53/002

AFTER RECORDING, RETURN TO:

Misty Woods, LLC
c/o Randy Dym
11703 Huebner Road, Suite 106 - 621
San Antonio, Texas 78230

DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
MISTY WOODS SUBDIVISION

This Declaration of Covenants, Conditions & Restrictions for Misty Woods Subdivision is made by Misty Woods, LLC, a Texas limited liability company (**"Declarant"**), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon.

Declarant desires to establish a general plan of development for the planned community to be known as Misty Woods. Declarant also desires to provide a reasonable and flexible procedure by which Declarant may expand the Property to include additional real property, and desires to maintain certain development rights that are essential for the successful completion and marketing of the Property.

Declarant further desires to provide for the overall development, preservation, administration, and maintenance of the Property, and preserve for the owners the desirability and attractiveness of the Property. As an integral part of the development plan, Declarant deems it advisable to create a property owners association to perform the functions and activities more fully described in this Declaration and the other Documents described below.

Declarant DECLARES that the Property described in Appendix A, and any additional property made subject to this Declaration by recording one or more amendments of or supplements to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's reservations in the attached Appendix C, which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of any part of the Property.

ARTICLE 1
DEFINITIONS

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

1.1. **"Applicable Law"** means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision.

Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the Document, and are not intended to apply to the Project if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

1.2 **"Architectural Reviewer"** means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant, Declarant's designee, or Declarant's delegatee. Thereafter, the Board-appointed Architectural Control Committee is the Architectural Reviewer.

1.3. **"Assessment"** means any charge levied against a lot or owner by the Association, pursuant to the Documents or state law, including but not limited to Annual Assessments, Special Assessments, Individual Assessments, and Deficiency Assessments, as defined in Article 8 of this Declaration.

1.4. **"Association"** means the association of owners of all lots in the Property, initially organized as Misty Woods Homeowners Association, Inc., a Texas nonprofit corporation, and serving as the "property owners' association" defined in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration and the bylaws.

1.5. **"Board"** means the board of directors of the Association.

1.6 **"Builder"** means a Builder as defined in Appendix C of this Declaration.

1.7. **"City"** means the City of Schertz, Texas, in which the Property is located.

1.8. **"County"** means Guadalupe County, Texas, in which the Property is located.

1.9. **"Common Area"** means portions of real property and improvements thereon that are owned and/or maintained by the Association, as described in Article 4 below and as referenced in Appendix C of this Declaration.

1.10. **"Declarant"** means Misty Woods, LLC, a Texas limited liability company, which is developing the Property, or the successors and assigns of Misty Woods, LLC, which are designated a Successor Declarant by Misty Woods, LLC, or by any such successor or assign, in a recorded document.

1.11. **"Declarant Control Period"** means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix C of this Declaration.

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

1.13. **"Development Period"** means the 10-year period beginning the date this Declaration is recorded, during which Declarant or any Successor Declarant has certain rights pursuant to Appendix C hereto, including rights relating to development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own land described in Appendix A. Declarant may terminate the Development Period at any time by recording a notice of termination.

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

1.15. **"Lot"** means a portion of the Property intended for independent ownership, on which there is or will be constructed a home, as shown on the Plat. As a defined term, "lot" does not refer to common areas, even if platted and numbered as a lot. Where the context indicates or requires, "lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the lot.

1.16. **"Majority"** means more than half. A reference to "a majority of owners" in any Document or applicable law means "owners of at least a majority of the lots," unless a different meaning is specified.

1.17. **"Member"** means a member of the Association, each member being an owner of a lot, unless the context indicates that member means a member of the Board or a member of a committee of the Association. In the context of votes and decision-making, each lot has only one membership, although it may be shared by co-owners of a lot.

1.18. **"Owner"** means a holder of recorded fee simple title to a lot. Declarant is the initial owner of all lots. Contract sellers and mortgagees who acquire title to a lot through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure are owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not owners. Every owner is a member of the Association. A reference in any Document or applicable law to a percentage or share of owners or members means owners of at least that percentage or share of the lots, unless a different meaning is specified. For example, "a majority of owners" means owners of at least a majority of the lots.

1.19. **"Plat"** means all plats, singly and collectively, recorded in the Real Property Records of the County, and pertaining to the real property described in Appendix A of this Declaration, including all dedications, limitations, restrictions, easements, notes, and reservations shown on the plat, as it may be amended from time to time. The initial plat being titled "Misty Woods Subdivision" has been recorded under Volume 8, Page 519 of the Map and Plat Records, Guadalupe County, Texas.

1.20. **"Property"** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Misty Woods. The Property is located on land described in Appendix A to this Declaration, and includes every lot and any common area thereon.

1.21. **"Resident"** means an occupant of a home, regardless of whether the person owns the lot.

1.22. **"Rules"** means rules and regulations of the Association adopted in accordance with the Documents or applicable law. The initial Rules may be adopted by Declarant for the benefit of the Association.

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

ARTICLE 2
PROPERTY SUBJECT TO DOCUMENTS

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

and easements of this Declaration, including Declarant's reservations in the attached Appendix C, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of the Property. The Property may be developed by Declarant in one or more phase or section. Declarant makes no representation regarding the exact number of lots ultimately developed on the Property or the timing of the development and Declarant will have no obligation whatsoever to develop any lots on the Property.

2.2. ADDITIONAL PROPERTY. Additional real property may be annexed to the Property and subjected to this Declaration and the jurisdiction of the Association on approval of owners representing at least two-thirds of the lots in the Property, or, during the Development Period, by Declarant as permitted in Appendix C. Annexation of additional property is accomplished by recording a supplemental declaration or declaration of annexation, including an amendment of Appendix A, in the Real Property Records of in each County in which the Property is located. Notwithstanding the foregoing, Declarant will have no obligation whatsoever to annex any additional real property into the Property to be subjected to this Declaration.

