

**Hood County Clerk  
201 W Bridge Street  
PO BOX 339  
Granbury, Texas 76048  
Phone: 817-579-3222**

Document Number: 2022-0013410 -  
Filed and Recorded - Real Records

DECLARATION/DESIGNATION

Grantor: SOUTH BEND ADDITION

Pages: 31

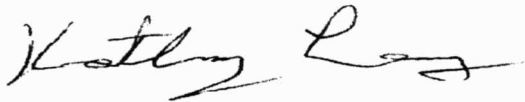
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<b>Document Number:</b> 2022-0013410	
<b>Receipt Number:</b> R2213923	
<b>Amount:</b> \$137.00	
<b>Recorded By:</b> Becky Coslett	

Any provision herein which restricts the Sale, Rental, or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**I hereby certify that this instrument was filed and duly  
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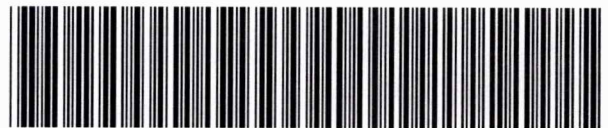


Katie Lang  
County Clerk  
Hood County, Texas



**Return To: In Office**

SOUTHERN BEND DEVELOPMENT LLC





Property Code and subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which Restrictions shall run with the land and inure to the benefit of each Lot Owner and his invitees:

## **ARTICLE I** **DEFINITIONS**

Section 1.01. Definitions. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Annual Assessments" or "Assessments" shall mean an equal assessment established by the Board of Directors for common expenses as provided for herein or by a subsequent amendment which shall be used for the purpose of promoting the recreation, common benefit and enjoyment of the Owners and occupants of all Lots and the operation, maintenance and repair of the Common Area.

(b) "Architectural Review Committee" or "ARC" shall mean and refer to the Architectural Review Committee established under Article IX hereof.

(c) "Association" shall mean and refer to South Bend Addition Property Owners' Association, Inc., its successors and assigns, a non-profit Texas Corporation.

(d) "Common Area" shall mean and refer to the portions of the Subdivision, including any applicable easements, owned by the Association for the common use and enjoyment of the Members including, but not limited to, all roads, entrance gate, landscaping, drainage swales, entrance lighting and street lights, together with such other property as the Association may acquire in the future for the common use and enjoyment of the Members.

(e) "Common Area Expense" means all expense necessary to maintain, replace, repair and expand the Common Area as well as all necessary expense to operate the Association including, but not limited to, casualty and liability insurance, directors and officer's liability insurance and all other reasonable and necessary expenses of the Association. Additionally, Common Area Expense shall include (a) the cost of repair and maintenance of the street lights, (b) the cost of repair and maintenance of the Roads, (c) mowing of the Common Area, (d) Common Area maintenance and replacement of landscaping, and drainage swales adjacent to Roads (e) the maintenance, expenses for upkeep and insurance on all improvements located within any Common Area, including but not limited to the entrance gate, (f) liability insurance, if any, (g) maintenance of the Drainage Detention Easement, and (h) as such other expense and capital enhancements as may be determined by the Board of Directors to promote the safety, health, recreation and welfare of the Members and maintain the Subdivision in an attractive manner.

(f) "Control Transfer Date" shall mean the earlier date of: 1.) Developer no longer owns any part of the entire Subdivision, including but not limited to Common Area; 2.) Fifteen (15) years from date of recordation of this Declaration; or 3.) Developer, in its sole discretion, voluntarily relinquishes control of the Association as set forth in Article V, Section 5.01 or Article IX, Section 9.01 hereof. Notwithstanding this provision, on or before the 120th day after the date seventy five percent (75%) of the lots that may be created and made subject to this Declaration are conveyed to owners other than Developer,

at least one-third of the board members must be elected by owners other than the Developer.

(g) “Declarant” or “Developer” shall mean and refer to Southern Bend Development, LLC, a Texas Limited Liability Company, its successors and/or assigns.

(h) “Declaration” or “Restrictions” shall mean and refer to this Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for South Bend Addition, as it may be amended from time to time.

(i) “Dwelling” shall mean and refer to the completed single family home located upon a Lot that is to be the main residence on the Lot.

(j) “Improvement” means every structure and all appurtenances of every type and kind, including but not limited to buildings, outbuildings, patios, storage buildings, barns, workshops, playhouses, pet housing, green houses, gazebos, cabanas, pavilions, garages, decks, stairs, retaining walls, screening walls, fences, landscaping art or statuary, poles, signs, exterior air conditioning units, exterior water softener fixtures or equipment, pumps, tanks, reservoirs, pipes, utilities lines, meters, docks, towers, satellite dishes or any other sound or data receivers or transmitters. The term “Improvement” excludes the interior of each residence, guest quarter, barn or other approved building and the ARC shall have no authority to approve or disapprove improvements made to the interior of such buildings where the exterior of the building is not affected by the interior improvement.

(k) “Lot” shall mean and refer to the 54 individual tracts of land identified on the Plat or any amendments thereto. In the event any Lot is increased in size by combination under the regulations set forth herein, the same shall nevertheless be and remain a lot for the purposes of this Declaration.

(l) “Member” shall mean and refer to every current Owner of a Tract of land within the Subdivision.

(m) “Owner” or “Lot Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s), but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner. The Declarant shall not be deemed an Owner.

(n) “Plans” and “Specifications” shall mean any and all drawings and documents describing the construction or erection of any Improvement, including, but not limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, fencing plans, elevation drawings, floor plans, specifications concerning building products and construction techniques, samples of exterior colors and materials, plans for utility services, and all other documentation or information relevant to the construction or installation of any Improvement.

(o) “Plat” shall mean and refer to the plat of South Bend Addition that was filed on January 6, 2022, under P-839 in the Map and Plat Map and Plat Records of Hood County, Texas,

and any other amendments filed thereto.

(p) "Roads" or "Road" shall mean property or any road located within the Subdivision, as shown on the Plat, which have been dedicated for the purpose of ingress and egress through the Subdivision for the benefit of the Lot Owners. The maintenance of the Roads shall be sole the responsibility of South Bend Addition Property Owners' Association.

(q) "Setback" shall mean an area along the boundary of a Lot where no building or other structures including, without limitation, swimming pools, fences, patios or decks shall be permitted, without the express written permission of Declarant.

(r) "Vote of the Members" means the affirmative vote of two thirds (2/3) of the Members entitled to vote who are present at a meeting of Members, either in person or by written proxy. In accordance with Article VI, Section 6.04, only one Member is entitled to vote for each Lot and only one vote shall be counted for each Lot even though a Lot may have several Owners.

## **ARTICLE II**

### **RESERVATIONS, EXCEPTIONS AND DEDICATIONS**

Section 2.01. Property Subject to Restrictions. The Subdivision, including all the individual Lots, are subject to these Restrictions which shall run with the land and be binding on all parties having or acquiring any right, title or interest therein, or any part thereof, and shall inure to the benefit of each owner thereof.

Section 2.02. Utility and Drainage Easements and Construction of Improvements on Utility and Drainage Easements. The Subdivision and each Lot shall be subject to the easements reserved herein and in favor of the Developer, Association, the Owners, Hood County, Texas and the utility companies. All utility and drainage easements are shown on the Plat. The utility easements shall be used for the construction, maintenance and repair of utilities, including but not limited to, electrical systems, telephone, cable, water, gas and any other utilities which the Developer or utility providers may install for the benefit of the Owners. Notwithstanding the foregoing, the Developer has no obligation to provide utilities and all such utilities shall be provided by the local utility companies in accordance with the policies of such utility companies. All utility easements in the Subdivision may also be used for the construction of drainage facilities in order to provide for improved surface drainage of the Lots. The Developer reserves the right to grant specific utility easements without the joinder of any Owner to public utility providers within the boundaries of any of the easements herein reserved. Any utility company serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installing, repairing, and maintaining their respective facilities. Neither Developer nor any utility company, political subdivision or other authorized entity using the easements herein reserved shall be liable for any damages done by them or their assigns, agents or employees to fences, shrubbery, trees and lawns or any other property of the Owners located within the easements.

Section 2.03. Construction of Improvements on Utility Easements. No buildings or walls shall be located over, under, upon or across any portion of any utility easement. The Owner of each Lot shall have the right to construct, keep and maintain concrete drives, landscaping, fences and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots, provided, however, any concrete

drive, landscaping, fencing or similar improvement placed upon any utility easement shall be constructed, maintained and used at the Owner's risk and each Owner shall be responsible for repairing any damage caused by the utility providers to Improvements constructed within the easements located on his Lot.

