that any such special assessment must have a 67% or greater Class Vote of Members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present approving such action.

4.6 **Uniform Rate of Assessment.** Both annual assessments and special assessments shall be fixed at a uniform rate for all Lots. Vacant Lots shall be assessed at 100% of the regular full assessment rate. To be clear, all Lots (whether such Lot is Vacant or improved) shall be subject to annual, special and specific assessments; provided, however, Vacant Lots owned by Declarant shall not be subject to such assessments, but instead Declarant shall be obligated under Section 4.7.

4.7 **Declarant's Payment of Shortfall Amount.** During the period that Declarant owns any Vacant Lot, if the Association's revenues are insufficient to pay the expenses of the Association, then Declarant shall pay to the Association the difference between the revenues and the expenses. Declarant shall pay such amount within 30 days of receipt of a request for payment thereof from the Association, provided that if the budget deficit is the result of the failure or refusal of an Owner or Owners to pay their annual assessment or special assessments, the Association will diligently pursue (and the Declarant may also pursue at its option) all available remedies against such defaulting Owner or Owners and will promptly reimburse the Declarant the amounts, if any, so collected up to the amount of Declarant's additional contribution.

4.8 **Date of Commencement of Annual Assessments; Due Dates.** The annual assessments provided for herein shall commence as to all Lots on the date of conveyance of the first Lot to an Owner (other than to an entity that assumes Declarant status as provided herein), unless the Board of Directors elects to commence the annual assessment earlier. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each assessment period. Written notice of the annual assessment shall be sent to an Owner of every Lot subject thereto. The due dates shall be established by the Board of

Directors. The Board of Directors shall also establish whether the annual assessment shall be paid annually, quarterly or monthly.

4.9 **Specific Assessments.** The Association shall have the power to levy specific assessments against a particular Lot to (i) cover costs incurred in bringing a Lot into compliance with this Declaration, (ii) cover costs incurred as a consequence of the conduct (or the failure to act) of the Owner or occupant of a Lot, their agents, contractors, employees, licensees, invitees, or guests, and/or (iii) collect any sums due by the Owner to the Association (other than annual assessments or special assessments or interest or late charges related thereto), including, without limitation, fines and transfer fees.

4.10 **Capitalization of Association.** Upon acquisition of record title to a Lot by any subsequent Owner thereof (other than Declarant or a Builder), at the election of the Board of Directors, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to three (3) months of the full annual assessment per Lot for that year. This amount shall be in addition to, not in lieu of, the annual assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the Bylaws. In the event annual assessments have been assessed for less than a full year, in calculating the foregoing ceiling amount, the Board of Directors may annualize assessments for such partial year to determine an annual assessment amount for the entire year for purposes of this calculation.

4.11 **Certificate of Assessment Status.** The Association will, promptly after written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the assessment has been paid for the assessment period.

4.12 **Failure to Pay Assessments; Remedies of the Association.** With respect to any assessment or other sum due herein not paid within ten days after the due date, the Association shall have the right to: (i) charge a late fee, in an amount determined by the Board of Directors; (ii) charge interest on the amount due at the Designated Interest Rate from the due date until the date the sum is paid; and/or (iii) charge costs and fees related to the collection of the sum due. In addition, the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Maintenance Area or abandonment of his or her Lot. The failure to pay assessments shall not by the terms of this Declaration constitute a default under an insured mortgage, unless otherwise provided by the terms of such mortgage.

4.13 **Lien.**

a. **Creation of Lien.** The Association shall hereby have and is hereby granted a continuing lien against each Lot to secure payment of delinquent assessments (annual assessments, special assessments and specific assessments) and capitalization contributions, as well as interest at the Designated Interest Rate, late fees, and costs of collection, including, without limitation, court costs and attorneys' fees. Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and Record a document setting forth as to any Lot,

the amount of delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the payment thereof. However, the failure of the Association to execute and Record any such document shall not, to any extent, affect the validity, enforceability, perfection or priority of the lien.

b. **Enforcement of Lien.** The lien may be enforced by foreclosure, subject to limitations of Sections 209.009-209.011 of the Texas Property Code (as amended).

c. **Subordination of Lien.** The lien of the assessments provided for herein is subordinate to the lien of any Recorded first mortgage or first deed of trust against a Lot.

d. **Effect of Conveyance.** An Owner that conveys title to a Lot shall not be liable for assessments that are attributable to the period after the conveyance of the Lot, except as provided in the following paragraph. However, a conveyance of title to a Lot shall not affect the assessment lien or relieve the Owner that conveys the Lot from personal liability for any assessments attributable to the period prior to the date of the conveyance, except as provided in the following paragraph.

e. **Effect of Foreclosure.** The foreclosure of a first mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof will extinguish the lien of such assessment as to payments attributable to the period prior to the foreclosure, trustee's sale or deed in lieu thereof. However, a foreclosure of a first mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof will not relieve such Lot or Owner thereof from liability for any assessment attributable to the period after the foreclosure, trustee's sale or deed in lieu thereof. The foreclosure of a first mortgage, trustee's sale of a first deed of trust or a deed in lieu thereof shall not release the Owner whose Lot is being foreclosed, sold at a trustee's sale or conveyed pursuant to a deed in lieu from the Owner's obligation to pay assessments attributable to the period prior to the date of such foreclosure, trustee's sale or deed in lieu thereof. For purposes of this Declaration, the use of the term **"first"** in connection with a mortgage or deed of trust shall refer to the lien priority as compared to other mortgages or deeds of trust.

4.14 **Rights of City.**

(a) **Funding of Common Maintenance Areas.** The City may require the Association to provide reporting from time to time of budgetary actions, financial reports, and collection activity regarding the assessments for operation and maintenance of the Common Maintenance Areas. Should the funding of the reserve fund established by Section 4.3, *supra*, not be deemed sufficient in the City's reasonable discretion to fulfill the operational and maintenance needs of the Common Maintenance Areas, the City may require additional security from the Association for the provision of such maintenance.

(b) **Liens and Assessments.** If the Association should default on its obligation to maintain the Common Maintenance Areas, the City shall have the rights of the Association, as defined herein, to either file a lien on the property and/or assess Owners for maintenance of the Common Maintenance Areas.

ARTICLE V
THE ASSOCIATION

5.1 **The Association - Duties and Powers.** The Association is a Texas nonprofit corporation charged with the duties and invested with the powers prescribed by law and set forth in the Certificate of Formation of the Association (the "**Certificate of Formation**"), Bylaws and this Declaration. The Association shall continue to exist until the Association is dissolved, regardless if the corporate status expires or lapses. The Association shall have such rights, duties and powers as set forth herein and in the Certificate of Formation and the Bylaws.

5.2 **Board of Directors.** The affairs of the Association shall be conducted by the Board of Directors and such officers as the Board of Directors may elect or appoint, in accordance with the Certificate of Formation and the Bylaws. The Board of Directors shall have the powers granted in this Declaration, the Certificate of Formation and the Bylaws, all powers provided by Texas law and all powers reasonably implied to perform its obligations and/or duties provided herein.

5.3 **Limitation on Liability.** The liability of an officer, director or committee member of the Association shall be limited as provided in the Certificate of Formation.

5.4 **Indemnification.** Subject to the limitations and requirements of the Texas Business Organizations Code, as amended, and of the Bylaws, the Association shall indemnify every officer, director and committee member (including, without limitation, the Member(s) of the ACA) against all damages and expenses, including, without limitation, attorneys' fees, reasonably incurred in connection with any threatened, initiated or filed action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify shall be limited as provided under the Certificate of Formation. Additionally, subject to the limitations and requirements of the Texas Business Organizations Code, as amended, and of the Bylaws, the Association may voluntarily indemnify a person who is or was an employee, trustee, agent or attorney of the Association, against any liability asserted against such person in that capacity and arising out of that capacity.

5.5 **Limitations on Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless there is a 75% or greater vote of the Members (all classes counted together) approving such action. This **Section 5.5** shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions to enforce written contracts between the Association and a third party. Except as authorized by said vote, the Board of Directors shall not be liable for failing or refusing to commence litigation.