2.3. ORDINANCES. Among the city, county or other applicable governmental authority ordinances to which the Property is subject is the ordinance by which the applicable governmental authority approved development of the Property.

2.4. ADJACENT LAND USE. Declarant makes no representations of any kind as to current or future uses - actual or permitted - of any land that is adjacent to or near the Property, although the plat and the ordinances of any applicable governmental authority may show potential uses of adjoining land for commercial uses.

2.5. PLAT DEDICATIONS, EASEMENTS & RESTRICTIONS. In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, notes, easements, restrictions, and reservations shown or cited on the plat, which is incorporated herein by reference. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the plat, and further agrees to maintain any easement that crosses his lot and for which the Association does not have express responsibility.

2.6. STREETS WITHIN PROPERTY. All streets and cul-de-sacs within the Property (hereafter "**streets**") depicted on the Plat are public streets to be maintained by a governmental body, unless at some time in the future the governmental body allows the streets become private streets. To the extent not prohibited by public law, the Association, acting and through the Board, is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for use of the streets - whether public or private - including but not limited to:

a. Identification of vehicles used by owners and residents and their and guests.
b. Designation of speed limits and parking or no-parking areas.
c. Limitations or prohibitions on curbside parking.
d. Removal or prohibition of vehicles that violate applicable rules and regulations.
e. Fines for violations of applicable rules and regulations.

ARTICLE 3
PROPERTY EASEMENTS AND RIGHTS

3.1. GENERAL. In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.

3.2. OWNER'S EASEMENT OF ENJOYMENT. Every owner is granted a right and easement of enjoyment over the common areas and to use of improvements therein, subject to other rights and easements contained in the Documents. An owner who does not occupy a lot delegates this right of enjoyment to the residents of his lot. Notwithstanding the foregoing, if a portion of the common area, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

3.3. OWNER'S INGRESS/EGRESS EASEMENT. Every owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his lot.

3.4. RIGHTS OF GOVERNMENTAL AUTHORITY. The applicable governmental authority, including its agents and employees, has the right of immediate access to the common areas at all times if necessary for the welfare or protection of the public, to enforce applicable ordinances, or for the preservation of public property. If the Association fails to maintain the common areas to a standard acceptable to the applicable governmental authority, the governmental authority may give the Association a written demand for maintenance. If the Association fails or refuses to perform the maintenance within a reasonable period of time after receiving the governmental authority's written demand (at least 90 days), the governmental authority may maintain the common areas at the expense of the Association after giving written notice of its intent to do so to an owner of every lot. To fund the governmental authority's cost of maintaining the common areas, the governmental authority may levy an assessment against every lot in the same manner as if the Association levied a special assessment against the lots.

3.5. ASSOCIATION'S ACCESS EASEMENT. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all common areas and the owner's lot and all improvements thereon - including the house and yards - for the below-described purposes.

3.5.1. Purposes. Subject to the limitations stated below, the Association, its managers, managing agents, representatives, contractors or agents, may exercise this easement of access and entry for the following express purposes:

a. To inspect the property for compliance with maintenance and architectural standards.
b. To perform maintenance or repairs that are permitted or required of the Association by the Documents or by applicable law.
c. To perform maintenance or repairs that are permitted or required of the owner by the Documents or by applicable law, if the owner fails or refuses to perform such maintenance.
d. To enforce architectural standards.
e. To enforce use restrictions.
f. The exercise of self-help remedies permitted by the Documents or by applicable law.
g. To enforce any other provision of the Documents.
h. To respond to emergencies.
i. To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.

j. To perform any and all functions or duties of the Association as permitted or required by the Documents or by applicable law.

3.5.2. No Trespass. In exercising this easement on an owner's lot, the Association, its managers, managing agents, representatives, contractors and agents, shall not be liable to the owner for trespass.

3.5.3. Limitations. If the exercise of this easement requires entry onto an owner's lot, including into an owner's fenced yard, the entry will be during reasonable hours and after notice to the owner. This subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property.

3.6. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over common areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Board. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

3.7. EASEMENT FOR SCREENING FENCES OR WALLS AND ENTRY FEATURES. The Association is hereby granted a perpetual easement (the "**Screening Wall Easement**") over each lot (1) on or along a thoroughfare on the perimeter of or through the Property and (2) that abuts or contains a portion of the Property's entry feature(s) or screening fence(s) or wall(s), common area fence(s), and/or berm(s) for the purposes stated in this Section 3.7, regardless of whether or how the plat shows the easement, entry feature, or screening wall, fence, or berm. The purpose of the Screening Wall Easement is to provide for the existence, location, repair, improvement, replacement, and removal of the Property's entry feature(s) and screening fence(s) or wall(s), common area fence(s), and/or berm(s) to be maintained by the Association as a common area. In exercising this Screening Wall Easement, the Association may construct, maintain, improve, replace and remove improvements reasonably related to the entrance and screening of a residential subdivision, including: screening fences or walls, common area fences and/or berms; planter beds, landscaping, and plant material; electrical and water meters and equipment, including light fixtures and sprinkler systems; and signage relating to the Property. The owners of the lots burdened with the Screening Wall Easement will have the continual use and enjoyment of their lots for any purposes that does not interfere with and prevent the Associations use of the Screening Wall Easement. In addition to the easement granted herein, the Association has the temporary right, from time to time, to enter on the burdened lot for the purpose of maintaining, improving, replacing or removing such improvements and to use as much of the surface of a burdened lot as may be reasonably necessary for the Association to perform its contemplated work on such improvements. This easement is perpetual. The Screening Wall Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform. The Association may assign this easement, or any portion thereof, to an applicable governmental authority if the governmental authority agrees to accept the assignment. This Screening Wall Easement applies only to the original entry feature(s) and screening fence(s) or wall(s), common area fence(s), and/or berm(s) installed by Declarant and replacements thereof, and does not apply or pertain to fences installed on individual lots that are not common to or intended to serve the Property as a whole, even though the lot abuts a major thoroughfare.