Section 2.04. Construction of Improvements on Drainage Easements. An Owner shall not build any structure or improvement over any Drainage and Detention Easement or Brazos River Authority Easements as set forth on the Plat. No obstruction to the natural flow of storm water runoff shall be permitted by the construction of any type of building, fence, or any other structure within the Drainage and Detention Easement, unless approved by Hood County, Texas.

### **ARTICLE III** **USE RESTRICTIONS**

Section 3.01. Residential Use of Lots. Except as specifically set forth in these Restrictions, all Lots shall be used for single family residential purposes only. Except as expressly permitted herein, only one single family residence for each Lot is permitted. (Declarant or its assignee may maintain a sales office, models and construction office upon one or more Lots until all Lots to be located within the Subdivision have been sold.)

Section 3.02. Minimum Square Footage. Single family dwellings shall contain at least the following square footage of living area, excluding porches, garages, finished basements, and storage areas.

Lots 1-14	3,000 square feet
Lots 15-16	2,750 square feet
Lots 17-35	2,500 square feet
Lots 36-46	2,750 square feet
Lots 47-53	2,500 square feet

Section 3.03. Building Materials. All Dwellings must be built with brick, stone, wood, stucco, concrete board (a.k.a. "hardy-board") or a combination of any of these materials. No building material of lesser quality shall be allowed. No vinyl or aluminum will be allowed, including on home façade and trim. Roofing material must be quality 30 year architectural shingles, standing seam metal roofing or tile. Minimum roof pitch shall be 8/12, except tile and metal roof pitch minimum of 4/12. All roofing colors must be approved by ARC or the Developer (prior to the Control Transfer Date). The ARC or the Developer (prior to the Control Transfer Date) may authorize the use of other materials on a case by case basis.

Section 3.04. Prohibited Building Materials. Exposed exterior walls composed of concrete block (unless covered with stucco or other approved material), imitation brick siding, tar paper, and imitation stone siding shall be prohibited. Wood shake shingles are prohibited. All other materials are subject to the approval of the ARC or the Developer (prior to the Control Transfer Date), which may approve or reject such materials in its discretion, on purely aesthetic grounds.

Section 3.05. Color. All exterior color schemes for Improvements are subject to the prior written approval of the ARC or the Developer (prior to the Control Transfer Date).

Section 3.06. Garages. All single family residential units, except an approved guest quarter, must have a garage. All garages must be constructed out of the same materials as used for

the Dwelling. Garages for the Main Dwelling shall be a minimum of two (2) car side entry. After this minimum is met, additional front entry garages are allowed.

Section 3.07. Guest Quarter & Pool House. A guest quarter or a pool house cannot be more than half the size of the Dwelling. Guest quarter or pool house must be built along with or after the construction of the Dwelling and may not be built or occupied prior to the Dwelling being occupied. Any guest quarter or pool house must be constructed with materials harmonious with the Dwelling. Guest quarter cannot be rented out separately from the Dwelling, it must be for the Owner's personal use. If the Dwelling is rented, subject to the provisions in Section 3.28, then the renter may also use the guest quarter or pool house.

Section 3.08. Limit on Structures. No more than four (4) structures may be constructed on a Lot. This limitation is to limit the number of major structures, such as the Dwelling, outbuilding, storage building, barn, guest quarter, pool house and detached garage. Specifically, not considered as a major structure, includes, but is not limited to a well house or a doghouse.

Section 3.09. Height Restrictions. No Improvement shall be erected, altered or placed on any Lot which exceeds the lesser of forty feet (40') in height (measured from the ground to the topmost part of the roof) or 2½ stories in height.

Section 3.10. Driveways. All driveways shall be concrete or paver stones. All driveways shall begin where the concrete portion of any Road ends. All driveways must be shown on the plans submitted to the Architectural Review Committee or Developer (prior to the Control Transfer Date), completed no later than thirty (30) days after the completion of the main residence and approved by the Architectural Review Committee or Developer (prior to the Control Transfer Date) prior to construction. Driveway culverts must be installed and shall be of sufficient size to afford proper drainage of ditches without allowing water to pool, back up or be diverted from its natural course.

Section 3.11. Maintenance and Mowing of Lots. Each Owner must keep all shrubs, grass, and plantings of every kind on the Owner's improved Lot cultivated, pruned, free of trash, and other unsightly material. All Improvements on any Lot must at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner of the Lot. Declarant, the Association, and the ARC have the right at any reasonable time to enter on any Lot to replace, maintain, and cultivate shrubs, grass, or other plantings as deemed necessary, to paint, repair, or otherwise maintain any Improvements in need of maintenance, and to charge the cost to the Owner of the Lot in the same manner as provided for the Association in Article IX. Grass height shall not exceed 10 inches in height at any time.

Section 3.12. Rubbish and Debris. No rubbish or debris of any kind will be placed or permitted to accumulate on a Lot, and no odors will be permitted to arise from it so as to make the Lot or any portion of it unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants.

Section 3.13. Fires. No open fires shall be allowed on any Lot other than normal barbecuing in proper equipment for that purpose, and the burning of leaves and brush which shall only be allowed to be burned in proper receptacles for such purpose and under conditions which will not endanger adjoining property. Properly constructed fire pits are allowed.

Section 3.14. Nuisances and Down Lighting. No noxious, unlawful or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood. No plants, poultry, animals, junk, junk automobiles, or devices or things of any sort, the normal activities or existence of which are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the Subdivision shall be placed, kept or maintained on any Lot. Without limiting the foregoing, exterior lighting may not be so installed on any Lot so as to illuminate any portion of a neighboring Lot or to shine into any window or otherwise enter a Dwelling located on an adjoining Lot. No uplighting shall be allowed shining on the face of any structure. No Lot shall be used for storage of building materials prior to the issuance of the building permit for the primary residence.

Section 3.15. Signs. No sign of any nature shall be placed on any Lot without prior written approval of the ARC or the Declarant, except for signs that are part of Declarant's overall marketing or construction plans or activities for the Subdivision or one (1) sign no more than five (5) square feet in total size advertising a Lot within the Subdivision for sale. Political signs for a political candidate or ballot item for election, as set forth in the Texas Election Code §259.002, may be displayed on a Lot but can only be displayed on or after the 90<sup>th</sup> day before the date of the election to which the sign relates and must be removed 11 days after the election. The sign must be ground mounted, 2' x 3' in size and a Lot Owner may only display one sign for each candidate or ballot item. Should it be determined that a sign erected on a Lot or in the Common Area does not conform to ARC guidelines, the Association, the Declarant, its agents or assigns shall have the right from time to time to enter said Lot without any liability for damage, wrongful entry, trespass or otherwise for the purpose of removing the nonconforming sign. The Declarant or the Association has the right from time to time to revise the rules and regulations regarding signs in order to meet the needs of the community or satisfy any governmental regulations.

Section 3.16. Prohibition Against Business Activity. No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, landscape business, professional office, child day care, or beauty shop or the like or any trade of any kind whatsoever (in which clients or members of the public regularly come to any Lot or any significant business traffic is generated in the Subdivision) shall be carried on upon any Lot or Lots. Provided, however, that nothing contained herein shall be construed so as to prohibit use of any portion of a residence as a home office, so long as no clients or members of the public regularly come to any Lot and no significant business traffic is generated in the Subdivision on account of such use. Provided further, however, that nothing contained herein shall be construed so as to prohibit the construction of houses to be sold on said Lots or the showing of said houses for the purpose of selling houses in the Subdivision. Nothing herein shall be construed to prevent the Declarant or its permittees from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales in the Subdivision.

Section 3.17. Garbage Disposal. Each Lot Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Declarant, or a roll-out garbage rack of the type approved by the Declarant, which shall be visible from the streets on garbage pickup days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage on any Lot or within the Subdivision shall be permitted (except licensed contractors may burn construction debris during the period of construction of improvements on any Lot if they have been properly permitted).



Section 3.18. Temporary Structures. No structure of a nonpermanent character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractors during construction of the Dwelling, it being clearly understood that the latter temporary shelters may not, at any time, be used for a residence or permitted to remain on the Lot after completion of construction. Prior to placement on any Lot, all temporary construction shelters must be approved in writing by the ARC.

Section 3.19. Swimming Pools. Above ground pools shall be prohibited. In ground pools are allowed and shall require ARC approval as to location and design. All in ground pools shall be constructed of gunite. Owner shall install a security fence around the perimeter of the pool.