5.6 **Insurance.**

a. **Required Coverages.** The Association, acting through its Board of Directors or its duly authorized agent, shall obtain and continue in effect, at a minimum

the following insurance coverage, if reasonably available or, if not, the most nearly equivalent coverages as are reasonably available:

(i) **Property Insurance.** If and to the extent the Board of Directors deems it necessary, blanket property insurance covering loss or damage on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Areas and within the Common Maintenance Areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits and/or endorsement related thereto sufficient to cover the full replacement cost of the insured improvements. The Association shall obtain endorsements to the property insurance policy to the extent the Board of Directors determines that particular endorsements are advisable and reasonably available to the Association. Such endorsements may include, without limitation: (i) a Replacement Cost Endorsement with an Agreed Amount Endorsement; (ii) a waiver of the insurer's right to repair and reconstruct instead of paying cash, if reasonably available; (iii) an Inflation Guard Endorsement; (iv) a Building Ordinance or Law Endorsement; and (v) a Steam Boiler and Machinery Coverage Endorsement.

(ii) **General Liability Insurance.** Commercial general liability insurance on the Common Maintenance Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents or contractors while acting on the Association's behalf. Such coverage (including primary and any umbrella coverage) shall have a limit of at least $2,000,000.00 per occurrence with respect to bodily injury, personal injury and property damage. The Board of Directors may obtain higher policy coverage if the Board of Directors determines that such additional coverage is advisable.

b. **Additional Insurance.** The Board of Directors may obtain additional insurance as the Board of Directors determines advisable, including, without limitation, the insurance set forth below. In determining whether to obtain additional insurance and/or endorsements thereto that are discretionary, the Board of Directors shall use its own business judgment to determine if such insurance and/or endorsement is advisable based on the cost and availability of the insurance and/or the endorsement compared to the risks associated therewith.

(i) **Directors and Officers Liability Insurance.** Directors and officers liability insurance.

(ii) **Fidelity Insurance.** Fidelity insurance covering all parties responsible for handling Association funds in an amount determined by the Board of Directors. If fidelity insurance coverage is obtained, the policy should contain, if reasonably available, a waiver of all defenses based upon the exclusion of persons serving without compensation.

(iii) **Flood Insurance.** Flood insurance covering any improvements located on the Common Areas to the extent that the Board of Directors determines that the improvements have significant enough value and the risks related thereto justify the cost of such insurance.

(iv) **Workers Compensation Insurance.** Workers compensation insurance and employer's liability insurance.

c. **Policy Requirements.** All insurance coverage obtained by the Association shall: (i) be written in the name of the Association and shall provide for a certificate of insurance to be furnished to the Association; (ii) contain a reasonable deductible; (iii) contain an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation of insurance; (iv) contain a provision or endorsement excluding Owners' individual policies from consideration under any other insurance clause, if reasonably available; and (v) contain a waiver of subrogation as to any claims against the Board of Directors and the Association's officers, employees and manager, and the Owners and their tenants, servants, agents and guests, if reasonably available.

d. **Review of Policies.** The Board shall annually review the types and amounts of insurance coverage for sufficiency.

e. **Compliance with Federal Agencies and Secondary Mortgage Market Requirements.** In addition to the foregoing insurance in **Section 5.6**, the Board of Directors may obtain such insurance coverage that the Board of Directors determines desirable to satisfy any applicable insurance requirements of any federal agency or secondary mortgage market entity, including, without limitation, the Federal Home Loan Mortgage Corporation ("**FHLMC**"), the Federal National Mortgage Association ("**FNMA**"), the U.S. Department of Veterans Affairs ("**VA**"), and the U.S. Department of Housing and Urban Development ("**HUD**"), to the extent applicable.

5.7 **Contracts; Management and Maintenance.** The Association shall have the right to contract with any person or entity for the performance of various duties and functions. This right shall include, without limitation, the right to enter into management, operational or other agreements with other persons or entities; provided, any such agreement shall require approval of the Board of Directors. The Board of Directors may employ for the Association a management agent or agents, at such compensation as the Board of Directors may establish, to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policymaking authority. The Association may enter into contracts with Declarant or affiliates of Declarant provided that such contracts are on market terms.

5.8 **Books and Records.** The books and records of the Association shall be made available to the Members for inspection as provided in the Bylaws, the Association's records production and copying policy, and the requirements of the Texas Property Code (as may be amended from time to time). In addition, Members may obtain copies of the books and records of the Association as provided in the Association's records production and copying policy.

5.9 **Dissolution of Association; Conveyance of Assets.** If the Association is dissolved other than incident to a merger or consolidation, the assets both real and personal of the Association shall be conveyed as provided in the Certificate of Formation.

5.10 **Enforcement.** The Board of Directors may impose sanctions for violation of this Declaration (including any rules, guidelines or standards adopted pursuant to the Declaration) in accordance with the applicable procedures set forth in the Bylaws, but subject in all events to limitations on enforcement as provided in the Texas Property Code (as amended from time to time). Such sanctions may include all remedies available at law and/or in equity and all remedies herein, including, without limitation, the following but subject to the requirements of Section 209.006 of the Texas Property Code (as amended):

a. **Fines.** The Board of Directors may impose reasonable monetary fines, which shall constitute a lien on the Lot, upon the Owner of the Lot related to or connected with the alleged violation. The Owner shall be liable for the actions of any occupant, guest or invitee of the Owner of such Lot.

b. **Suspension of Rights to Use Common Area.** The Board of Directors may suspend any person's or entity's right to use any recreational facilities within the Common Areas; provided, however, nothing herein shall authorize the Board of Directors to limit ingress or egress to or from a Lot.

c. **Right of Self-Help.** The Board of Directors may exercise self-help or take action to enter upon the Lot to abate any violation of this Declaration.

d. **Right to Require Removal.** The Board of Directors may require an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of this Declaration and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board of Directors or its designee shall have the right to enter the Lot, remove the violation, and restore the property to substantially the same condition as previously existed, without such action being deemed a trespass.

e. **Levy Specific Assessment.** The Board of Directors may levy a specific assessment to cover costs incurred by the Association in bringing a Lot into compliance with this Declaration.

f. **Lawsuit; Injunction or Damages.** The Board of Directors has the right, but not the obligation, to bring a suit at law or in equity to enjoin any violation or to recover monetary damages, or both.

g. **Perform Maintenance.** In addition to any other enforcement rights, if an Owner fails to perform properly such Owner's maintenance responsibility with respect to a Lot and/or Dwelling, the Association may record a notice of violation in the public records of the County and/or enter the Lot and perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific assessment.

The decision to pursue enforcement action, including the commencement of legal proceedings, in any particular case shall be left to the Board of Directors' sole and absolute discretion, except that the Board of Directors shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board of Directors may determine that, under the circumstances of a particular case, (i) the Association's position is not strong enough to justify taking any or further action; or (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) it is not in the Association's best interests, based upon hardship, expense or other reasonable criteria, to pursue enforcement action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

ARTICLE VI
ARCHITECTURAL CONTROLS

6.1 **No Improvements Unless Approved by Architectural Control Authority - Except Improvements by Declarant.** No building, fence, wall, outbuilding, landscaping, pool, detached building, athletic facility, structure or improvement will be erected, altered, added onto or repaired upon any portion of any Lot without the prior written consent of the ACA. However, ACA approval is not required for (i) any improvements constructed, erected, altered, added onto or repaired by Declarant or a Builder designated in writing by Declarant to be exempt from the ACA approval requirements; (ii) any improvements to the interior of a Dwelling, except as provided herein; (iii) the painting or re-bricking of the exterior of any Dwelling in accordance with the color and design scheme approved by the ACA; or (iv) improvements for which the Declaration expressly states that the ACA's prior approval is not required. Any improvements pursuant to clauses (iii) and (iv) immediately preceding must be in compliance with any applicable ACA Standards.

6.2 **Architectural Control Authority.** The ACA shall have the sole and exclusive authority to perform the functions contemplated by the ACA in this Declaration. The purpose of the ACA is to enforce the architectural standards of the Property and to approve or disapprove plans for improvements proposed for the Lots. The ACA will have the authority to delegate its duties or to retain the services of a professional engineer, management company, architect, designer, inspector or other person to assist in the performance of its duties. The cost of such services shall be included in the Common Expenses. The **"ACA"** or **"Architectural Control Authority"** shall be the following entity:

a. **Declarant - During Ownership of Development.** The Declarant shall be the ACA during the period that Declarant owns any real property within the Development, unless the Declarant in writing has terminated its rights as the ACA and designated the ACA in its place.

b. **Architectural Committee - After the Declarant's Period.** The Architectural Committee (as defined herein) shall be the ACA after the Declarant's right to act as the ACA has either expired or voluntarily been terminated.