3.8. FLOOD PLAIN. If set forth in or depicted on the plat or in any records of the city, county or applicable governmental authority, portions of certain lots may lie in a 100-year flood plain. If any portion of a lot is in the 100-year flood plain, neither the Association nor Declarant has any responsibility or liability for(1) the location, relocation, or maintenance of the flood plain, (2) the availability or purchase of flood insurance, or

(3) the consequences of rising waters or flood-related damage. No improvements of any kind, including fences and berms, may be installed or maintained in any portion of the flood plain, nor may the grading or drainage in those areas be changed, without permission of the appropriate public agencies. Any owner, the Association, or the governmental authority may cause the removal of any item or improvement that violates this provision.

3.9. MINERAL RIGHTS. Some or all of the Property may be subject to a previous owner's acquisition, reservation, or conveyance of oil, gas, or mineral rights pursuant to one or more deeds recorded in the Real Property Records of the County in which the Property is located, including but not limited to rights to all oil, gas, or other minerals lying on, in, or under the Property and surface rights of ingress and egress. If any deed conveying or reserving the mineral interest was recorded prior to this Declaration, it is a superior interest in the Property and is not affected by any provision to the contrary in this Declaration. By accepting title to or interest in a lot, every owner acknowledges the existence of any such mineral right or reservation referenced in this Section and its attendant rights in favor of the owner of the mineral interest. Notwithstanding the prior reservation of mineral rights, no drilling, mining, quarrying, boring or exploration for or removal of water, oil, gas, or other minerals of any kind, including sand, gravel, stone, or dirt, other than for normal landscaping purposes, is allowed on any portion of the Property.

3.10. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each owner and resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, managers, managing agents and employees are not providers, insurers, or guarantors of security within the Property. Each owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each owner and resident further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, managers, managing agents and employees have made no representations or warranties, nor has the owner or resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, managers, managing agents and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE 4
COMMON AREA

4.1. OWNERSHIP. The designation of real property as a common area is determined by the plat and this Declaration, and not by the ownership of the property. This Declaration contemplates that the Association will eventually hold title to every common area capable of independent ownership by the Association. The Declarant may install, construct, or authorize certain improvements on common areas in connection with the initial development of the Property, and the cost thereof is not a common expense of the Association. Thereafter, all costs attributable to common areas, including maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the common areas, unless this Declaration elsewhere provides for a different allocation for a specific common area.

4.2. ACCEPTANCE. By accepting an interest in or title to a lot, each owner is deemed (1) to accept the common area of the Property, and any improvement thereon, in its then-existing "as is" condition; (2) to acknowledge the authority of the Association, acting through its Board, for all decisions pertaining to the

common area; (3) to acknowledge that transfer of a common area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the common area, regardless of changes in the Association's Board or management.

4.3. COMPONENTS. The common area of the Property consists of the following components on or adjacent to the Property, even if located on a lot in the Property, on a public right-of-way, or on adjoining property that is not subject to this Declaration:

a. All of the Property, save and except the lots for the construction of homes.

b. Each area reflected on the plat of the Property as common area, open space or an area to be maintained by the Association.

c. The formal entrance to the Property, being the entrance off of Schertz Parkway at Mesa Verde, and any and all landscaping, signage, monument signage, entryway features, irrigation systems, landscape lighting, fencing, electrical systems, and other improvements installed in connection therewith, whether located in an area owned by an owner, a governmental authority, or the Association, or in an easement to the Association, to the extent the same are common to the Property and do not serve solely one lot or home (collectively, the "**Subdivision Entry**").

d. The masonry screening fences and related foundations along Schertz Parkway and the common boundary of the Property and any adjoining commercial tracts.

e. Any areas within or adjacent to the Property owned by a governmental authority, the Association, or any other governmental entity, but which are required to be maintained by the Association, including the landscaping and irrigation systems and the obligation incident to that one certain Trails Agreement with the City of Schertz.

f. Lots 1, 14, 20 & 21, Block 1; Lots 1, 5, 6 & 9, Block 2; and Lots 1, 8 & 14, Block 3, as reflected on the Plat of Misty Woods Subdivision, and all improvements, landscaping and other amenities installed or constructed thereon (the "**Open Space**").

g. Any property adjacent to the Property if the maintenance of same is deemed by the Board to be in the best interests of the Association, and if not prohibited by the owner or operator of said property.

h. Any modification, replacement, or addition to any of the above-described areas and improvements.

i. Personal property owned by the Association, such as books and records, office equipment, and supplies.

j. Such additional components as the Declarant may designate, from time to time, by recording a supplemental declaration.

4.4 LIMITED COMMON AREA. If it is in the best interest of the Association, a portion of the common area may be licensed, leased, or allocated to one or more lots for their sole and exclusive use, as a limited common area, whether or not the area is so designated on the plat. Inherent in the limiting of a common area, maintenance of the limited common area becomes the responsibility of the lot owner, rather than

the Association. For example, a common area that is difficult to access and maintain except via the adjoining home lot might be a candidate for limited common area.