Section 3.20. Clotheslines. No clotheslines or drying yards shall be located upon the premises so as to be visible from any Common Area or from any adjoining property or Lot.

Section 3.21. Vehicles and Off-Street Parking. There are no areas where permanent on street parking is allowed. Temporary on street parking may be allowed for 24 hours maximum. Each Owner shall provide for parking of vehicles off alleys, private lanes, streets and roads within the Subdivision. Except as otherwise specifically provided for in this Declaration, no parking shall be permitted in or along any of the alleys, private lanes or streets in the Subdivision. There shall be no outside storage or parking upon any portion of the Subdivision of any mobile home, modular home, trailer (either with or without wheels), motor home, tractor, truck (other than personal-use pick-up trucks and sport utility vehicles), commercial vehicles of any type (including, without limitation, cars or trucks with advertising signs or lettering), camper, motorized camper or trailer, motorcycle, motorized go-cart, golf carts or other related forms of transportation devices, except if adequately screened from view or otherwise permitted in writing by the Declarant or the Association. No Owners or other occupants of any portion of the Subdivision shall repair or restore any vehicle of any kind upon or within a property subject to this Declaration except: (i) within an enclosed garage, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. Violators of the prohibitions contained in this Section 3.21 shall be subject to having their vehicles towed, at the Owner's expense, by or at the direction of the Association, and to the levy of fines by the Association in such amount as may be determined from time to time by the Board of Directors. Additional rules and regulations regarding use, repair and storage of vehicles in the Subdivision may be promulgated from time to time by the Board.

Section 3.22. Fireworks. No fireworks of any variety shall be discharged upon a Lot or the Common Area, except on the following holidays: Memorial Day, Independence Day, and New Years. No fireworks may be discharged after 11:00 pm CST. No fireworks may be discharged that land on any neighboring lot or on Lake Granbury. No fireworks may be discharged during Extreme Heat Conditions per the National Fire Danger Rating System (NFDRS).

Section 3.23. Animals and Pets. No exotic, wild and/or dangerous animals or emus, peacocks, ostriches, reptiles, roosters, hogs or swine of any nature shall be permitted within the Subdivision Only dogs, cats, or other usual and common household pets, not to exceed a total of five (5) adult animals, may be permitted. Pets are not permitted to be unattended or allowed to roam free without a property owner. No pets shall be kept, bred, or maintained for any commercial purposes.

Section 3.24. Water Wells, Septic and Irrigation Systems. Water wells and irrigation wells are prohibited. All water shall be supplied by Acton Municipal Utility District (AMUD) with

the exception of irrigation systems on lake front lots 1 through 14 approved by Brazos River Authority. Individual on lot septic systems shall be used for sewage disposal. Septic systems shall be subject to any local or state governmental regulations and approval prior to issuance of building permits. Rainwater collection is not required, but is encouraged on each Lot. If a rainwater collection system is installed, any tank must be wrapped in wood boards or stone and must be located towards the rear of the Dwelling, or to the rear or side of any other approved structure unless a variance is approved by the Declarant or ARC. Any rainwater collection system must receive prior written approval from the Developer or the ARC after the Control Transfer Date.

Section 3.25. Energy Conservation Equipment. No solar energy device shall be constructed or installed on any Lot, other than on the roof of a Dwelling or in a fenced yard or patio owned and maintained by the Owner. If a solar energy device is mounted on the roof of the Dwelling it shall not extend higher than or beyond the roofline, it must conform to the slope of the roof, be parallel to the roofline, and all frames, support brackets or visible piping or wiring must be silver, bronze or the black tone commonly available in the marketplace. If the solar energy device is located in a fenced yard or patio it cannot be taller than the fence line. Installation of any solar energy device must receive prior written approval from the ARC.

Section 3.26. Restrictions on Plat. The Plat of the Subdivision dedicates for the use as such, subject to the limitations as set forth thereon, the roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to the Subdivision. All dedications, restrictions, and reservations created and shown on the Plat of the Subdivision shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of the Developer, conveying a Lot within the Subdivision or any part thereof whether specifically referred to therein or not.

Section 3.27. 18-Wheelers. No Owner shall be allowed to drive an 18-wheeler into the Subdivision on a regular basis, 18 wheelers are only allowed during construction or for deliveries.

Section 3.28. Prohibition on Short Term Rentals. No leasing or rental of a Lot shall be permitted, unless said lease or rental has a duration of at least thirty (30) days and the entirety of the Lot is leased or rented.

Section 3.29. Boat House and Boat Docks. Lakefront properties may install a dock with the written approval of the Architectural Review Committee or Developer (prior to the Control Transfer Date). Prior to building a boat dock an Owner must also obtain a Permit and Agreement for On-Water Facility document from the Brazos River Authority. A boat dock and boat house may be built prior to the construction of the Dwelling. The boat house must be constructed of materials harmonious to the Dwelling.

Section 3.30. Storage of Trailers, RVs, and Boats. All trailers, RV's, trucks (other than pickups with a rated capacity of (1) Ton or less), boats, personal watercraft, tractors, wagons, buses, motorcycles, motor scooters, all-terrain vehicles, golf carts, and other recreational vehicles, lawn or garden equipment, farm or ranch equipment, construction equipment, and other similar items must be stored in an enclosed structure similar in architectural style as the Main Dwelling. The face of all Trailer, RV, and Boat storage structures must be thirty (30) feet behind the face of the Main Dwelling.

Section 3.31. No Prefabricated or Mobile/Manufactured Homes. No prefabricated

structures, including but not limited to prefabricated storage sheds, modular cabins or mobile/manufactured homes are permitted to be located on any Lot.

Section 3.32. Propane Fuel Storage. Propane fuel storage for residential use may be located on the Lots and may be placed above ground if less than 125 pound capacity container. All larger propane storage tanks must be placed below ground. The exact location and quantity of said fuel storage tanks are subject to written approval of the Architectural Review Committee or Developer (prior to the Control Transfer Date). All above ground tanks, pumps, vent pipes and other equipment must be concealed or attractively screened.

Section 3.33. Landscaping. All front yards shall be landscaped in accordance with a landscaping plan approved by the ARC. All front yards shall be sodded and must include at least two (2) hardwood trees, each measuring a minimum of five inches (5") in caliper (measured one foot from the soil line). If there are not two (2), or more properly sized hardwood trees in the front yard, an Owner will be required to plant them or replace them if they die.

#### **ARTICLE IV**

### **CONSTRUCTION IN ACCORDANCE WITH PLANS AND SPECIFICATIONS**

Section 4.01. Conformity and Approval of Structures. No structure, fence, sidewalk, wall, swimming pool or other Improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration. Only new construction of residential buildings shall be permitted, it being the intent of this covenant to prohibit the moving of an existing building or portion thereof on a Lot and remodeling or converting same into a Dwelling. All notes indicated on recorded plats must be adhered to. No portable storage buildings are allowed.

Section 4.02. Setbacks. No building or structure, including porches, decks, swimming pools or projections of any kind (including eaves), shall be erected so as to extend over or across any of the Setback lines shown on the recorded Plat, or if not shown, then the front setback shall be fifty feet (50'), the rear setback shall be thirty feet (30') and the side setback shall be ten feet (10'). In order to account for unusual topography, natural site features, streetscape or other extenuating circumstances, in its sole discretion, the Declarant and/or ARC reserves the right to require alternate setbacks and to determine house and structure locations at the time of the ARC review. No building or structure shall be built in the area reserved for septic fields. On Lots 1-14, no structures, except docks and boat houses shall be built within thirty feet (30') of the steep embankment leading to Lake Granbury.

Section 4.03. Fencing and Light Posts. Fences and light posts, if any, must be approved prior to Construction and must be constructed of new material unless otherwise permitted by the Architectural Review Committee or Developer (prior to the Control Transfer Date). Fences must be wrought iron style fencing. Fence heights shall not exceed five feet (5'). Chain link fencing is prohibited.

Section 4.04. Subdivision of Lot. No Lot shall be subdivided and no building or residence, including porches, swimming pools or projections of any kind, shall be erected so as to extend over or across any of the Setbacks or easements as hereinafter established except as herein provided. Two or more Lots may be combined to provide one building site in accordance with this Declaration. Any combined lots will still pay assessments based upon the original recorded Plat as though the Lots were not combined.