6.3 **Architectural Committee.** A committee to be known as the **"Architectural Committee"** consisting of a minimum of three members will be established. At least one member of the Architectural Committee shall be a person designated by Declarant unless Declarant notifies the Board of Directors otherwise in writing. Otherwise, the members of the Architectural Committee will be appointed, terminated and/or replaced by the Board of Directors. The Architectural Committee will act by simple majority vote.

6.4 **Submission of Plans.** Prior to the initiation of construction of any work required to be approved by the ACA as provided in **Section 6.1** above, the Owner (excluding Declarant and any Builder designated in writing to be exempt from the ACA approval requirements as provided herein) will first submit to the ACA a complete set of plans and specifications for the proposed improvements, including site plans, landscape plans, exterior elevations, specifications of materials and exterior colors, and any other information deemed necessary by the ACA for the performance of its function. In addition, the Owner will submit the identity of the individual or company intended to perform the work and projected commencement and completion dates. This approval process is separate and independent of any approval process required by a governmental entity.

6.5 **Plan Review.**

a. **Timing of Review and Response.** Upon receipt by the ACA of all of the information required by this **Article VI**, the ACA will have 30 days in which to review said plans. No correspondence or request for approval will be deemed to have been received until all requested documents have actually been received by the ACA in form satisfactory to the ACA. If the ACA requests additional information and the applicant fails to provide such information prior to the date stated in the ACA's notice, then the application shall be deemed denied. If the applicable submittal is denied or deemed denied, then the applicant shall be required to re-apply if the applicant still desires to have the ACA consider the request. If the ACA fails to issue its written approval within 30 days after the ACA's receipt of all materials requested by the ACA to complete the submission, then such failure by the ACA to issue its written approval shall be deemed approval. The ACA may charge a reasonable fee for reviewing requests for approval.

b. **Approval Considerations - Aesthetics.** The proposed improvements will be approved if, in the sole opinion of the ACA: (i) the improvements will be of an architectural style, quality, color and material that are aesthetically compatible with the improvements in the Development; (ii) the improvements will not violate any term herein or in the ACA Standards; and (iii) the improvements will not result in the reduction in property value, use or enjoyment of any of the Property. Decisions of the ACA may be based on purely aesthetic considerations. The ACA shall have the authority to make final conclusive and binding determinations on matters of aesthetic judgment and such determination shall not be subject to review so long as the determination is made in good faith and in accordance with the procedures set forth herein. Each Owner acknowledges

that opinions on aesthetic matters are subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements and as the ACA and its members change over time.

6.6 **Timing of Completion of Approved Items.** All work approved by the ACA shall be completed within one year after the approval by the ACA or such shorter period that the ACA may specify in the notice of approval, unless the completion is delayed due to causes beyond the reasonable control of the Owner, as determined by the ACA. All work and related improvements shall be in compliance with the items approved by the ACA.

6.7 **Improvements Impact on Drainage.** With respect to any improvements performed on a Lot and/or any alterations to the yard, the Owner shall take proper precautions to insure that such improvements do not (i) alter the surface water drainage flows of a Lot as originally established at the time of the initial construction of the Dwelling, or (ii) allow water to collect near the foundation of the Dwelling. Although the ACA may comment on and/or deny the approval of plans because of the impact of the proposed improvements or alterations on surface water drainage, the ACA's comments or approval shall not constitute or be construed as a representation, warranty or guaranty that adverse surface water drainage problems will not occur and shall not be relied upon as such. The Owner is responsible for taking the necessary actions in order to avoid any surface water drainage problems, including, without limitation, engaging the services of a qualified consultant.

6.8 **No Waiver.** The approval by the ACA of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the ACA under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing specification or matter subsequently submitted for approval.

6.9 **Variances.** The ACA may authorize variances from strict compliance with the requirements herein, in any ACA Standards or any required procedures: (i) in narrow circumstances where the design meets the intent of the provision from which variance is sought and where granting the variance would enhance design innovation and excellence; or (ii) when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require. For purposes of this **Section 6.9**, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing as the sole or primary reason for requesting a variance shall not be considered a hardship warranting a variance. No variance shall be contrary to the terms of this Declaration and no variance shall be effective unless in writing. No variance shall estop the ACA from denying a variance in other circumstances.

6.10 **Architectural Control Authority Standards.** The ACA may, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent of members of the ACA, the ACA Standards. The ACA Standards may not conflict with the terms of this Declaration.

6.11 **Enforcement; Non-Conforming and Unapproved Improvements.** If there are any significant or material deviations from the approved plans in the completed improvements, as determined by the ACA in its sole and absolute discretion, such improvements will be in violation

of this **Article VI** to the same extent as if made without prior approval of the ACA. The Association or any Owner may maintain an action at law or in equity for the removal or correction of (i) the non-conforming improvement or alteration, and/or (ii) any improvement or alternation to any improvement on any Lot that is not approved by the ACA.

6.12 **Limitation of Liability.** Neither the Declarant, the Association, the Board of Directors nor the ACA shall have any liability, individually or in combination, for (i) decisions made by (or failed to be made by) the Declarant, the Association, the Board of Directors or the ACA, or (ii) decisions in connection with the approval or disapproval or failure to disapprove or approve any plans and specifications submitted. Neither the Declarant, the Association, the Board of Directors nor the ACA shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither Declarant, the Association, the Board of Directors, the ACA nor any member of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Dwelling and/or Lot. The ACA and its members shall be defended and indemnified by the Association as provided in **Section 5.4** herein.

ARTICLE VII
USE RESTRICTIONS AND COVENANTS

7.1 **Single Family Residential Use.** All Lots and Dwellings will be used and occupied for single-family residential purposes only and no trade or business may be conducted in or from any Lot and/or Dwelling, except that an Owner of the Dwelling may conduct business activities within the Dwelling so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (ii) the business activity conforms to all zoning requirements for the Property; (iii) the business activity does not involve unreasonable visitation to or from the Dwelling by clients, customers, suppliers or other business invitees; and (iv) the business activity is ancillary to the residential use of the Dwelling and does not diminish the residential character of the Property or constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of the other residents in the Property. The determination of whether a business activity satisfies the foregoing requirements set forth in clauses (i) through (iv) above shall be made by the Board of Directors in its sole and absolute discretion. The business activity prohibition will not apply to the use of any Dwelling by Declarant or any Builder as a model home, construction office and/or sales office; or the use of any Lot as a site for a selection center trailer, construction office trailer and/or sales office trailer and/or parking lot by Declarant or any Builder. The total air conditioned living area of each Dwelling, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall be no less than 1500 square feet for each Dwelling that is situated on a 50' wide Lot and shall be no less than 2400 square feet for each Dwelling that is situated on a Lot that is 60' wide or wider, unless otherwise required by the City of McKinney or unless approved by the ACA. Each Dwelling constructed on (i) a 50' wide Lot shall have a minimum roof pitch of 6:12, and (ii) a Lot that is 60' wide or wider shall have a minimum roof pitch of 8:12. All Dwellings constructed on the Lots shall have 30 year dimensional roof shingles.

7.2 **Parking of Motor Vehicles.** No vehicles or similar equipment will be parked or stored in an area visible from any street within the Property, except passenger automobiles,

motorcycles, passenger vans and pick-up trucks may be parked in any garage or driveway if such vehicle (i) has less than one ton carrying capacity; (ii) has less than three axles; (iii) is in operating condition; and (iv) is generally in daily use as a motor vehicle on the streets and highways of the State of Texas. Trucks with tonnage in excess of one ton and any vehicle with a painted advertisement shall not be permitted to park overnight within the Development except those used by a Builder during the construction of improvements. No vehicles, trailers, implements or apparatus may be driven or parked in the Common Areas, the Common Maintenance Areas or on any easement unless such vehicle, trailer, implement or apparatus is in use for maintaining such area or easement; provided, however, that this restriction will not apply to any driveways, roads, parking lots or other areas designated by the Board of Directors as intended for such vehicular use. No abandoned, derelict or inoperable vehicles may be stored or located on any Lot or a street within the Property, except within an enclosed garage. No dismantling or assembling of motor vehicles, boats, trailers, recreational vehicles, or other machinery or equipment will be permitted in any driveway or portions of any Lot that are visible from any street within the Property.