ARTICLE 5
ARCHITECTURAL COVENANTS AND CONTROL

5.1. PURPOSE. Because the lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the lots and common areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a lot, including but not limited to homes, fences, landscaping, retaining walls, yard art, sidewalks, curbs and driveways, and further including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

5.2. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new homes on vacant lots. During the Development Period, the Architectural Reviewer for new homes on vacant lots is the Declarant or its delegatees.

5.2.1. Declarant's Rights Reserved. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property or the ability of Builders to sell homes in the Property. Accordingly, each owner agrees that - during the Development Period - no improvements described in Section 5.4 of this Declaration will be started or progressed on owner's lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

5.2.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to (1) an architectural control committee appointed by the Board, (2) a committee comprised or architects, engineers, or other persons who may or may not be members of the Association, or (3) the Association's professional management company. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

5.3. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC will assume jurisdiction over architectural control.

5.3.1. ACC. The ACC will consist of at least 3 but not more than 7 persons appointed by the Board, pursuant to the bylaws. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC are construed to mean the Board and the Board may delegate certain authority for the operation and functions of the ACC to the Association's professional management company. Members of the ACC need not be owners or residents, and may but need not include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

5.4. PROHIBITION OF CONSTRUCTION, ALTERATION AND IMPROVEMENT. Without the Architectural Reviewer's prior written approval, a person may not construct a home or make any addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property or a lot, if it will be visible from a street, another lot or home, or the common area. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, installation and removal of landscaping, and property use that may adversely affect the general value or appearance of the Property.

5.5. ARCHITECTURAL CONTROL. To request architectural approval, an owner must make written application to the Architectural Reviewer and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. Where the preparation of plans for an alteration, improvement, installation, modification, redecoration, or reconstruction is not practical, such as for the repainting of exterior of a home, the Architectural Reviewer may dispense with the requirement that plans are submitted to the Architectural Reviewer in published guidelines that are applied equally to all lots and owners. In support of the application, the owner may but is not required to submit letters of support or non-opposition from owners of lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. Verbal approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's manager does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing. Declarant during the Development Period, and the Architectural Reviewer thereafter, may publish architectural rules and guidelines regarding the process of submission of applications for architectural approval, including form and content of the applications.

5.5.1. Written Approval Required. An application is not approved and under no circumstance may approval of the Architectural Reviewer an application be deemed, implied, or presumed until such time as the applicant has received the written approval of the Architectural Reviewer. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed for an improvement or modification that would require a variance from the requirements and construction specifications contained in this Declaration or in any design guidelines for the Property in effect at the time of application.

5.5.2. No Approval Required in Certain Circumstances. No approval is required to rebuild a home in accordance with originally approved plans and specifications. Nor is approval required for an owner to remodel or repaint solely the interior of a home so long as no exterior modifications to the home are required or performed as a result the remodel or repainting.

5.5.3. Building Permit. If the application is for work that requires a building permit from a governmental body, the Architectural Reviewer's approval is conditioned on the issuance of the appropriate permit that must be obtained by the Owner, at the Owner's cost and expense. The Architectural Reviewer's

approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

5.5.4. Neighbor Input. The Architectural Reviewer may solicit comments on the application, including from owners or residents of lots that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant is solely at the discretion of the Architectural Reviewer. The Architectural Reviewer is not required to respond to the commenters in ruling on the application.

5.5.5. Declarant Approved. Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made or approved by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

5.5.6. Fees For Architectural Review. The Architectural Reviewer and the Association's management company may charge reasonable fees to obtain review of an application for Architectural Reviewer approval, which fees the Architectural Reviewer may require be paid along with the submission of the application.

5.6 LIMITS ON LIABILITY. The Architectural Reviewer has sole discretion with respect to taste, design, and all standards specified by this Article. The Architectural Reviewer shall have no liability for its decisions made in good faith, and which are not arbitrary or capricious. Neither the Declarant, the Association, the Board, nor the Architectural Reviewer, including the Declarant, the ACC, and all members of the ACC, shall bear any responsibility for ensuring the structural integrity or soundness of or supervising any approved construction or modifications of improvements or the adequacy of soils or drainage, nor for ensuring that any plans and specifications comply with applicable governmental codes and ordinances, and state and federal laws. Review and approval of any application, submission or plans is made on the basis of taste, design, appearance and aesthetic considerations only and not for engineering, structural design or quality of materials or errors in or omissions from the plans and specifications. No approval of any submission, application or plans by the Architectural Reviewer shall be construed or deemed to mean that any of the submissions, applications and plans comply with applicable governmental codes and ordinances, and state and federal laws. Neither the Declarant, the Association, the Board, nor the Architectural Reviewer, including the Declarant, the ACC, and all members of the ACC, will be held liable for any injury, damages, or loss arising out or because of the manner or quality of any construction or modification of improvements on any lot by any owner, including a Builder, or its contractors or subcontractors. The Architectural Reviewer, including the Declarant, the ACC, and all members of the ACC, shall be indemnified by the Association pursuant to the provisions of Section 7.8 hereof.

5.6. ARCHITECTURAL GUIDELINES. Declarant during the Development Period, and the Association, acting by and through the Board, thereafter, may publish architectural restrictions, guidelines, and standards, which may be revised from time to time to reflect changes in technology, style, and taste.

ARTICLE 6
CONSTRUCTION AND USE RESTRICTIONS

6.1. VARIANCE. The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to this Article. The Board or the Architectural Reviewer, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any

circumstance. When an owner receives a variance that will permanently affect the owner's lot, the owner may request that the variance be issued in recordable form and recorded, at the owner's expense, in the Real Property Records of the County in which the lot for which the variance is received is located.