Section 4.05. Completion of Improvements. With the exception of construction which is interrupted or delayed due to strikes, national emergencies, or physical damage to the work in progress (such as damage due to fire, lightning, windstorm, flood, hail, riot or civil commotion, explosion, or theft), any Dwelling constructed upon a Lot must be completed within eighteen (18) months subsequent to commencement of construction, except with the written consent of Declarant, its successors or assigns, or, if the Declarant so designates, by the ARC. The Owner of the Lot on which the improvements are being constructed shall at all times keep all streets and roadways contiguous to the Lot free from any dirt, mud, gravel, garbage, trash or other debris which might be occasioned by construction of the improvements. During construction, the Owner shall require its contractors to maintain the Lot upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, the Owner shall cause its contractors to immediately remove all equipment, tools, and construction material, and debris from the Lot.

In the event that completion of the Dwelling, outbuildings, or other improvements on any Lot is not completed within eighteen (18) months, and it is determined that construction progress has diminished to such an extent that completion of the Dwelling, outbuildings, or other improvements is unlikely within 120 days, notice will be given to the Owner that the Owner has the obligation, within 30 days, to remove all construction work in progress, including without limitation, the foundation and all building improvements and all stored building materials, and fill and grade the Lot so that it is restored to its natural grade level. The Declarant or the Association (after the Control Transfer Date) shall have the right to undertake this work upon Owner's failure to do so and charge the cost to the Owner and place a lien upon the Lot upon Owner's failure to pay these charges.

**No building under initial construction shall be occupied until construction is completed and all necessary approvals of the ARC and any governmental authorities have been obtained.**

Section 4.06. Construction Sites. All construction sites shall have sufficient portable restroom facilities or other adequate restroom facilities as determined by the ARC or Developer (prior to the Control Transfer Date). Construction Sites shall be kept neat and clean at all times and comply with such construction site guidelines as may be established from time to time by the ARC or Developer (prior to the Control Transfer Date) and/or Hood County, Texas. All construction trash shall be placed in on-site trash receptacles.

Section 4.07. Construction Equipment Damage. Owners shall be responsible for any damage caused to the Roads by construction equipment or trucks making deliveries to their Lot.

Section 4.08. Mailboxes. The construction of cluster mailboxes will be coordinated with the United States Postal Service. The ARC or Developer (prior to the Control Transfer Date) shall have the right to make such other rules and regulations regarding the location and construction of mailboxes as may be reasonable and necessary.

## **ARTICLE V**

### **DEVELOPER'S RIGHTS AND RESERVATIONS**

Section 5.01. Period of Developer's Rights and Reservations. Developer shall have, retain

and reserve certain rights as set forth in these Restrictions with respect to the Association from the date hereof, until the earlier of the date the Developer gives written notice to the Association of Developer's termination of the rights described in this Article V or the Control Transfer Date. The Developer rights set forth in these Restrictions shall not be released until such time as a document relinquishing said rights is filed of record or the Developer no longer holds record title to any Common Area or a Lot in the Subdivision. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance by the Developer whether or not specifically stated therein. The rights, reservations and easements set forth herein shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment to this Declaration. Developer's consent to any amendment shall not be construed as consent to any other amendment.

Section 5.02. Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any Owner or the Association, to grant or create temporary or permanent easements throughout the Subdivision, for ingress, egress, utilities, cable and satellite television systems, communication and security systems, drainage, water and other purposes incidental to the development, sale, operation and maintenance of the Subdivision.

Section 5.03. Developer's Rights to Convey Common Area to the Association. Developer shall have and hereby reserves the right, but shall not be obligated to, convey real property and improvements thereon, if any, to the Association for use as Common Area at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or Association.

Section 5.04. Developer Control of Association and ARC. Until such time Developer elects to establish the Association and the ARC all authority and powers reserved to the Association, the Board of Directors or the ARC shall be held and exercised by the Developer. The Developer may elect to transfer control of the Association or the ARC at the same time or at different times in which case the Control Transfer Date may be different for the Association and the ARC. The initial Board of Directors of the Association, made up of Owners, shall be designated by the Developer.

Section 5.05. Construction of Subdivision Improvements. Declarant reserves the right (but shall not have the obligation) which right shall survive the closing on a Lot, to place, move or remove dirt or trees on a Lot to construct the Subdivision improvements, facilitate drainage, or to provide the uniformity of grade with surrounding Lots, should the foregoing be deemed necessary or appropriate in the sole discretion of the Declarant.

Section 5.06. Construction Site. During the construction phase of the Subdivision, only authorized workers, employees, and agents (and their invitees) of the Declarant shall be allowed on the property without express written permission in the sole discretion of the Declarant. This provision is in effect until, at the sole discretion of the Declarant, all construction has been completed by Declarant.

Section 5.07. Marketing and Sales Activities. Declarant and its affiliates, may construct and maintain upon portions of the Common Area and other property they own, such facilities, activities, and things as, in Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure),

model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant, Declarant's Affiliates, and Builders may park vehicles in areas other than garages or driveways, including on streets. Builder's rights under this Section are subject to Declarant's prior written approval.

**ARTICLE VI**  
**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 6.01. Membership. Every person or entity who is an Owner of any Lot which is subjected by this Declaration to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 6.02. Board of Directors. Initially, there shall be three (3) members of the Board of Directors of the Association who shall serve until such time as their successors are duly elected and agree to serve. The directors shall have annual meetings and other such meetings as may be called for at the request of the president of the Association, by a majority of the directors, or as called for in the Bylaws. The foregoing notwithstanding, so long as the Declarant, or its successors and assigns as Declarant, is the Class B Member, Declarant shall have the sole right to select the Board of Directors and shall have the right to remove, without cause, any or all of the Directors. Declarant may select board members who are not Owners.

Section 6.03. Certificate of Formation and Bylaws. The Certificate of Formation of the Association and Bylaws of the Association shall be adhered to in the administration and operation of the Association.

Section 6.04. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners excepting the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 6.01 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. When a purchaser of an individual Lot or Lots takes title thereto from the Declarant, such purchaser automatically becomes a Class A Member.

Class B. The sole Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot owned. Class B membership shall cease and become converted to Class A membership upon the Control Transfer Date. From and after the Control Transfer Date the Class "B" Member shall be deemed to be a Class "A" Member and entitled to one vote for each Lot owned in the manner provided above.

**ARTICLE VII**  
**PROPERTY RIGHTS IN THE COMMON AREA/MISCELLANEOUS EASEMENTS**

Section 7.01. Member's Easements of Enjoyment. Subject to the provisions of Section 7.03 of this Article, every Member shall have a right and easement of enjoyment in and to the

Common Area, subject to the rules and regulations of the Association, and such easement shall be appurtenant to and shall pass with the title to every Lot. This right and easement shall be for use in common with all other such members, their tenants, guests and invitees. Each Owner, and its agents, representatives and invitees, that uses the Common Areas does so at his or her risk. The Common Areas are unattended and unsupervised. Each resident is solely responsible for his or her own safety and that of their guests. The Association and the Developer disclaims any and all liability for responsibility for injury or death occurring from use of the Common Areas and each owner agrees to indemnify, defend, and hold the Association and Developer harmless for any injury occurring in or on any Common Area of the Subdivision.

Section 7.02. Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that within fifteen (15) years from the date of recording of this Declaration, it will convey to the Association, by Special Warranty Deed, fee simple title to the Common Area upon the conditions set forth herein, subject to those rights reserved unto Declarant pursuant to this Declaration and to the provisions of this Declaration.

NOTICE IS HEREBY GIVEN THAT THE STREETS, ROADS AND ROAD RIGHTS OF WAY INSIDE THE SUBDIVISION ARE PRIVATE STREETS, AND ARE NOT TO BE MAINTAINED BY ANY PUBLIC ENTITY. THE STREETS, ROADS AND ROAD RIGHTS OF WAY SHALL BE PART OF THE COMMON AREA TO BE MAINTAINED BY THE ASSOCIATION.

Section 7.03. Extent of Member's Easements. The rights and easements created hereby shall be subject to the following:

(a) The right of Declarant, and/or of the Association, to dedicate, transfer or convey all or any part of the Common Area, with or without consideration, to any governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely limit the use of the Common Area by the Members of the Association.

(b) The right of the Declarant, and/or of the Association, to grant and reserve easements and rights-of-way for maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage and other utilities and services, including, without limitation, a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarant to grant and reserve easements and rights-of-way through, over and upon and across the Common Area for the completion of the Subdivision, for the operation and maintenance of the Common Area and perpetual non-exclusive easements for ingress and egress and utility installation and maintenance to any other property of Declarant regardless of whether or not made subject to this Declaration.