7.3 **Trailers, Boats, Commercial and Recreational Vehicles.** No campers, boats, marine crafts, hovercraft aircrafts, pick-up campers, trailers, motor homes, travel trailers, camper bodies, golf carts, recreational vehicles, non-passenger vehicles, vehicles with three or more axles or greater than one ton carrying capacity, and/or equipment or accessories related thereto may be kept on any Lot, unless such item is in operable condition and such item is (i) kept fully enclosed within a garage located on such Lot; (ii) kept fully screened from view by a screening structure or fencing approved by the ACA, but in no event shall the item be in front of the Dwelling; (iii) temporarily parked on any street within the Property or on a Lot for the purpose of loading or unloading; or (iv) a commercial vehicle that is in use for the construction, maintenance or repair of a Dwelling or Lot in the immediate vicinity. The Board of Directors will have the absolute authority to determine from time to time whether an item is in operable condition and complies with the requirements in clauses (i) through (iv) above. Upon an adverse determination by the Board of Directors, the Owner will cause the item to be removed and/or otherwise brought into compliance with this paragraph. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. Notwithstanding any provision herein, no trucks or vehicles of any size that transport inflammatory or explosive cargo may be kept in the Development at any time.

7.4 **Fences.**

a. **Required Fencing.** The backyard of each Lot must be enclosed with a perimeter fence.

b. **Type of Fencing.** All perimeter fences (except for the Association Fencing) will be wood and/or metal (tubular steel) as described in **Section 7.4(c)**. All fencing shall comply in all respects (including size and location) with applicable City requirements. All perimeter fences (except Association Fencing, which fencing shall be no less than four feet in height) shall be six feet in height unless another height is approved by the ACA and shall be the color approved within the Design Guidelines. No fences may be painted, unless otherwise approved in writing by the ACA. Except for Association Fencing, no chain-link, metal (other than approved tubular steel fencing), cloth or agricultural fences may be built or maintained on any Lot unless such fence is located within the perimeter fence in such a

manner that it is not visible from any street, park, Common Area or public area, unless otherwise approved by the ACA. Except for Association Fencing, the portion of all fences which faces a street adjoining such Owner's Lot (front, side or rear streets) or which faces a Common Area, open space, park or other recreational area adjoining such Owner's Lot shall have the smooth surface of the fence materials facing the applicable street or Common Area unless otherwise approved by the ACA. The fence posts and bracing boards on such front, side and rear fences shall face the interior of the fenced yard. Owners shall not construct a second fence (a parallel fence) along or near the Common Fence or the Association Fencing.

c. **Fencing Materials**. Fencing that faces a street must be cedar, board on board with a cap, stained a color consistent throughout the community (Seal Rite - Medium Brown, or equal). All perimeter lots backing to open/green space (as identified in any lot purchase agreement between Declarant and a Builder) are required to have six foot (6') tubular steel fencing on the rear property line. All fencing materials must be approved by the ACA. Upon initial approval all fencing will be consistent through the community where it is exposed and visible to any street or open space

d. **Location of Fence.** No fence, wall or hedge will be placed on any Lot in a location nearer the street than 5' behind the front building setback line for such Lot. The foregoing shall not limit or restrict fences erected in conjunction with model homes or sales offices. In addition to the foregoing, easements may also restrict the placement of fences.

e. **Maintenance of Fencing.** Except for the Association Fencing, each Owner shall maintain the portion of fencing on such Owner's Lot in a presentable condition and shall make all repairs and replacements thereto, except that Owners adjoining a Common Fence (as provided in **Section 7.4.e**) shall share in the cost of such maintenance as provided in **Section 7.4.e**. The Association shall be responsible for maintaining the Association Fencing. All repairs and replacements to the perimeter fencing and/or Association Fencing must be done using the same type and color of materials so that such fencing does not appear to have been repaired or replaced, except to the extent of the new appearance of the repaired or replaced materials. Except as provided in the foregoing sentence, perimeter fencing and/or Association Fencing shall not be changed or modified without the prior written consent of the ACA.

f. **Common Fencing.** Side and rear yard fences that are installed by Declarant or a Builder of the Dwelling to separate adjacent Lots as a common boundary fence (the "**Common Fence**") shall be maintained jointly by the Owners whose Lots adjoin such Common Fence and the costs associated therewith shall be shared equally by said Owners. If the Owners disagree regarding the timing, cost or other applicable issue related to the repair or replacement of a Common Fence or portion thereof, then either Owner may (i) make the repair or replacement (provided any applicable ACA approval is obtained) and seek collection of one-half of the cost of repair or replacement at Arbitration (as defined herein); and/or (ii) seek payment of one-half of the cost of repair or replacement at Arbitration, subject to the repair or replacement being made. The term **"Arbitration"** shall mean binding arbitration pursuant to the rules of the American Arbitration Association or such other person or entity approved by the applicable Owners.

g. **Sight Lines.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three and six feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting them at points ten feet from the intersection of the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any lot within ten feet from the intersection of a street right-of-way line with the edge of a private driveway. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Declarant or the Association may direct the Owner to trim any hedge, shrub planting or tree that does not comply with the foregoing provisions, and upon Owner's failure to do so, Declarant or the Association may, at its option, perform such trimming, whereupon the Owner shall be obligated, when presented with an itemized statement, to reimburse Declarant or the Association (as applicable) for the cost of such work.

7.5 **Outbuildings, Sheds and Detached Buildings.** No detached accessory buildings, including, but not limited to, detached garages, storage buildings and sheds shall be erected, placed or constructed upon any Lot; provided, however, buildings not exceeding six feet (6') in height for the storage of lawn maintenance equipment may be placed on a Lot, but only in places which are not visible from any street on which the Lot fronts.

7.6 **Animals.** No animals, livestock or poultry of any kind will be raised, bred or kept on any Lot, except that so long as they do not exceed two in number in the aggregate, cats, dogs or other generally recognized household pets may be permitted on any Lot; however, those pets that are permitted to roam free or that, in the sole discretion of the Board of Directors, make objectionable noise, endanger the health or safety of, or constitute a nuisance or unreasonable source of annoyance to the occupants of other Lots shall be removed from the Lot upon the request of the Board of Directors. If the animal owner fails to remove the animal from the Lot after the Board of Directors' request, the Board of Directors may remove the animal, in addition to imposing such other sanctions as are authorized by the Declaration and the Bylaws. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other non-domesticated animals that may interfere with the quietude, health or safety of the community. No more than two domesticated pets will be permitted on each Lot. All animals will be kept in strict accordance with all local laws and ordinances (including leash laws) and in accordance with all rules established by the Association. All persons bringing an animal onto the Common Maintenance Areas shall be responsible for immediately removing any solid waste of said animal.

7.7 **Signs.**

a. **Sign Restrictions.** Except for Entry Signs (as defined in **Section 7.7.b**), no sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view except the following: (i) an Owner may erect one sign on a Lot advertising the Dwelling for sale, provided that the sign does not exceed two feet by three

feet in size; (ii) an Owner may temporarily place one sign on a Lot advertising the "open house" of the Dwelling, provided that the sign does not exceed two feet by three feet in size (or as otherwise approved by the ACA) and the sign may only be displayed during actual open house hours; (iii) signs or billboards may be erected by the Declarant or any Builder designated in writing by the Declarant as having the right to erect such signs or billboards; (iv) an Owner may temporary place one sign on a Lot advertising a "garage sale", provided that the sign does not exceed two feet by three feet in size and the sign may only be displayed during the garage sale hours; or (v) political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs will not be erected more than 90 days in advance of the election to which they pertain and are removed within 10 days after the election and to the extent allowed by law only one sign per candidate or ballot items permitted. A permitted or authorized sign may not contain any language or symbols on the sign that are not directly related to the authorized purpose of the sign. The ACA may in the ACA Standards permit additional signs and/or place additional restrictions or limitations on the signs permitted in this Declaration, provided that such additional restrictions or limitations do not conflict with the terms herein. No banners are permitted without the prior written approval of the ACA. The Association will have the right to remove any sign, billboard, banner or other advertising structure that does not comply with the foregoing. Removal shall not subject the Association to any liability in connection with such removal. No sign of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot advertising the Dwelling for lease or rent.

b. **Entry Signs.** The term **"Entry Signs"** shall mean any entry feature signs for the name of the subdivision that are placed by the Declarant or its agents on the Property. The Association shall be responsible for maintaining the Entry Sign.