6.2. CONSTRUCTION RESTRICTIONS. Without the Architectural Reviewer's prior written approval for a variance, improvements constructed on every lot must have the characteristics described in Appendix B, which may be treated as the minimum requirements for improving and using a lot. The Declarant during the Development Period, and the Board thereafter, may promulgate additional rules and restrictions, as well as interpretations, additions, and specifications of the restrictions contained in this Article and Appendix B and the architectural guidelines provided for in Section 5.6 and Appendix D. An owner should review the Association's architectural restrictions, if any, before planning improvements, repairs, or replacements to his lot and home.

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

a. Use and operation of common areas, including use and operation of any Open Space and, as the Board determines, reasonable charges for the use of any Open Space.
b. Hazardous, illegal, or annoying materials or activities on the Property.
c. The use of Property-wide services provided through the Association.
d. The consumption of utilities billed to the Association.
e. The use, maintenance, and appearance of exteriors of homes and lots.
f. Landscaping and maintenance of yards.
g. The occupancy and leasing of homes.
h. Animals.
i. Vehicles.
j. Disposition of trash and control of vermin, termites, and pests.
k. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for residents.

6.4. ACCESSORY STRUCTURE. Accessory structures, such as dog houses, gazebos, storage sheds, playhouses, and greenhouses will only be permitted if they are typical for the Property in terms of type, number, size, location, color, material, and height, provided that all accessory structures must first receive approval by the Architectural Reviewer prior to locating the accessory structure on the lot. Accessory structures may not be located in front yards, any unfenced portions of a yard, or within any easement and will be allowed only in a fenced in portion of a yard. No accessory structure shall be placed or used on any lot that exceeds one hundred (100) square feet of floor area or a maximum height of six (6) feet at its tallest point, although the Architectural Reviewer may require a lesser maximum height for dog houses, storage sheds, play houses and other structures as the Architectural Reviewer deems appropriate. The Architectural Reviewer reserves the right to determine that the accessory structure is unattractive or inappropriate or otherwise unsuitable for the Property, and may require the owner to screen it or to remove it. Owner must first submit application to and receive approval from the Architectural Reviewer pursuant to Article 5 prior to placing or constructing the accessory structure on the lot.

6.5. ANIMAL RESTRICTIONS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose or for food. Customary domesticated household pets may be kept for personal companionship subject to rules adopted by the Board.

The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, locations, and behavior of animals at the Property. If the rules fail to establish animal occupancy quotas, no more than 3 dogs and cats, in the aggregate, may be maintained on each lot. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other lots. Pets must be maintained inside the home, and may be kept in a fenced yard only if they do not disturb residents of other lots. Each resident is responsible for the removal of his pet's wastes from the Property. Unless the Rules provide otherwise, a resident must prevent his pet from relieving itself on the common area or the lot of another owner and, if a pet relieves itself on the common area or the lot of another owner, the owner must immediately remove the waste.

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

6.7. APPEARANCE. Both the lot and the home must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring lots. During the Declarant Control Period the Declarant is the arbitrator of acceptable appearance standards and, after the expiration of the Declarant Control Period, the Board is the arbitrator of acceptable appearance standards.

6.8. DECLARANT PRIVILEGES. In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other owners and residents, as provided in Appendix C of this Declaration. Declarant's exercise of a Development Period right that appears to violate a rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

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

6.10. DRIVEWAYS. The driveway portion of a lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage. Without the Board's prior approval, a driveway may not be used: (1) for storage purposes, including storage of boats, trailers, and inoperable vehicles; or (2) for repair or restoration of vehicles.

6.11. FIRES. Except for barbecue grills, no exterior fires on the Property are permitted.

6.12. GARAGES. Without the Board's prior written approval, the original garage area of a lot may not be enclosed or used for any purpose that prohibits the parking of two standard-size operable vehicles therein, including, but not limited to enclosing the garage for a temporary or permanent dwelling, storage or living area. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

6.13. GUNS. Hunting and shooting of any type of firearm are not permitted anywhere on or from the Property.

6.14. LANDSCAPING. No person may perform landscaping, planting, or gardening on the common area without the Board's prior written authorization.

6.15. LEASING OF HOMES. An owner may lease the home on his lot, provided that no lease of a home on the Property may be for a term shorter than six months. The foregoing limitation on the length of the term of a lease will not apply to a home that is subject to a valid, bona fide contract of sale (not merely a

contract of sale made for the purpose of avoiding the six month term limitation of leases pursuant to this Section 6.15) where the purchaser will temporarily lease the home prior to the closing under the contract or the seller will temporarily lease the home after the closing under the contract. Any lease must be strictly for single-family residential purposes only and will allow only single-family residential use of the home. Whether or not it is so stated in a lease, every lease is subject to the Documents. An owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Documents, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The owner of a leased lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of the Documents against the owner's tenant.

6.16. NOISE AND ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring lots. The Rules may also prohibit the use of noise-producing security devices and wind chimes.

6.17. OCCUPANCY. Other than the completed principal home, no thing or structure on a lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, mobile homes, campers, and storage sheds.