(c) The right of the Association, as provided in its Bylaws to suspend the enjoyment rights of any Member in the Common Area (but not access to a Member's Lot) for any period during which any assessment remains unpaid, and for a period not to exceed thirty (30) days from any infraction of its published rules and regulations. The Association must send written notice to the Owner by certified mail, return receipt requested as per Texas Property Code §209.006 describing the violation that is the basis for the suspension action, charge or fine and state the amount that is due to the Association from the Owner. Owner shall be entitled to a reasonable period to cure the violation and avoid the fine or suspension

unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months. The Owner may request a hearing under Texas Property Code §209.007 on or before the 30<sup>th</sup> day after the date the Owner receives the notice.

(d) The rights of the Association, in accordance with law, its Certificate of Formation and Bylaws, to borrow money for the purpose of improving the Common Area and in pursuance thereof, to mortgage the same.

Section 7.04. Maintenance. The Association shall at all times maintain, including applicable taxes regardless of ownership and insurance, all portions of and structures situated on the Common Area, and the Association shall maintain the Common Area in good repair, and shall repair or replace as often as necessary, any paving, drainage structures, landscaping, entrance signage and lighting, and other amenities situated on the Common Area. The Association shall also maintain any additional property, which may include a Lot, for which the Association, in its sole discretion, assumes maintenance responsibility under this Declaration, a Supplemental Declaration, or a contract, covenant, or agreement which the Association enters into (or which Declarant enters into on the Association's behalf). The Board of Directors acting by a majority vote shall order all work to be done and shall pay for all expenses including all electricity consumed by the lighting located in the Common Area and all other common expenses. All work pursuant to this Section and all expenses hereunder shall be paid for by such Association through assessments imposed in accordance with Article IX. Excluded here from shall be paving and maintenance of individual Lot driveways which shall be maintained by each Owner. Nothing herein shall be construed as preventing the Association from delegating or transferring its maintenance obligations to a governmental authority under such terms and conditions as the Board of Directors may deem in the best interest of the Association.

Section 7.05. Easement for Utilities and Maintenance. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and reasonable easement and right of ingress and egress, over, upon, across and under the Setback areas, and easement areas on each Lot as shown on the recorded plat of the Subdivision and/or as set forth herein and over, upon, across and under the Common Area for maintenance and/or the erection, maintenance, installation and use of electrical and telephone wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities, including an easement for privately owned television and other communications cable and equipment, Declarant may further cut drainways for surface water when such action may appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of soil, or to take any other similar action reasonably necessary to provide economical and safe utility or other installations and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by the licensee of the Declarant but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility service. No structures or other items, including walls, fences, paving or planting shall be erected upon any part of the Subdivision which will interfere with the rights of ingress and egress provided for in this paragraph. Specifically, other than Declarant, no Owner shall erect any structure, including, without limitation, walls, fences or paving within any areas designated on the Plat of the Subdivision and/or as set forth herein as a "Road Right of Way", "Utility Easement" or "Common Area", nor shall any Owner change the grade of any such easement area, provided however, that driveways may cross utility and drainage easements at the front of the Lots subject to prior approval of Declarant or the ARC and that any planting in



easement areas shall not interfere with the applicable easement and shall be limited to grassing and small shrubbery. Each Owner shall keep drainage ditches and swales located on such Owner's Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon such Lot as may be reasonably required for proper drainage. Declarant may, at its sole option, convey any such drainage easements to an appropriate governmental entity. The easements referred to in this paragraph are, without limitation, those shown upon the recorded Plat of the Subdivision; as set out in easements of record; upon the plans of the Subdivision; as set forth herein or which are located on, over or under the ground.

In addition to the foregoing rights reserved to Declarant, and not in limitation thereof, Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable commercial easement and right of ingress and egress over, upon, across and under the Common Area and all streets and roads within the Subdivision for the purpose of providing drainage and utility installation, construction, reconstruction, and maintenance to adjacent property now or hereafter owned by Declarant and for the installation and maintenance of any pipes, drainways or other installations necessary for the foregoing and further for the installation, maintenance, repair, replacement and operation of water lines and other utilities which serve or shall serve property presently owned by Declarant. Declarant, its agents, contractors, employees and assignees may enter upon the easement areas for the purposes of maintaining, repairing, replacing and operating such water lines and other utilities and drainage facilities and for the purpose of installing additional utilities and drainage facilities. Declarant, its agents, contractors, employees and assignees may enter upon any of the easement areas so designated on the recorded Plat of the Subdivision for the purpose of maintaining, repairing, replacing and operating any of the drainage facilities, pipes, ditches, and drainage areas located thereon. The Owners of Lots on which such easements are located shall not interfere in any manner with such easements or any of the facilities located therein or the access thereto. Declarant further specifically reserves unto itself, its successors and assigns, perpetual, alienable, commercial easements over and under all Lots along an area five feet (5') in width inside each side boundary line of each Lot and ten feet (10') along the front and rear of each Lot Line and along street right of ways for the purpose of installation, construction, maintenance, repair, replacement, use and operation of utilities and utility systems of all kinds (including but not limited to water, sewer, electric, and natural gas), drainage (including but not limited to storm water and surface drainage), and access. These easements shall be in addition to, and not in limitation of, any and all other easements reserved unto the Declarant herein.

Section 7.06. Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to, any property manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours, whenever practicable.

Section 7.07. Sales Offices, Rental Offices, Property Management Offices and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Subdivision for the maintenance of signs, sales offices, rental offices, property management offices and construction offices, together with such other facilities as in the sole opinion of Declarant reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots or Common

Area. The Declarant also reserves the right to grant to any builder or builders the right to operate and maintain builder sales offices at any location within the Subdivision upon such terms and conditions as the Declarant in the Declarant's sole discretion may determine.

Section 7.08. Road Construction Easement. Declarant reserves a temporary construction easement of twenty-five feet (25') in width along both sides and running parallel to streets and roads, alleys and private lanes which easements shall expire thirty-six (36) months after the particular road construction commences. Should it be necessary due to terrain and site conditions, Declarant has at its sole discretion the right to extend the width of the temporary construction easement.

## **ARTICLE VIII** **ASSESSMENTS**

Section 8.01. Assessments. Each Lot Owner by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association the Assessments provided herein. The Assessments shall be a charge on the Lots and shall be a continuing lien upon the Lot against which each such Assessment is made. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots subject to assessment and may be collected on a monthly basis or on an annual basis at the discretion of the Board of Directors.

### Section 8.02. Annual Assessment.

(a) An Annual Assessment shall be paid by each of the Lot Owners and the Annual Assessment shall be used to pay all reasonable and necessary operating expenses and reserve requirements of the Association as herein provided and the Common Area Expenses. The Annual Assessment for the year of purchase shall be pro-rated as of the purchase date and then shall be paid annually.

(b) The initial amount of the Annual Assessment applicable to each Lot within the South Bend Addition Subdivision shall be Nine hundred dollars (\$900.00) per Lot. The Annual Assessment is payable in advance and is due on the thirty first (31<sup>st</sup>) day of January during each calendar year. All other matters relating to the collection, expenditure and administration of the Annual Assessment shall be determined by the Board of Directors of the Association, subject to the provisions hereof.

(c) The Board of Directors of the Association, from and after control is transferred from the Developer, shall have the further right at any time to adjust, alter, increase or decrease the Annual Assessment from year to year as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association and to enable the Association to carry out its duties hereunder. However, the Board of Directors shall not increase the Annual Assessment by more than ten percent (10%) from the previous year without a majority vote of the Members present, in person or by proxy.

Section 8.03. Special Assessments. In addition to the Annual Assessment, the Association, upon a majority vote of the Members present, in person or by proxy, may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted.

Section 8.04. Individual Assessment. The Association may levy an individual assessment upon any Owner to cover the costs incurred by the Association due to that Owner's failure to maintain their Lot and improvements pursuant to the standards set forth in this Declaration, or to reimburse the Association for any damage to any Common Area property caused by any Owner or their tenant or invitee, or for any other purpose permitted by this Declaration or any Amended or Supplemental Declaration. Individual Assessments shall be due and payable within thirty (30) days after written notice from the Association.

Section 8.05. Interest of Assessment. Any Assessment which is not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law.