7.8 **Trash; Containers and Collection.** No Lot or other area in the Development shall be used as a dumping ground for rubbish. Any compost heaps will be stored in a container acceptable to the ACA; provided, however, the Association's and the ACA's authority to prohibit or restrict solid waste composting and shall be subject to Section 202.007 of the Texas Property Code (as may be amended) and each Owner shall comply with regulations of the Association as to matters which the Association is entitled to regulate under said Section 202.007 (as amended). No garbage or trash shall be placed or kept on any Lot, except in covered sanitary containers. In no event shall such containers be stored, kept, placed or maintained on any Lot where visible from the location on the street that is immediately in the front of the Dwelling except on the day designated for removal of garbage; then such containers may be placed in the designated location for pick-up of such garbage, provided that the container will be removed from view before the following day. All incinerators or other equipment for the storage or other disposal of garbage or trash shall be kept in a clean and sanitary condition. Materials incident to construction of improvements may be stored on Lots during construction by Declarant or any builder designated by Declarant.

7.9 **Nuisances.** No noxious or offensive activity, including, without limitation, unreasonable smells, noise or aesthetics, will be carried on upon any Lot, nor will anything be

done thereon which the Board of Directors determines, in its sole and absolute discretion, is or may become an unreasonable source of annoyance or nuisance to the Property.

7.10 **Antennae and Satellite Dishes.** Except with the written permission of the ACA or as provided herein, exterior antennae, aerials, satellite dishes or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind may not be placed on the exterior of any Dwelling or on any portion of the Lot outside the Dwelling, except that (i) antennas, satellite dishes one meter or less in diameter designed to receive transmissions other than television broadcast signals shall be permitted; and (ii) antennas or satellite dishes designed to receive television broadcast signals shall be permitted. Any of the foregoing permitted devices and any other device permitted by the ACA (a "**Permitted Device**") must be located in an area where such Permitted Device is not visible (for aesthetic reasons) from any portion of the street in front of the applicable Lot with the apparatus. However, if the Owner determines that the Permitted Device cannot be located in compliance with the foregoing non-visibility requirement without precluding reception of an acceptable quality signal, then the Owner may install the Permitted Device in the least conspicuous alternative location on the Lot where an acceptable quality signal can be obtained. In all cases except as may be approved by the ACA, no Permitted Device of any style shall be (a) erected as a free-standing structure, (b) permitted to extend outside the roof of the main residential structure or (c) maintained on any portion of the Lot forward of the front building line. The ACA in the ACA Standards may include rules or provisions regarding the type of additional Permitted Devices and/or the placement of Permitted Devices, provided that such ACA Standards do not conflict with the terms of this **Section 7.10** and do not unreasonably increase the cost of installation, maintenance or use of the Permitted Device. A Permitted Device that complies with the provisions of this paragraph and the ACA Standards shall not require the ACA's approval prior to installation. However, the ACA shall be the sole and exclusive authority for purposes of determining if the item or device complies with the provisions of this paragraph and the ACA Standards.

7.11 **Air-Conditioning Units.** Air-conditioning apparatus must be installed on the ground behind the rear of the Dwelling or on the ground near the side of the Dwelling. No air-conditioning apparatus or evaporative cooler may be attached to any wall, window or roof of any Dwelling.

7.12 **Solar Energy Devices.** The Association's and the ACA's authority to prohibit or restrict solar energy devices on or around a Dwelling shall be subject to Section 202.010 of the Texas Property Code (as may be amended) and each Owner shall comply with regulations of the Association as to matters which the Association is entitled to regulate under such Section 202.010 (as amended).

7.13 **No Temporary Structures as a Residence.** No structure of a temporary character, including, without limiting the generality thereof, any trailer, basement, tent, shack, garage, barn, or other out-building will be used on any Lot at any time as a residence, either temporarily or permanently; except that camping out in a tent that is erected in the back yard behind a fully screened fence is permitted provided that such activity does not become or constitute a nuisance or unreasonable source of annoyance to the occupants of other Lots as determined by the Board of Directors in its sole and absolute discretion. This restriction will not be interpreted to limit the

right of Declarant or any Builder to use trailers or outbuildings as sales offices, selection center offices, construction offices or material storage facilities.

7.14 **No Garage as a Residence.** No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) shall be occupied by any Owner, tenant or other person as a residence.

7.15 **No Temporary Structures on Lot.** No temporary dwelling, shop, trailer or mobile home of any kind or any improvements of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, which may be placed on a Lot only in places which are not visible from any street on which the Lot fronts) shall be permitted on any Lot except that the Builder or contractor may have temporary improvements (such as sales office and/or construction trailer) on a given Lot during the entire time that construction activities within the Development are underway. No building material of any kind or character shall be placed or stored upon the property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the Lot upon which the improvements are to be erected.

7.16 **Sidewalks.** The Owner shall be responsible for maintaining any sidewalk located on such Owner's Lot to the extent required by the City.

7.17 **Landscaping Maintenance.** All yards must be sodded or grassed within a reasonable time period not to exceed three months after the initial conveyance of a Lot with a Dwelling thereon to an Owner other than a Builder. Decorative ground cover rock (excluding flower beds and planters with mulch rather than rock) in the front and side yards may not exceed 10% of the total area of the front and side yards. All landscaping located on any Lot, including grass lawns and all grass areas outside of the fence line of the Lot, must be properly mowed and maintained at all times by the Owner in a trimmed, well-kept and clean condition, as determined by the Board of Directors, in its sole and absolute discretion. Notwithstanding the foregoing, the Association's and the ACA's authority to prohibit or restrict the use of drought resistant landscaping or water-conserving natural turf shall be subject to Section 202.007 of the Texas Property Code (as may be amended) and each Owner shall comply with the regulations of the Association as to matters which the Association is entitled to regulate under said Section 202.007 (as amended).

7.18 **Exterior Improvement Maintenance.** All improvements upon any Lot will at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of such Lot in a presentable well-kept and clean condition, as determined by the Board of Directors, in its sole and absolute discretion.

7.19 **Garages.** Each Dwelling must have a garage that will accommodate a minimum of two (2) automobiles. All garages must comply with City requirements. Garages may be used as Declarant's or a Builder's sales offices prior to permanent occupancy of the main structure; however, sales offices must be converted to garages prior to permanent occupancy. With the exception of periods when garages are used by the Declarant or Builder as sales offices, all garages will be maintained for the storage of automobiles, and no garage may be enclosed or otherwise used for habitation. No carports are permitted on a Lot.

7.20 **Clothes Hanging Devices.** No clothes hanging devices exterior to a Dwelling are to be constructed or placed on the Lot.

7.21 **Window Treatment.** No aluminum foil, newspaper, reflective film or similar treatment will be placed on windows or glass doors of a Dwelling.

7.22 **Mining.** No oil drilling, oil development operations, oil refining, quarrying or mining operation of any kind will be permitted in the Development, nor will oil wells, tanks, tunnels, mineral excavations or shafts be permitted in the Development. No derrick or other structure designed for use in boring for oil or natural gas will be erected, maintained or permitted in the Development. No tank for the storage of oil or other fluids may be maintained on any of the Lots above the surface of the ground.

7.23 **Intentionally Omitted.**

7.24 **Athletic and Recreational Facilities.** No outdoor athletic and recreational facilities such as playscapes, swing sets and sport courts may be placed on a Lot unless (i) such item is placed within a backyard that has a fence that completely encloses the backyard and the location and the item does not exceed ten feet in height, or (ii) such item is a temporary and movable facility that is stored each night in the garage, the Dwelling or other fully screened area. Notwithstanding the foregoing, basketball goals and any other recreation equipment designated by the ACA may be located on any portion of the Lot (including side yards) that is behind any portion of the rear of the Dwelling. No such items shall be otherwise located (including, without limitation, in any street).

7.25 **No Above Ground Pools.** Above ground-level swimming pools shall not be installed on any Lot.

7.26 **Lighting; Exterior Holiday Decorations.** Lighting and/or decorations on a Lot may not be used or placed in a manner that, in the Board of Directors' sole and absolute discretion, constitutes a nuisance or an unreasonable source of annoyance to the occupants of other Lots. Except for lights and decorations within the interior of a Dwelling that are not displayed in a window, lights and decorations that are erected or displayed on a Lot in commemoration or celebration of publicly observed holidays may not be displayed more than six weeks in advance of that specific holiday and must be removed within 30 days after the holiday has ended.