6.18. RESIDENTIAL USE. The Property is restricted solely to residential and related uses; accordingly, no industrial, trade, business, commercial, professional, manufacturing, mineral or other similar use shall be permitted on any part of the Property. This Section 6.18 shall not be construed so as to prohibit the conduct of a reasonable amount of in-home work or business activity, such as computer work or similar activities, provided that: (1) the existence or operation of the work or activity is not apparent or detectable by sight, sound or smell from outside the home; (2) the work or activity conforms to all zoning requirements and other restrictive covenants applicable to the Property; (3) the work or activity does not involve visitation to the home or lot by clients, customers, suppliers or other business invitees or door-to-door solicitation of residents of the Property; (4) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board; and (5) the work or activity does not involve the delivery or pick-up of any materials or services. A day-care facility, home day-care facility, nursery, pre-school, beauty parlor, barber shop or other similar facility is expressed prohibited. The terms "business" and "trade" as used in this provision shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the manufacture or provision of goods or services for or to other persons other than the provider's family, regardless of whether: (1) such activity is engaged in full or part-time, (2) such activity is intended to or does not generate a profit, or (3) a license is required therefor. Notwithstanding the above, the leasing of the entire home shall not be considered a trade or business within the meaning of this Section 6.18, but such leasing must comply with the provisions of Section 6.15. Garage sales or yard sales (or any similar vending of merchandise) conducted on any lot shall be not considered business activity provided that no Owner may conduct more than one garage sale or yard sale within any twelve (12) month period. The Association may, but shall not be obligated to, sponsor, organize or otherwise provide for a community wide garage sale. Unless expressly permitted by the Declarant and the Association, no portion of the Property may be used as a church and activities normally associated with a church may not be conducted on the Property.

6.19. SCREENING. The following items must be screened from the view of the public and neighboring lots and homes, if any of these items exists on the lot: (1) air conditioning equipment; (2) ground mounted satellite reception equipment; (3) yard maintenance equipment; (4) wood piles and compost piles; (5) garbage cans and refuse containers; and (6) anything determined by the Board to be unsightly or inappropriate for a residential subdivision. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period of time is permitted for the plants to reach maturity as an effective screen, provided that the Board may require that any of such items be screened from view behind a fence until the plants reach maturity as an effective screen. As used in this Section, "screened from view" refers to the view of a person in the street or the view of a person of average height standing in the yard of an adjoining lot.

6.20. SIGNS. Without the Board's prior written approval no signage may be maintained in the common area. Except for signs related to development or marketing by Declarant or any Builder, no signage may be maintained on any lot other than (1) signs which are less than five (5) sq. ft. of area, of tasteful design which advertise a lot or home for sale or rent or advertise a garage or yard sale that is permitted to be conducted pursuant to Section 6.18, (2) political signage, which shall be allowed so long as it strictly complies with the conditions set forth in the Rules adopted by the Board as to number, location, and time periods when such signs are allowed prior to the election and when such signs must be removed after the election and, in any event, political signs must relate to public ballot items for which registered voters within one (1) mile of the lot are entitled to vote and may not contain any feature that is offensive to the ordinary person or distracting to motorists, (3) spirit signs (announcing the involvement of teenagers in athletics or school programs), which shall only be allowed if provided for and in strict compliance with the Rules adopted by the Board, and (4) signs displaying the name of a security company, which shall be permitted provided that such signs do not exceed 2 sq. ft. in size and are limited to one (1) in the front yard and one (1) in the rear yard of each lot. All signs must be tastefully designed, professionally produced and manufactured, ground mounted, and shall be subject to written approval of the Architectural Reviewer. No sign may be displayed for a time period that is longer than the period set forth in Rules adopted by the Board or that is reasonable in the opinion of the Architectural Reviewer to advertise, announce or promote the event or circumstance for which the sign is intended. No other sign(s) of any kind or character, including any signs (1) in the nature of a "protest" or complaint against the Property, Declarant or any Builder, (2) that describe, malign or refer to the reputation, character or building practices of the Declarant or any Builder, and/or (3) discourage or otherwise impact or attempt to impact anyone's decision to acquire a lot or home in the Property or elsewhere from Declarant or any Builder, shall be displayed to the streets or otherwise to the public view on any lot, home, structure or common area. As used in this Section 6.20, the term "signs" shall be given a broad interpretation and shall include, but not be limited to, banners, words, symbols, decorations, slogans, flags (except to the extent certain flags are permitted by Section 6.26 below), and other written materials designed for public display. Each owner hereby grants permission to the Architectural Reviewer (or its duly authorized agents) to enter upon a lot or any part of the Property and remove any sign, billboard or advertising structure that does not comply with the above requirements and, in doing so, shall not be subject to any liability to any person whatsoever for trespass, conversion, or any claim for damages in connection with such removal. The Architectural Reviewer's cost to remove any sign(s) shall be added to the owner's assessment as an Individual Assessment. No person shall engage in any picketing on any lot, easement, right-of-way or common area within or adjacent to the Property, nor shall any vehicle parked, stored or driven in or adjacent to the Property bear or display any signs, slogans, symbols, banners, flags, words or decorations intended to create controversy, invite ridicule or disparagement, or interfere in any way with the exercise of the property rights, occupancy or permitted business activity of any owner, Declarant or Builder.

6.21. TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite

reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, (2) antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or (3) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "**Antenna**") are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the owner may install the Antenna in the least conspicuous location on the lot where an acceptable quality signal can be obtained. The Association, acting through the Board, may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

6.22. TEMPORARY STRUCTURES. Except for "accessory structures" as described above, improvements or structures of a temporary or mobile nature, such as tents, portable sheds, and mobile homes, may not be placed on a lot if visible from a street or another lot. However, an owner or owner's contractor may maintain a temporary structure (such as a portable toilet or construction trailer) on the lot for a temporary period during construction of a home. No accessory structure or any improvements or structures of a temporary or mobile nature shall be used as a temporary or permanent dwelling or living area.