Section 8.06. Purpose of the Assessments. The Annual Assessments and Special Assessments shall be used exclusively for the purpose of promoting the health, safety, security and welfare of the Subdivision and the maintenance of the Common Area. In particular, the Assessments shall be used for any improvement or services in furtherance of these purposes and the performance of the Association's duties described herein, including the maintenance of any Subdivision Roads, Subdivision drainage easements, Common Area, Common Area Expenses, the enforcement of these Restrictions and the establishment and maintenance of reserve funds. Any questions regarding whether an item is a Common Area or a Common Area Expense shall be determined by the Board. The Assessments may be used by the Association for any purpose which, in the judgment of the Association's Board of Directors, is necessary or desirable to maintain the property value of the Subdivision, including but not limited to, providing funds to pay all taxes, insurance, repairs, utilities and any other expense incurred by the Association. Except for the Association's use of the Assessments to perform its duties as described in these Restrictions, the use of the Assessments for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Board of Directors as to the expenditure of Assessments shall be final and conclusive so long as such judgment is exercised in good faith.

Section 8.07. Creation of Lien and Personal Obligation. In order to secure the payment of the Assessments, each Lot Owner hereby grants the Association a contractual lien on such Lot which may be foreclosed by non-judicial foreclosure, pursuant to the provisions of Chapter 51 of the Texas Property Code (and any successor statute); and each such Lot Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the association by means of written instrument executed by the President or any Vice-President of the Association and filed for record in the Official Public Records of Real Property of Hood County, Texas. In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Chapter 51 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended. Upon request by the Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended and shall convey such Lot to the highest bidder for cash by Trustee's Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with collecting the Assessments and foreclosing on the Lot, including reasonable attorney's fees and a

reasonable trustee's fee; second, from such proceeds there shall be paid to the Association and amount equal to the amount of the Assessment in default; and third, the remaining balance shall be paid to the Lot Owner or Lien Holder for the benefit of the Lot Owner. Following any such foreclosure, each occupant of a Lot which is foreclosed upon shall be deemed a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action for forcible detainer.

In the event of non-payment by any Lot Owner of any Assessment or other charge, fee, assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, exercise all other rights and remedies available at law or in equity, including but not limited to bringing an action at law against the Lot Owner personally obligated to pay the same.

It is the intent of the Provisions of this Article to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale. In the event of the amendment of Section 51.002 of the Texas Property Code, the Association, acting without joinder of any Lot Owner or Mortgagee, may, by amendment to these Restrictions, file any required amendments to these Restrictions so as to comply with said amendments to Section 51.002 of the Texas Property Code or any other statute applicable to foreclosures.

Notwithstanding anything contained this Article, all notices and procedures relating to foreclosures shall comply with Chapter 209 of the Texas Property Code.

Section 8.08. Notice of Lien. In addition to the right of the Association to enforce the Assessment, the Association may file a claim of lien against the Lot of the delinquent Lot Owner by recording a Notice ("Notice of Lien" or "Affidavit of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest thereon, (c) the costs of collection which have been accrued thereon, (d) the legal description and street address of the Lot against which the lien is claimed, and (e) the name of the Lot Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Lot Owner of a reasonable fee as fixed by the Association to cover the preparation and recordation of such release of lien instrument.

Section 8.09. Liens Subordinate to Mortgages. The lien described in this Article VIII shall be deemed subordinate to any lien in favor of any bank, mortgage company, real estate lending establishment, financial institution, insurance company, savings and loan association, or any other third party lender, including the Developer, who may have advanced funds, in good faith, to any Lot Owner for the purchase, improvement, equity lending, renewal, extension, rearrangement or refinancing of any lien secured by a Lot, provided that any such lien holder has made due inquiry as to the payment of any required assessments at the time the lien is recorded. Any consensual lien holder who obtains title to any Lot pursuant to the remedies provided in a deed of trust or mortgage or by judicial foreclosure shall take title of the Lot free and clear of any claims for unpaid assessments or other charges against said Lot which ad prior to the time such holder acquired title to such Lot. No such sale or transfer shall relieve such holder from liability for any Assessments or other charges or assessments thereafter becoming due. Any other sale or transfer of a Lot shall

not affect the Association's lien for Assessments or other charges or assessments. The Association shall make a good faith effort to give each such mortgage sixty (60) days advance written notice of the Association's foreclosure of an Assessment lien, which notice shall be sent to the nearest office of such mortgage by prepaid United State registered or certified mail, return receipt requested, and shall contain a statement of delinquent Assessment or other charges or assessments upon which the said action is based, provided however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VIII.

Section 8.10. Handling of Assessments. The collection and management of the Assessment shall be performed by the Developer until the Control Transfer Date, at which time the Developer shall deliver to the Association all funds on hand together with all books and records of receipt and disbursements. The Developer, and upon transfer, the Association, shall maintain a separate account for these funds.

Section 8.11. Paid Professional Manager. The Board of Directors of the Association may employ a professional manager or managerial firm to supervise all the work, labor, services and material required in the operation and maintenance of the Common Area and in the discharge of the Association's duties.

Section 8.12. Developer Exemption. In consideration of the Property infrastructure, the Developer shall be exempt from the payment of all Assessments.

Section 8.13. Exempt Property. All Common Area subject to this Declaration shall be exempted from the assessments, charges and liens created herein.

## **ARTICLE IX**

### **ARCHITECTURAL REVIEW COMMITTEE**

Section 9.01. Basic Control & Applications.

(a) No Improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made to the exterior design or appearance of any Improvement, without first obtaining the Architectural Review Committee's or Developer's (prior to the Control Transfer Date) written approval. No demolition or destruction of any Improvement by voluntary action shall be made without first obtaining the Architectural Review Committee's or Developer's (prior to the Control Transfer Date) written approval.

(b) Each application made to the Architectural Review Committee or Developer (prior to the Control Transfer Date) for approval, shall contain an application in the form specified by the Architectural Review Committee or Developer (prior to the Control Transfer Date), two sets of professionally drawn Plans and Specifications for all proposed Improvements, showing the location of all Improvements on the Tract, and any applicable fees or deposits together with such other reasonable necessary information as the Architectural Review Committee or Developer (prior to the Control Transfer Date) shall request. These plans must be submitted in PDF format to the Developer, or after the Control Transfer Date, to the ARC. A non-refundable fee of Five Hundred Dollars (\$500.00) is required at time of plan submittal to cover administrative costs involving the

home plan approval process.

Section 9.02. Architectural Review Committee.

- (a) All ARC authority is initially vested in the Developer. The ARC authority of the Developer shall cease upon the appointment of a three (3) member Architectural Review Committee by the Developer. The Developer shall continue to have ARC authority as to any Plans and Specifications or Construction projects submitted to the Developer prior to the initial appointment of the ARC members.
- (b) After the initial members of the ARC are appointed by the Developer, the Developer shall cause an instrument transferring ARC authority to the Association to be recorded in the Official Public Records of Real Property in Hood County, Texas. Subsequent appointments of the ARC members shall be by the Board of Directors. The ARC members shall serve staggered terms with the first term ending on the date of the next succeeding annual meeting of Members following the Control Transfer Date. After the Control Transfer Date, each Member of the ARC must be a Tract Owner in the Subdivision.
- (c) After the Control Transfer Date, members of the Architectural Review Committee may not include a board member, a board member's spouse, or anyone living in a board member's household.

Section 9.03. Effect of Inaction. All approvals or disapprovals issued by the ARC shall be in writing. In the event the ARC fails to approve or disapprove any request received by it in compliance with Article VIII within thirty (30) days following the submission of a completed application and full compliance with the Declarations set out herein, such request shall be deemed approved and the construction of any Improvements may commence in accordance with the Plans and Specifications submitted for approval. Any ARC approval obtained as a result of inaction by the ARC shall not authorize the construction of any Improvement in violation of these Restrictions.

Section 9.04. Effect of Approval. The granting of an ARC approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the ARC that the proposed Improvement to be erected complies with these Restrictions; and such approval shall not prevent the Association from requiring removal of any Improvement which fails to comply with these Restrictions. Further, no ARC member shall incur any liability by reason of the good faith exercise of the authority granted hereunder. Actual construction of Dwellings and other improvements shall be the responsibility of the Owner of the Lot and the Owner's builder. Any permission granted for construction under this covenant and any designation of approved licensed contractors shall not constitute or be construed as an approval, warranty or guaranty, expressed or implied, by the Declarant or the ARC or its designated agent of the structural stability, design or quality of any building or other improvement or of the contractor who constructs such buildings or other improvements.