7.27 **Lawn Decorations and Sculptures.** The Owner must have the approval of the ACA to place any decorations, sculptures, fountains, and similar items on any portion of such Owner's Lot except the interior of the Dwelling, unless (i) such item is placed within a backyard completely enclosed by a fence which blocks the view of the item at ground level; and (ii) such item is no taller than the fence; provided, however, the Association's and the ACA's authority to (i) prohibit or restrict the display of flags shall be subject to Section 202.012 of the Texas Property Code (as may be amended) and (ii) prohibit or restrict certain religious items shall be subject to Section 202.018 of the Texas Property Code (as may be amended) and each Owner shall comply with the regulations of the Association as to matters which the Association is entitled to regulate under said Section 202.012 (as amended) and Section 202.018 (as amended).

7.28 **No Lot Consolidation or Division.** No Owner, other than Declarant, may divide any Lot and/or consolidate any adjoining Lots and/or any portion thereof.

7.29 **Drainage Alteration Prohibited.** Unless approved by the ACA, no Owner will: (i) alter the surface water drainage flows of a Lot as originally established at the time of the initial construction of the Dwelling; or (ii) install landscaping or other improvements that may interfere with, obstruct or divert drainage flows established by the Declarant or any Builder. The foregoing shall not prevent or limit the Declarant from performing any grading work and/or changing any surface water drainage flow on any Lot.

7.30 **Construction Activities.** This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction or remodeling of or making of additions to improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities will 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 diligence and conforms to usual construction practices in the area. If construction upon any Lot does not conform to usual practices in the area as determined by the Board of Directors in its sole good faith judgment, the Board of Directors will have the authority to obtain an injunction to stop such construction. In addition, if during the course of construction upon any Lot, there is an excessive accumulation of debris of any kind that is offensive or detrimental to the Property or any portion thereof, then the Board of Directors may contract for or cause such debris to be removed, and the Owner of such Lot will be liable for all expenses incurred in connection therewith.

7.31 **No Individual Water Supply System.** No individual water supply system shall be permitted in the Development; provided however, the Association's and the ACA's authority to prohibit or restrict the installation of rain barrels or a rainwater harvesting system or the implementation of efficient irrigation systems (including underground drip or other drip systems) shall be subject to Section 202.007 of the Texas Property Code (as may be amended) and each Owner shall comply with the regulations of the Association as to matters which the Association is entitled to regulate under said Section 202.007 (as amended).

7.32 **No Individual Sewage Disposal System.** No individual sewage disposal systems shall be permitted in the Development.

7.33 **New Construction Only.** Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment (no higher than six feet and not visible from street level), no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.

7.34 **No Burning.** Except within fireplaces in the Dwelling and except for outdoor cooking, no person shall be permitted to burn anything within the Development.

7.35 **No Interference with Easements.** Within easements on each Lot, no structure, planting or materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities.

7.36 **Declarant and Builder Development and Construction.** Notwithstanding any other provision herein, Declarant, and its successors and assigns, and any Builders, will be entitled to conduct on the Property all activities normally associated with, and convenient to, the development of the Property and the construction and sale of Dwellings on the Property.

7.37 **Burglar Bars.** No burglar bars or similar attachments may be made to any Dwelling at any time.

ARTICLE VIII
COMMON AREAS

8.1 **Association to Hold and Maintain.** The Association will own all Common Areas in fee simple title, and shall not transfer ownership of the Common Areas without written permission of the City. The Association shall maintain the Common Areas and any improvements and landscaping thereon in good repair. The Association shall also maintain the Common Maintenance Areas to the extent the Board of Directors determines that such maintenance is desirable.

8.2 **Use of Common Areas at Own Risk.** Each Owner, by acceptance of a deed to a Lot, acknowledges that the use and enjoyment of any Common Area recreational facility involves risk of personal injury or damage to property. Each Owner acknowledges, understands, and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any Builder are not insurers of personal safety and that each person using the Common Areas assumes all risks of personal injury and loss of or damage to property, resulting from the use and enjoyment of any recreational facility or other portion of the Common Areas. Each Owner agrees that neither the Association, the Board of Directors and any committees, any Builder, nor Declarant shall be liable to such Owner or any person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based upon, due to, arising from or otherwise relating to the use of any recreational facility or other portions of the Common Areas, including, without limitation, any claim arising in whole or in part from the negligence of the Association, Declarant or any Builder. **THE FOREGOING RELEASE IS INTENDED TO RELEASE THE SPECIFIED PARTIES FROM LIABILITY FOR THEIR OWN NEGLIGENCE.**

8.3 **Condemnation of Common Areas.** In the event of condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the funds payable with respect thereto will be payable to the Association and will be used by the Association as the Board of Directors determines, in its business judgment, including, without limitation, (i) to purchase additional Common Areas to replace that which has been condemned, (ii) to reconstruct or replace on the remaining Common Areas any improvements that were on the condemned Common Areas, (iii) to pay for Common Expenses, or (iv) to be distributed to each Owner on a pro rata basis.

8.4 **Damage to Common Areas.** If the Common Areas or improvements on the Common Maintenance Areas are damaged and if there are insurance proceeds sufficient to repair such damage to its prior condition, then the Association shall cause such damage to be repaired or reconstructed unless there is a 67% or greater vote of Members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present (all classes counted together) within 90 days after the loss not to repair or reconstruct. If said 67% vote is cast not to repair or reconstruct such damage and no alternative improvements are authorized, the damaged property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association.

8.5 **Conveyance of Common Areas by Declarant to Association.** Declarant and shall have the right to convey title to any portion of the Property owned by Declarant, as the case may be, or any easement interest therein, to the Association as Common Area, and the Association shall be required to accept such conveyance. Property conveyed by Declarant to the Association as Common Area shall be conveyed free and clear of monetary liens and encumbrances other than taxes and assessments imposed by governmental entities or districts authorized by Texas law. Any such conveyance shall be effective upon recording the deed or instrument of conveyance in the public land records of the County.

ARTICLE IX
EASEMENTS

9.1 **Easement for Utilities on Common Areas.** During the period that Declarant owns any real property within the Development, the Declarant, on behalf of itself, reserves the right to grant perpetual, nonexclusive easements as reasonably necessary for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Common Areas for the construction, installation, use and maintenance of utilities, including, without limitation, water, sewer, electric, cable television, telephone, natural gas and storm water and drainage related structures and improvements. The Association will also have the right to grant the easements described in this paragraph.

9.2 **Easement to Correct Drainage on Property.** During the period that Declarant owns any real property within the Development, Declarant hereby reserves for the benefit of Declarant and any Builder, a blanket easement on, over and under the ground within the Property (excluding the area where the Dwelling is located) as reasonably necessary to maintain and correct drainage of surface waters and other erosion controls in order to maintain reasonable standards of health, safety and appearance, and will be entitled to remove trees or vegetation, without liability for replacement or damages, as may be necessary to provide adequate drainage facilities. Notwithstanding the foregoing, nothing herein will be interpreted to impose any duty upon Declarant or any Builder to correct or maintain any drainage facilities within the Property. Any damage to a Lot caused by or due to the exercise of the foregoing drainage easement rights shall be promptly repaired by the party exercising such easement rights after completing its construction activities in the damaged area.

9.3 **Easement for Right to Enter Lot.** If an Owner fails to maintain the Lot as required herein, or in the event of emergency, the Association will have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Property. Entry upon the Lot as provided herein will not be deemed a trespass, and the Association will not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence. **THE FOREGOING RELEASE IS INTENDED TO RELEASE THE ASSOCIATION FROM LIABILITY FOR ITS OWN NEGLIGENCE.**

9.4 **Easement for Association Fencing.** Declarant hereby reserves for the benefit of Declarant and the Association an exclusive easement for the purpose of placing and maintaining the Association Fencing on the perimeter boundary of all Lots where Declarant has installed Association Fencing.