6.23. TRASH. Each resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the city or an applicable governmental authority for that purpose. Trash must be placed entirely within the designated receptacle. The Board may adopt, amend, and repeal rules regulating the disposal and removal of trash from the Property. If the rules fail to establish hours for curbside trash containers, the container may be in the designated area from dusk on the evening before trash pick-up day until dusk on the day of trash pick-up. At all other times, trash containers must be kept inside the home, garage, or fenced yard and may not be visible from a street or another lot.

6.24. VEHICLES. All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to this Section and Rules adopted by the Board. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may cause the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.

6.24.1. Parking. All vehicles must be parked in the garage of the home provided for that purpose. If the garage of the home is full with parked vehicles, the parking of vehicles must be on the driveway on the lots. If the garage and driveway is full with parked vehicles, then vehicles of the owner of the lot may temporarily be parked curbside in the public street abutting the lot. No vehicles may be routinely or habitually parked curbside overnight on the public streets. Subject to the foregoing, as provided in Section 2.6 above and to the extent not prohibited by public law, the Association, acting by and through the Board, may adopt reasonable rules if concerning the parking of vehicles on the public streets on the Property.

6.24.2. Prohibited Vehicles. Without prior written Board approval, the following types of vehicles and vehicular equipment - mobile or otherwise - may not be kept, parked, or stored anywhere on the Property - including overnight parking on streets and driveways - if the vehicle is visible from a street, the common area, or from another lot: mobile homes, motor homes, buses, trailers, boats, aircraft, inoperable vehicles, commercial vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles which are not customary personal street legal passenger vehicles, vehicles without a current valid license tag, and any vehicle which the Board deems to be a nuisance, unsightly, or inappropriate. This restriction does not apply to

vehicles and equipment temporarily on the Property in connection with the construction, maintenance or repair of a home. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. No vehicle shall be used as a residence or office temporarily or permanently. No work on vehicles shall be performed on the Property except for minor repairs or routine maintenance completed during daylight hours of a single day on vehicles owned by a resident. All permitted work on vehicles on the Property shall be performed only in a fully enclosed garage, completely screened from public view and view from another lot and without any damage to any portion of the Property.

6.25. WINDOW TREATMENTS. All window treatments within the home, including sunscreens, window tint or film or window awnings, that are visible from the street or another home must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Reviewer may require an owner to change or remove a window treatment that the Architectural Reviewer determines to be inappropriate or unattractive, including any sunscreens or awnings that become worn or window tint or film that changes color, bubbles or otherwise peels or does not adhere to the window. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments, including sunscreens, window tint or film and awnings. Brightly colored or multi-colored awnings are prohibited. Metallic or reflective sunscreens and window tint or film are prohibited. Burglar bars, mesh security and other security screening are prohibited. Except for temporary periods to facilitate moving into or out of a home on a lot, and in no event for more than ten (10) days, no sheets, blankets, bedding or similar materials shall be placed in any window or door on the lot, and in no event shall aluminum or similar treatment be placed on any door or window on a lot.

6.26. FLAGS AND FLAG POLES. Except as expressly permitted pursuant to Section 202.012 of the Texas Property Code, no flag poles mounted or installed in the ground may be placed, allowed, erected or maintained on any lot. The United States flag ("Old Glory") must be displayed in accordance with 4 U.S.C. Sections 5-10 and the Texas state flag ("Lone Star Flag") must be displayed in accordance with Chapter 3100 of the Texas Government Code. An official or replica flag of any branch of the United States armed forces and/or flags denoting a holiday or special occasion or college affiliation may be displayed in a respectful manner on each lot in accordance with reasonable standards adopted by the Association, subject to the provisions of by Section 202.12 of the Texas Property Code. The Association may adopt reasonable standards covering all matters for which the Association may adopt or enforce reasonable dedicatory instrument provisions pursuant to Section 202.12(b) of the Texas Property Code, including standards regulating the materials and finish used in the construction of a flagpoles, the maintenance and repair of flagpoles, the size, number and location of flagpoles on which flags are displayed, the height of flagpoles, the size of a displayed flag, the size, location and intensity of lights used to illuminate a displayed flags and the abatement of noise caused by an external halyard of a flagpole. All flags must be tastefully designed, professionally produced and manufactured and, except for Old Glory the Lone Star Flag and an official or replica flag of any branch of the United States armed forces, shall be subject to written approval of the Architectural Reviewer. All flag displays must comply with public flag laws. No flag containing any content (1) in the nature of a "protest" or complaint against the Property, Declarant or any Builder, (2) that describes, maligns or refers to the reputation, character or building practices of the Declarant or any Builder, (3) that discourages or otherwise impacts or attempts to impact anyone's decision to acquire a lot or home in the Property or elsewhere from Declarant or any Builder, and/or (4) intended to create controversy, invite ridicule or disparagement, or interfere in any way with the exercise of the property rights, occupancy or permitted business activity of any owner, Declarant or Builder, shall be displayed to the streets or common area or otherwise to the public view on any lot, home, structure or common area. No other types of flags, pennants, banners, kites, or similar types of displays are permitted on a lot if the display is visible from a street or common area or is otherwise displayed to public view on any lot, home, structure or common area. The provisions of this Section 6.26 are subject to the easement and rights reserved to Declarant during the Declarant Control Period as provided in Appendix C.

6.27 LIGHTS. Exterior light sources on a lot should be unobtrusive, shielded to prevent glare, directed away from neighboring homes and yards, with little if any spillover light on neighboring property. All visible exterior light fixtures on a lot should be consistent in style and finish with the architecture of the home.