Section 9.05. Variance. The ARC or the Developer, may on a case by case basis, authorize variances from the requirements of the Restrictions if, in the reasonable opinion of the ARC or the Developer, the Restrictions unreasonably restrain the development of a Lot in accordance with the general scheme of the Subdivision. The Developer will retain the right to grant variances after the Control Transfer Date so long as the Developer continues to own a Lot or Common Area in the

Subdivision. All variances shall be in writing and signed by the Developer or if granted by the ARC then it must be signed by at least two (2) members of the ARC. No violation of these Restrictions shall be deemed to have occurred with respect to any matter for which a variance is granted. The granting of such a variance shall not operate to waive any of the terms and provisions of these Restrictions for any purpose except as to the particular Lot and improvements and the particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Owner's Lot.

Section 9.06. Buildings, Fences, Walls, Etc. No building, or other structure, Improvement, or any other item originally approved by the ARC, shall be commenced, erected, or maintained upon a Lot, nor shall any exterior addition to or change be made until the Plans and Specifications showing the nature, kind, shape, materials, color, and locations of the same shall have been submitted to and approved in writing as to the harmony of the external design and location in relation to the surrounding structures by the ARC. Any change in exterior appearance of any building, or other structural improvements shall be deemed an alteration requiring approval.

Section 9.07. Declarant's right to exercise Architectural Review Authority. Notwithstanding the above sections, Declarant, in Declarant's sole judgment and discretion, reserves the right and option to exercise Architectural Review Authority without establishing an ARC until the Control Transfer Date.

Section 9.08. Diligent Construction. All construction, or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed House or other Improvement shall be permitted to exist on any Lot except during such reasonable time period as is necessary for completion. All construction must be completed within eighteen (18) months after the date upon which it commenced, unless a longer time is approved by the Architectural Review Committee. Any damage to the Roadways, curbs or sidewalks or any part of the Common Area or any utility system caused by an Owner or Owner's builder or his subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and his subcontractors shall keep a Lot free of construction debris, in accordance with the construction rules established by the Architectural Review Committee or, in the absence of such rules, in accordance with standard construction practices, and shall similarly keep the Lot and contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy an Individual Assessment against an Owner's property in the Subdivision to pay for the cost of repairing any damage to Roadways, curbs or sidewalks or any part of any Roadway, Common Area, or utility system, to pay for the cost of cleaning public and private areas, including the Roadways in the Subdivision and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or his subcontractors during the construction of Improvements.

## **ARTICLE X**

### **DUTIES AND POWERS OF THE PROPERTY OWNERS' ASSOCIATION**

Section 10.01. General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has designated such powers (and subject to the provisions of the bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the Members and to improve and enhance the attractiveness, desirability and safety of

the Subdivision. The Board of Directors shall minimally be composed of three individuals serving three year staggered terms, with the titles of President, Vice-President, and Secretary/Treasurer, being assigned annually by the board of Directors.

Section 10.02. Duty to Accept the Property and Facilities Transferred by Developer. The Association shall accept title to any real property, improvements to real property, personal property and any related equipment which the Developer transfers to the Association, together with the responsibility to perform any all maintenance and administrative functions associated therewith, provided that such property and responsibilities are not inconsistent with the terms of these Restrictions. Property interest transferred to the Association by the Developer may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by the Developer shall, except to the extent otherwise specifically approved by resolution of the Board of Directors, be transferred to the Association free and clear of all liens and mortgages (other than the lien for property taxes and assessments not then due and payable), but shall be subject to the terms of any declaration of covenants, conditions and restriction or easements set forth in the transfer instrument. Except as otherwise specifically approved by resolution of the Board of Directors, no property or instrument transferred to the Association by the Developer shall impose upon the Association any obligation to make monetary payments to the Developer or any affiliate of the Developer including, but not limited to, any purchase price, rent charge or fee.

Section 10.03. Duty to Prepare Annual Budgets. The Association shall prepare an annual budget for the Association and deliver a copy of the annual budget to the Members along with, or prior to, the delivery of the invoice sent to each Owner for the Annual Assessment. The Association shall strive to deliver the annual budget and the Annual Assessment invoice at least thirty (30) days before the start of each calendar year.

Section 10.04. Duty to Levy and Collect Assessments. The Association shall levy, collect and enforce the Assessments as provided in these Restrictions.

Section 10.05. Duty to Provide Annual Financial Statement. The Association shall prepare an annual financial statement, including a balance sheet, for review by the Members.

Section 10.06. Duties with Respect to Architectural Approvals. The Association, through the ARC, shall perform the ARC duties described in these Restrictions.

Section 10.07. Power to Acquire Property and Construct Improvements. The Association may acquire property or an interest in property (including leases and easements) for the common benefit of Owners including any improvements and personal property. The Association may construct improvements on the Subdivision property and may demolish any existing improvements.

Section 10.08. Power to Adopt Rules and Regulation. The Association shall have the power to make reasonable rules and regulations regarding the use of the Common Area. The Association shall also have the right to promulgate such rules and regulations with respect to the Subdivision so long as the Board of the Association deems such rules and regulations necessary to promote the recreation, health, safety and welfare of the Members of the Association, or may be necessary or desirable to further the common interest of the Members and to improve and enhance the attractiveness, desirability and safety of the Subdivision all in accordance with the provisions



of these Restrictions. The rules and regulations may be enforced in the same manner as any other provision of these Restrictions.

Section 10.09. Enforcement of Restrictions. The Association (or any Owner if the Association fails to do so after reasonable written notice) shall enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Association or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. If it becomes necessary for any Owner or the Association to file a Court action to enforce these Restrictions, the defaulting Owner shall be liable for all reasonable attorney's fees and costs incurred by the enforcing Owner or the Association to obtain compliance by the defaulting Owner. The defaulting Owner shall be liable for all damages suffered by the enforcing Owner or the Association which shall be in an amount established by the Court.

Section 10.10. Remedies. In the event an Owner fails to remedy any violation of these Restrictions within reasonable written notice by the Association, the Association, or its authorized representatives, may take any one or more of the following actions:

- (a) Enter upon the Owner's property and remove the violating condition, or cure the violation, at the expense of the Owner, and the violating Owner shall pay on demand all costs and expenses, including reasonable attorney's fees, incurred by the Association in removing such violating condition;
- (b) Assess fines as set detailed in Section 13.02.
- (c) File suit in order to enforce the above remedies and/or pursue any other remedy which may be available at law or in equity;
- (d) Suspend an Owner's right to use the Common Area; and/or
- (e) Take any action allowed by the Texas Property Code.

After an Owner receives a written notice of a violation of these Restrictions, the violating Owner shall not be entitled to any further notice of the same violation if it occurs within a six (6) month period. The Association reserves the easement across each Owner's Lot for the purpose of correcting or removing conditions in violation of these Restrictions, and in doing so, shall have no liability for trespass or other tort in connection therewith, or arising from such correction or removal of a violating condition. The Association shall further have the right to have any vehicle or other property stored or used in violation of these Restrictions removed from the Owner's Lot at the expense of the Owner and stored at the expense of the Owner.

Section 10.11. Removal of Obstructions, Debris, and Materials. The Association at the Lot Owner's expense may remove any obstructions of any nature located within road right-of-ways or other Common Area including trees and shrubs which, in the opinion of the Association, either might produce a hazard or might interfere with the maintenance of the roads.

**ARTICLE XI**  
**RIGHTS OF MORTGAGEES**

Section 11.01. Rights of Mortgagees or Third Parties. Should a mortgagee or third party acquire the rights of Declarant, by way of foreclosure or otherwise in adjoining or neighboring property contained within the property contiguous to the property subject to this declaration, as same may exist from time to time, it shall be allowed full use of all rights, easements, rights-of-way and utilities contained within the Subdivision for the purpose of serving such adjoining or neighboring areas. These rights shall also inure to the benefit of Declarant should it retain or be the Owner of any portion of said property. Any of such parties may elect to bring additional phases under this Declaration.

## **ARTICLE XII** **INSURANCE**

Section 12.01. Insurance. The Association shall obtain such insurance as may be deemed necessary or desirable by the Board or by law, including but not limited to, comprehensive liability and casualty insurance, worker's compensation insurance, fidelity and indemnity insurance, officers and director's liability insurance, as well as such other insurances or bonds as the Association shall deem necessary or desirable. Premiums for all insurance required under this Section shall be Common Area Expenses of the Association.