ARTICLE X
ANNEXATION AND WITHDRAWAL

10.1 **Annexation by Declarant.** Until ten years after the Recording of this Declaration, Declarant may, at its sole option, annex the Annexable Property or any portion thereof into the Association and subject such Annexable Property or portions thereof to the terms hereof and to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant. The annexation shall not require the approval of any person other than the owner of the property being annexed. In the annexation document, Declarant may amend the Declaration to cause the terms Common Area, Entry Signs, Association Fencing and other terms necessary to appropriately address and describe the new applicable areas of land within the real property being annexed. The foregoing amendment shall not require the approvals set forth in **Section 11.2** herein.

10.2 **Annexation by Association.** The Association may annex any portion of the Annexable Property by a 67% or greater Class Vote approving such action and the consent of the owner of such portion of the Annexable Property.

10.3 **Recording of Annexation.** The annexation of any portion of the Annexable Property shall be evidenced by a Recorded written document. This Declaration shall not burden any portion of the Annexable Property until such time, if any, as the Annexable Property is annexed into the Declaration as herein provided and evidenced by a Recorded written instrument.

10.4 **No Duty to Annex.** Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any Member to annex any portion of the Annexable Property, and no owner of any property excluded from the Association shall have any right to have such property annexed thereto.

10.5 **Withdrawal of Property.** Declarant may withdraw real property without a Dwelling thereon from the definition of the Property and from the coverage of this Declaration, provided that (i) the withdrawal is not unequivocally contrary to the overall, uniform scheme of development of the Property; (ii) the owner of real property to be withdrawn must consent; and (iii) FHA or VA must consent to the withdrawal of the real property to the extent that there are

FHA or VA insured loans secured by a portion of the Property. Such withdrawal shall not require the consent of any other person, Member or Owner, except a 67% or greater Class Vote approving such action is required if the real property to be withdrawn is a Common Area.

ARTICLE XI
MISCELLANEOUS

11.1 **Declaration Term - Perpetual.** Unless the Members holding 90% of the votes (all classes counted together) approve the termination of this Declaration, and the termination is approved in writing by the City, the provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law. A written instrument terminating this Declaration shall not be effective unless Recorded.

11.2 **Amendments to Declaration.** This Declaration may be amended by a written consent by Members holding 67% of the votes (all classes counted together), except that Declarant, at its sole discretion and without a vote or the consent of any other party, may modify, amend or repeal this Declaration: (i) at any time prior to the conveyance of the first Lot; (ii) as necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation or judicial determination; (iii) as necessary to comply with the requirements of the VA, HUD (Federal Housing Administration), FHLMC or FNMA or any other applicable governmental agency or secondary mortgage market entity; or (iv) as necessary to clarify or to correct technical, typographical or scrivener's errors; provided, however, any amendment pursuant to clause (ii), (iii) and/or (iv) immediately above must not have a material adverse effect upon any right of any Owner. Any amendment to this Declaration shall be effective upon Recording. Notwithstanding anything to the contrary, the provisions granting or acknowledging the rights of the City, which include Sections 4.14, 8.1, and 11.1, shall not be amended unless approved in writing by the City.

11.3 **Enforcement by Association and/or Owner.** The Association or any Owner will have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed now or in the future by the provisions of this Declaration. Failure of the Association or any Owner to enforce any covenant or restriction of this Declaration will in no event be deemed a waiver of the right to do so in the future.

11.4 **Remedies; Cumulative.** In the event any Lot does not comply with the terms herein or any Owner fails to comply with the terms herein, the Association and/or any Owner will have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and any rules and regulations, and those which may be available at law or in equity, including, without limitation, enforcement of any lien, damages, injunction, specific performance, judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity will be deemed mutually exclusive of any other such remedy, but instead shall be cumulative.

11.5 **Notice to Association of Sale or Transfer.** Any Owner (other than Declarant) desiring to sell or otherwise transfer title to his or her Lot shall give the Board of Directors written notice of the name and address of the purchaser or transferee within 30 days after the date of such transfer of title and such other information as the Board of Directors may reasonably require. The

Association may charge a transfer fee upon the conveyance of title to a Lot for purposes of covering the reasonable administrative costs to change the records.

11.6 **Limitation on Interest.** All agreements between any Owner and the Association and/or Declarant are expressly limited so that the amount of interest charged, collected or received on account of such agreement shall never exceed the maximum amount permitted by applicable law. If, under any circumstances, fulfillment of any provision of this Declaration or of any other document requires exceeding the lawful maximum interest rates, then, ipso facto, the obligation shall be reduced to comply with such lawful limits. If an amount received by the Association and/or Declarant should be deemed to be excessive interest, then the amount of such excess shall be applied to reduce the unpaid principal and not to the payment of interest. If such excessive interest exceeds the unpaid balance due to the Association and/or Declarant, then such excess shall be refunded to the Owner.

11.7 **Construction and Interpretation.** This Declaration shall be liberally construed and interpreted to give effect to its purposes and intent, except as otherwise required by law.

11.8 **Notices.** Except as otherwise provided in the Bylaws or this Declaration, all notices, demands, bills, statements and other communications under this Declaration shall be in writing and shall be given personally or by mail. Notices that are mailed shall be deemed to have been duly given three days after deposit, unless such mail service can prove receipt at an earlier date. Owners shall maintain one mailing address for a Lot, which address shall be used by the Association for mailing of notices, statements and demands. If an Owner fails to maintain a current mailing address for a Lot with the Association, then the address of that Owner's Lot is deemed to be such Owner's mailing address. If a Lot is owned by more than one person or entity, then notice to one co-owner is deemed notice to all co-owners. Attendance by a Member at any meeting shall constitute waiver of notice by the Member of the time, place and purpose of the meeting. Written waiver of notice of a meeting, either before or after a meeting, of the Members shall be deemed the equivalent of proper notice.

11.9 **Not a Condominium.** This document does not and is not intended to create a condominium within the meaning of the Texas Uniform Condominium Act, Tex. Prop. Code Ann., Section 82.001, et seq.

11.10 **Severability.** Invalidation of any one of these covenants, conditions, easements or restrictions by judgment or court order will in no manner affect any other provisions, which will remain in full force and effect. Any invalidated provision shall be automatically reformed in such a way so as to be legal and to carry out as near as possible such invalidated provision.

11.11 **Rights and Obligations Run With Land.** The provisions of this Declaration are covenants running with the land and will inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. No Lot is exempt from the terms set forth herein. By the recording or the acceptance of a deed conveying a Lot or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed will be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration, whether or not mention thereof is made in said deed.

11.12 **Disclaimer Regarding Security.** Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants, invitees and licensees that the Association, its Board of Directors and committees and Declarant are not insurers and that each person using any portion of the Property assumes all risks for loss or damage to persons, to Lots and to the contents of Lots resulting from acts of third parties.

11.13 **Street Lights.** Street lights within the Property are anticipated to be maintained by the electric utility provider. The operational costs for the street lights are anticipated to be paid by the City. If, at any time in the future, the City adopts an ordinance, regulation, or other mechanism whereby the costs for maintaining and/or operating the street lights within the community are allocated to the Declarant, the Declarant shall have the right to assign all such obligations to the Association, and the Association hereby consents to accept the assignment of all obligations related to maintaining and/or operating said street lights, and the Association shall assume these additional costs as Common Expenses. If, at any time in the future, the City adopts an ordinance, regulation, or other mechanism whereby the costs for maintaining and/or operating the street lights within the community are allocated to the Association, the Association shall assume these additional costs as Common Expenses.

11.14 **Attorneys' Fees and Court Costs.** If litigation is instituted to enforce any provision herein, then the prevailing party shall be entitled to all attorneys' fees and court costs related to such legal action.

11.15 **Gender.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, will include all other genders, and the singular will include the plural, and vice versa.

11.16 **Headings.** The headings contained in this Declaration are for reference purposes only and will not in any way affect the meaning or interpretation of this Declaration.

11.17 **Conflicts.** In the event of conflict between this Declaration and any Bylaws, rules, regulations or Certificate of Formation of the Association, this Declaration will control.

11.18 **Exhibits.** All exhibits referenced in this Declaration as attached hereto are hereby incorporated by reference.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on this 31st day of October, 2016.