6.28 RECREATION EQUIPMENT. All sports and recreation equipment and structures, including, without limitation, trampolines, swing sets, batting cages, playhouses, and tree houses, playground equipment must be screened from the view of the public and neighboring lots and homes within a completely fenced back or side yard of a lot. Fixed basketball goals will not be permitted in the front or side yard of a lot. Portable or movable basketball goals and other sports and recreation equipment must be stored completely out of sight when not actively in use. Playscapes will be permitted so long as they are located in a completely fenced back yard and are no greater than ten (10) feet in height. All canopies or awnings on any playscape must be of a neutral color approved by the Architectural Reviewer.

6.29 YARD ART. The Association is interested in the appearance of all portions of a lot that are visible from the street or from a neighboring lot, including yards, porches, sidewalks, window sills, and chimneys. Some changes or additions to such areas may defy easy categorization as an improvement, a sign, or landscaping. This Section confirms that all aspects of a visible area of a lot and home are within the purview of the Architectural Reviewer.

6.30 OUTDOOR CLOTHES LINES. The use of outdoor clotheslines, drying racks, or other devices for the hanging, drying or airing of clothes, linens, rugs, textiles or household fabrics of any kind is prohibited on the Property.

ARTICLE 7
ASSOCIATION AND MEMBERSHIP RIGHTS

7.1. BOARD. Unless the Documents expressly reserve a right, action, or decision to the owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through its Board."

7.2. THE ASSOCIATION. The Association must be a nonprofit organization, and may be unincorporated or incorporated, as the Association decides from time to time. If the Association incorporates, the subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association. The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association comes into existence on the earlier of (1) issuance of its corporate charter, or (2) the date on which this Declaration is recorded in the Real Property of Records of each County in which the Property is located. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

7.3. GOVERNANCE. The Association will be governed by a board of directors elected by the members (referred to throughout this documents as the "Board" and as defined in section 1.5 herein). Unless the Association's bylaws or certificate of formation provide otherwise, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the bylaws. Unless the Documents provide

otherwise, any action requiring approval of the members may be approved in writing by owners of at least a majority of all lots, provided the opportunity to approve or disapprove was given to an owner of each lot, or at a meeting by owners of at least a majority of the lots that are represented at the meeting, provided notice of the meeting was given to an owner of each lot. The Board may engage a professional manager or managing agent to assist in the management of the Association.

7.4. MEMBERSHIP. Each owner is a member of the Association, ownership of a lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the lot. The Board may require satisfactory evidence of transfer of ownership before a purported owner is entitled to vote at meetings of the Association. If a lot is owned by more than one person or entity, each co-owner is a member of the Association and may exercise the membership rights appurtenant to the lot. A member who sells his lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Bboard. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred.

7.5. VOTING. One vote is appurtenant to each lot. The total number of votes equals the total number of lots in the Property. If additional property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional lots or tracts. Each vote is uniform and equal to the vote appurtenant to every other lot, except during the Declarant Control Period as permitted in Appendix C. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's bylaws.

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

7.7. BOOKS AND RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the applicable provisions of the Texas Business Organizations Code.

7.8. INDEMNIFICATION. The Association indemnifies every officer, director, committee chair, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. **A Leader is not liable for a mistake of judgment, negligent or otherwise**. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors' and officers' liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.9. OBLIGATIONS OF OWNERS. Without limiting the obligations of owners under the Documents, each owner has the following obligations:

7.9.1. Information. Each owner must at all times provide the Association with the owner's current mailing address and notify the Association of any change to the owner's mailing address no later than 30 days after the change. In addition, on request by the Association from time to time, an owner will provide the Association with the following information: (1) a copy of the recorded deed by which owner has title to the lot; (2) the owner's phone number and email address if any; (3) the name and phone number of any resident other than the owner; and (5) the name, address, and phone number of owner's managing agent, if any. If any of such information is requested by the Association, the owner will provide to the Association any change in such information within 30 days after the owner has notice of the change in the information.

7.9.2. Pay Assessments. Each owner will pay assessments properly levied by the Association against the owner or his lot, and will pay regular assessments without demand by the Association subject to the provisions of Appendix C and Section 8.5 with respect to lots owned by the Declarant and Builders.

7.9.3. Comply. Each owner will comply with the Documents as amended from time to time.

7.9.4. Reimburse. Each owner will pay for damage to the Property caused by the negligence or willful misconduct of the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.

7.9.5. Liability. Each owner is liable to the Association for violations of the Documents by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

7.10. HOME RESALES. For purposes of this Declaration, a "**resale**" is every sale or conveyance of a lot (or of an interest in a lot) that is improved with a home, except for a sale or conveyance that is excluded from this Section 7.10 pursuant to Section 7.10.5 below. This Section 7.10 applies to every resale of a home lot.

7.10.1. Resale Certificate. An owner intending to sell his home or the closing escrow agent, such as a title company, will notify the Association and will request a resale certificate from the Association.

7.10.2. No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling owner to convey the owner's lot to the Association.

7.10.3. HOA Sale Fees. At time of transfer, or earlier if required by the Association's manager, the HOA Sale Fees described in Article 8 of this Declaration in effect at the time of transfer are due and payable by buyer and/or seller.

7.10.4. Information. No later than 30 days after acquiring an interest in a lot, an owner will provide the Association with the information that is required or may be requested of an owner pursuant to Section 7.9.1.

7.10.5. Exclusions. The requirements of this Section 7.10, do not apply to the following sales or conveyances, provided that a party to one of the following transfers may request a resale certificate on the condition that the HOA Sale Fees are paid in connection with such transfer: (1) the initial conveyance from Declarant; (2) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; (3) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (4) conveyance