## **ARTICLE XIII** **GENERAL PROVISIONS**

Section 13.01. Enforcement. Subject to the notice provisions required by the Texas Property Code, in the event of a violation or breach of any of these restrictions by any Owner or agent, or agent of such Owner, Owners of Lots in the Subdivision, or any of them, jointly or severally, Declarant, and/or Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any such event or to recover damages. In addition to the foregoing, Declarant, its successors and assigns, shall have the right, but shall be under no obligation, whenever there shall have been built on any Lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of Owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by Owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction, or condition contained in this Declaration, however, long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Declarant or Association employ counsel to enforce any of the foregoing covenants, condition, reservations, or restrictions because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Declarant/Association's counsel, shall be paid by Owner of such Lot or Lots in breach thereof. Any amount assessed hereunder shall constitute a lien on such Lot and shall be enforceable as herein provided. Failure of Declarant, Association, or any Owner to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so thereafter. In addition, the Board of Directors shall have the authority to enforce the Covenants and Restrictions, including reasonable rules and regulations.

Section 13.02. Fines, Association Administrative Proceedings Including Hearings Regarding Fines and Suspension of Services under Chapter 209 of the Texas Property Code. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association or the Declarant (prior to the Control Transfer Date), a reasonable fine or fines may be imposed

upon an Owner for failure of an Owner, his family, guests, invitees, Lessees or employees to comply with any covenant, restriction, rule or regulation, provided notice and hearing procedures set out in the Texas Property Code are followed. Once imposed, fines shall be treated as an assessment subject to the provisions for the collection of assessments. The Association may conduct any administrative proceedings permitted or provided for under the Declaration, the Act or as otherwise provided by law, including without limitation, the right of the Association, after notice and an opportunity to be heard, to (1) impose reasonable fines for violations of the Declarations, Bylaws, rules and regulations of the Association, or (2) to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods for violations of the Declaration, Bylaws, and rules and regulations of the Association or during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer. Prior to pursuing the imposition of a fine or the suspension of privileges or services as allowed by the Act and as provided herein, the offending Owner will be notified and given a reasonable time to cure his violation or nonpayment. In the event the violation or nonpayment is not cured within period given, a hearing shall be held before the Board to determine if the offending Owner should be fined or if privileges or services should be suspended. The offending Owner charged shall be given notice of the charge, an opportunity to be heard and to present evidence and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred fifty dollars (\$150.00) may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs; provided, however, that fines imposed shall be subject to the following minimums:

- (i) The fine for the first violation or the first day of any continuing or repetitive violation shall not be less than \$25.00.
- (ii) The fine for the second violation or the second day of any continuing or repetitive violation shall not be less than \$50.00.
- (iii) The fine for the third violation or the third day and subsequent days of any continuing or repetitive violation shall not be less than \$100.00.

Fines imposed shall be assessments secured by liens under Chapter 209 of the Texas Property Code. If it is decided that a suspension of privileges or services should be imposed, notice under §209.006 shall be given, then the suspension may be continued until the delinquency is paid. The Association may institute actions or proceedings permitted by law or the Act to collect any sums due and owing to it.

Section 13.03. Responsibility of Declarant. Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In addition, nothing contained in this Declaration shall be deemed to be a representation by Declarant with regard to the requirements of any governmental authority and it shall be the duty of each Owner to comply with any such requirements in addition to the provisions of this Declaration.

Section 13.04. Binding Effect. All covenants, conditions, limitations, restrictions, easements, and affirmative obligations set forth in this Declaration shall be binding on each and every Owner of a Lot and their respective heirs, successors, and assigns, and shall run with the land. All rights, easements and agreements reserved by or granted to Declarant herein shall inure to the benefit of Declarant, its successors and assigns including, without limitation, the right to develop and submit additional phases. Declarant reserves the right in addition to all other rights of Declarant, to assign its rights of consent and approval as set out in this Declaration and any

amendment hereto or supplement thereof, to the Association, or any assignee of Declarant's development rights. At such time as Declarant, its successors or assigns no longer owns a Lot or Common Area located within the Subdivision, any right of approval reserved to Declarant by this Declaration shall be exercised by the Association.

Section 13.05. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by Declarant, Association, or Owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors, and assigns for a period of forty (40) years from the date these Restrictions are recorded. These Restrictions shall be automatically extended for successive periods of twenty (20) years each time unless these Restrictions are cancelled by a two-thirds (2/3) affirmative vote of every Member entitled to vote and an appropriate document is recorded evidencing the cancellation of these Restrictions.

Section 13.06. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner of the records of Association at the time of such mailing.

Section 13.07. Severability. Each of these provisions of these Restrictions shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partially unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 13.08. Amendment. Except for any amendment affecting any existing Improvements, these covenants, restrictions, easements, charges, and liens of this Declaration may be amended, changed, added to, derogated, or deleted at any time and from time to time upon sixty-seven percent (67%) vote of every Member entitled to vote, provided, that so long as the Declarant is the Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained. Provided further, that the provisions for voting of Class A and Class B Members as hereinabove contained in this Declaration shall also be effective in voting for changes in this Declaration. No amendment to the Declaration shall be effective until executed on behalf of the Association by any officer designated for that purpose and recorded in the Official Records of the Hood County Clerk's Office, Hood County, Texas.

Section 13.09. Amendment by the Developer. The Developer shall have and reserve the right at any time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend these Restrictions by an instrument in writing duly signed, acknowledged, and filed for record so long as the Developer owns any land in the Subdivision and provided that any such amendment shall be consistent with and is furtherance of the general plan and scheme of development of the Subdivision and evidenced by these Restrictions or if needed to comply with state law.

Section 13.10. Amendment of Declaration Without Approval of Owners. So long as it owns any portion of the Subdivision, the Declarant, without the consent, joinder or approval of any other Owner, shall have the right to amend this Declaration:

- (a) to conform to the requirements of any law or governmental agency having legal jurisdiction over the Subdivision;

(b) to qualify the Subdivision or any Lots and improvements thereon for mortgage or improvement loans; or

(c) to make amendments which are correctional in nature only and do not involve a change which materially and adversely affects the rights, duties or obligations of any other Owner.

Section 13.11. Assignment of Declarant's Rights. Declarant reserves the right to assign its rights to a successor or assign who also assumes Declarant's responsibilities.

Section 13.12. Indemnification of Officers, Directors, and Others. Subject to Texas law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) 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 to those actions for which liability is limited under this Section.

The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association may, as a Common Expense, maintain adequate general liability and officers and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 13.13. Safety and Security. The Association, the Board, its directors and officers, Declarant, and, their respective agents, assigns, or employees shall not be considered insurers or guarantors of security or safety within the Subdivision, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security or safety measures undertaken. No representation or warranty is made that any safety measure or security system, including any mechanism, system, or procedure for limiting access to any portion of the Subdivision, cannot be compromised or circumvented, nor that any such systems or measures undertaken will in all cases prevent loss or provide the detection or protection for which it is designed or intended. Each Owner, resident, guest, and invitee acknowledges and agrees that the Association, the Board, its directors and officers, Declarant, and their respective agents, assigns, and employees are not insurers and that each Owner assumes all risks for personal injury and loss or damage to property resulting from acts of third parties.

Section 13.14. Changes in Ownership of Lots. Each Owner is required to keep the Association apprised at all times of the current name of the Owner and its address. Within ten (10) days following the closing of any transfer of title, the Owner desiring to sell or otherwise transfer

title to its Lot shall give the Board written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In addition, within ten (10) days following any change in the name and address of the Lot Owner, the Owner shall give the Board written notice of the changed information and such other information as the Board may reasonably require.

Section 13.15. Effective Date. This Declaration shall become effective upon its recordation in the Official Records of the Hood County Clerk's Office, Hood County, Texas.

Section 13.16. Conflict. The Association shall comply with all terms and conditions of the Texas Property Code. In the event of any conflict herein, the Texas Property Code prevails. Any specific reference to a section in the Texas Property Code shall also include any amendments and/or codifications of the Texas Property Code.

Section 13.17. Liberal Interpretation. The provisions of these Restrictions shall be liberally construed as a whole to effectuate the purpose of these Restrictions.

Section 13.18. Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners, the Developer and the Association, and their respective guests, invitees, heirs, legal representatives, executors, administrators, successors and assigns.

Section 13.19. Terminology. All personal pronouns used in these Restrictions, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural and vice versa. Title of Articles and Sections are for convenience only and neither limits nor amplifies the provisions of these Restrictions. The terms "herein", "hereof" and similar terms, as used in this instrument, refer to the entire document and are not limited to referring only to the specific paragraph, Section or Article which such terms appear.

Section 13.20. Time of Essence. It is agreed that time is of the essence with regard to these restrictions, protective covenants, limitations, and conditions.

**[Signature follows on next page.]**