DECLARANT:

McKINNEY 306 PARTNERS, LP,
a Texas limited partnership

By: TA GP, LLC,
a Delaware limited liability company,
Its General Partner

By: Trez Capital Group USA GP, LLC,
a Delaware limited liability company,
its Sole Member

By: _____
Name: John D. Hutchinson,
Title: President

STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me on 10-31, 2016 by John D. Hutchinson, President of Trez Capital Group USA GP, LLC, a Delaware limited liability company, as the Sole Member of TA GP, LLC, a Delaware limited liability company, as the General Partner of McKinney 306 Partners, LP, a Texas limited partnership, on behalf of said partnership.

_____
Notary Public in and for the State of Texas

ANGELA WILLIAMS
Notary Public, State of Texas
My Commission Expires
February 07, 2017

AFTER RECORDING RETURN TO:
Dykema Cox Smith
Attn: Bob Feroze
1717 Main Street, Suite 4200
Dallas, Texas 75201

MORTGAGEE CONSENT

The undersigned Texas Capital Bank, National Association ("First Mortgagee"), being the holder of a first lien encumbering the Development hereby (i) consents to the foregoing Declaration, and (ii) subordinates all liens in favor of First Mortgagee encumbering the Development as of the date hereof to the Declaration and the terms and conditions thereof, such that First Mortgagee's foreclosure of any such lien in favor of First Mortgagee shall not extinguish, terminate or otherwise affect the Declaration (provided, however, the foregoing does not affect the relative priority of liens in favor of First Mortgagee and liens in favor the Association to secure the payment of assessments pursuant to this Declaration as set forth in Section 4.13 hereof).

TEXAS CAPITAL BANK, NATIONAL ASSOCIATION,

By: Jocelyn R Ansley
Name: Jocelyn R Ansley
Title: SVP

Dated: October 31, 2016

STATE OF TEXAS §
§
COUNTY OF Dallas §

This instrument was acknowledged before me on the 31st day of October, 2016 by Jocelyn R. Ansley SVP of Texas Capital Bank, National Association, a national banking association on behalf of said association.

[Seal] SUZANNAH JOHNSON
My Notary ID # 12383609
Expires October 7, 2017

Suzannah Johnson
Notary Public in for The State of Texas

MORTGAGEE CONSENT

The undersigned Chesmar Homes DFW, Ltd., First Texas Homes, Inc. and Bloomfield Homes, LP (collectively, the "Second Mortgagees"), being the holders of a second priority lien encumbering the Development hereby (i) consent to the foregoing Declaration, and (ii) subordinate all liens in favor of Second Mortgagees encumbering the Development as of the date hereof to the Declaration and the terms and conditions thereof, such that Second Mortgagees' foreclosure of any such lien in favor of Second Mortgagees shall not extinguish, terminate or otherwise affect the Declaration.

CHESMAR HOMES DFW, LTD.,
a Texas limited partnership

By: _____
Name: Randy McGillem
Title: President

STATE OF TEXAS §
§
COUNTY OF Collin §

This instrument was acknowledged before me on the 31st day of October, 2016 by Randy McGillem, President of Chesmar Homes DFW, Ltd., a Texas limited partnership, on behalf of said partnership.

_____
Notary Public in for The State of Texas

[Seal]

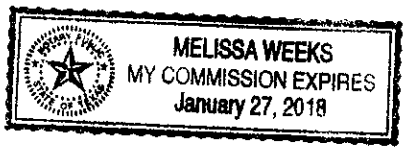
KELLIE PATCH
Notary Public, State of Texas
Comm. Expires 01-13-2020
Notary ID 10141964

FIRST TEXAS HOMES, INC.,
a Texas corporation

By: _____
Name: Keith Hardesty
Title: Division President

STATE OF TEXAS §
§
COUNTY OF Dallas §

This instrument was acknowledged before me on the 28th day of October, 2016 by Keith Hardesty, Division President of First Texas Homes, Inc., a Texas corporation, on behalf of said corporation.



_____
Notary Public in for The State of Texas

[Seal]

BLOOMFIELD HOMES, LP,
a Texas limited partnership

By: _____
Name: _____
Title: Timothy M. Stewart
Vice President
Bloomfield Properties, Inc.
General Partner

STATE OF TEXAS §
§
COUNTY OF Tarrant §

This instrument was acknowledged before me on the 31 day of October, 2016 by Timothy Stewart VP of Bloomfield Homes, LP, a Texas limited partnership, on behalf of said partnership.

GINA HICKMAN
Notary Public, State of Texas
Comm. Expires 09-26-2019
Notary ID 124694606

[Seal]

_____
Notary Public in for The State of Texas

EXHIBIT "A"

The Property

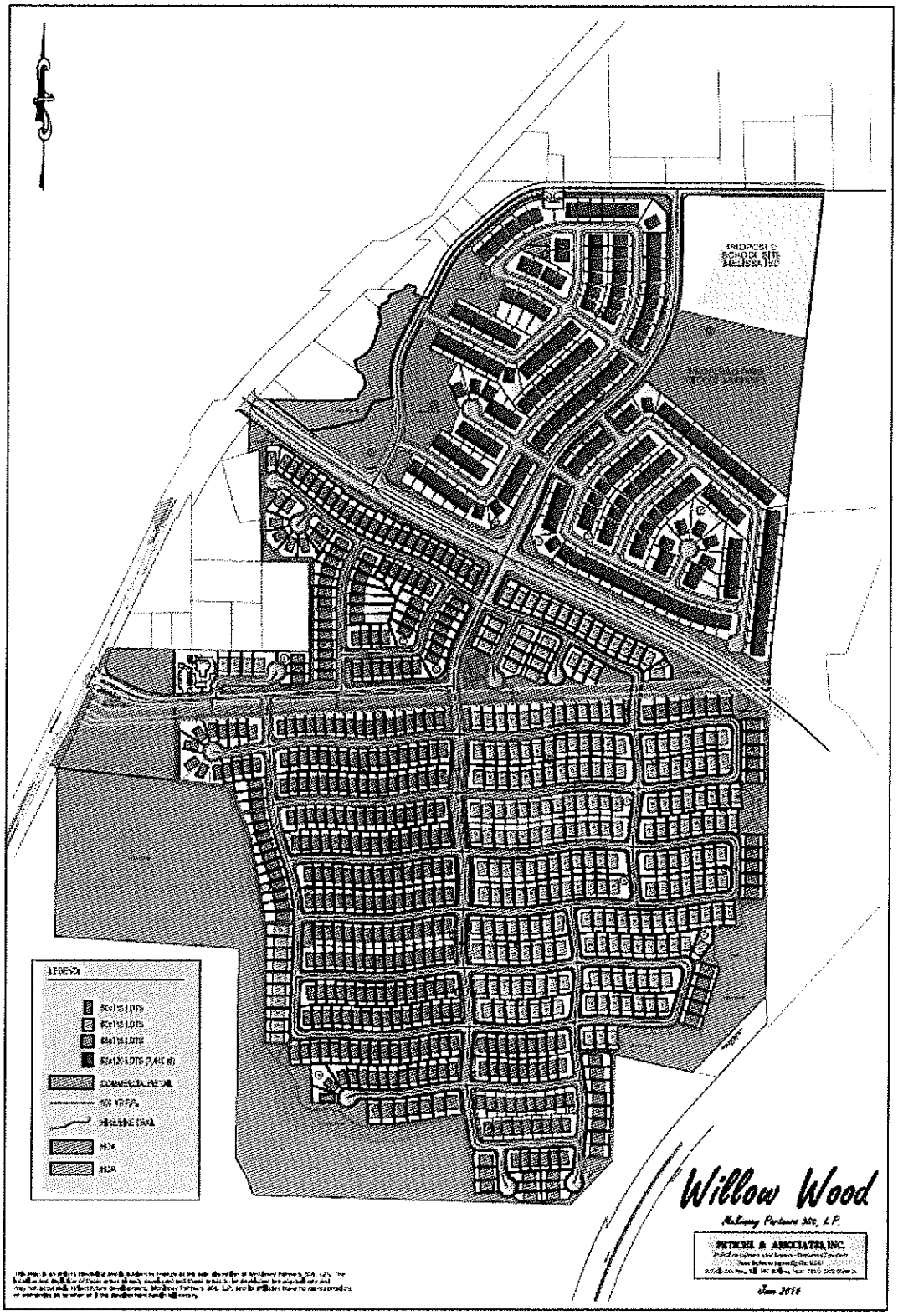


EXHIBIT "A-1"

Annexable Property

NONE

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
11/03/2016 04:26:08 PM
$170.00 SCAPELA
20161103001502050