Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697

Ruth R. Hughs
Secretary of State

Office of the Secretary of State

CERTIFICATE OF FILING
OF

Harvest Townhome Community Association, Inc.
File Number: 803853028

The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 12/03/2020

Effective: 12/03/2020

Ruth R. Hughs
Secretary of State

FILED
In the Office of the
Secretary of State of Texas

DEC 03 2020

Corporations Section

CERTIFICATE OF FORMATION
OF
HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a nonprofit corporation under the Texas Business Organizations Code, does hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I
NAME

The name of the corporation is: Harvest Townhome Community Association, Inc. (hereinafter called the **"Association"**).

ARTICLE II
NONPROFIT CORPORATION

The Association is a nonprofit corporation.

ARTICLE III
DURATION

The Association shall exist perpetually.

ARTICLE IV
PURPOSE AND POWERS OF THE ASSOCIATION

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organizations Code, and does not contemplate pecuniary gain or profit to its members. In furtherance of its purposes, the Association shall have the following powers which, unless indicated otherwise by this Certificate of Formation, that certain Subordinate Declaration of Covenants, Conditions, and Restrictions for Harvest Townhomes recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time (the **"Declaration"**), the Bylaws, or Applicable Law, may be exercised by the Board of Directors:

(a) all rights and powers conferred upon nonprofit corporations by Applicable Law;

(b) all rights and powers conferred upon property associations by Applicable Law, in effect from time to time, provided, however, that the Association shall not have the power to institute, defend, intervene in, settle or compromise proceedings: (i) in the name of any Member or Owner (whether one or more); or

(ii) pertaining to a Claim, as defined in Section 15.01 of the Declaration, relating to the design or construction of Improvements on a Lot; and

(c) all powers necessary, appropriate, or advisable to perform any purpose or duty of the Association as set out in this Certificate of Formation, the Bylaws, the Declaration or Applicable Law.

Notwithstanding any provision in Article XIV to the contrary, any proposed amendment to the provisions of this Article IV shall be adopted only upon an affirmative vote of Members holding one-hundred percent (100%) of the total number of votes of the Association and the Declarant.

Terms used but not defined in this Certificate of Formation shall have the meaning subscribed to such terms in the Declaration.

ARTICLE V
REGISTERED OFFICE; REGISTERED AGENT

The street address of the initial registered office of the Association is 3000 Turtle Creek Blvd., Dallas, Texas 75219, and the name of its initial registered agent at such address is Stephen D. Parker.

ARTICLE VI
MEMBERSHIP

Membership in the Association shall be dependent upon ownership of a qualifying property interest as defined and set forth in the Declaration. Any person or entity acquiring such a qualifying property interest shall automatically become a member of the Association, and such membership shall be appurtenant to, and shall run with, the property interest. The foregoing shall not be deemed or construed to include persons or entities holding an interest merely as security for performance of an obligation. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

ARTICLE VII
VOTING RIGHTS

Voting rights of the members of the Association shall be determined as set forth in the Declaration.

ARTICLE VIII
INCORPORATOR

The name and street address of the incorporator is:

NAME	ADDRESS
Robert D. Burton	401 Congress Avenue, Suite 2100 Austin, Texas 78701

ARTICLE IX
BOARD OF DIRECTORS

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to the Texas Business Organizations Code. The number of Directors of the Association may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

NAME	ADDRESS
Andrew Pieper	Pecan Square Phase 1, LLC 3000 Turtle Creek Blvd. Dallas, Texas 75219
Angie Mastrocola	Pecan Square Phase 1, LLC 3000 Turtle Creek Blvd. Dallas, Texas 75219
Kim Comiskey	Pecan Square Phase 1, LLC 3000 Turtle Creek Blvd. Dallas, Texas 75219

All of the powers and prerogatives of the Association shall be exercised by the initial Board of Directors named above until their successors are elected or appointed in accordance with the Declaration.

ARTICLE X
LIMITATION OF DIRECTOR LIABILITY

A member of the Board of Directors of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a board member, except to the extent otherwise expressly provided by Applicable Law. Any repeal or

modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a member of the Board of Directors existing at the time of the repeal or modification.

ARTICLE XI
INDEMNIFICATION

Each person who acts as a member of the Board of Directors, officer or committee member of the Association shall be indemnified by the Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him in connection with any civil or criminal action, suit or proceeding in which he may be named as a party defendant or in which he may be a witness by reason of his or her being or having been a member of the Board of Directors, officer, or committee member of the Association, or by reason of any action alleged to have been taken or omitted by him or her in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in Section 5.07 of the Declaration.

ARTICLE XII
DISSOLUTION

The Association may be dissolved with the written and signed assent of not less than ninety percent (90%) of the total number of votes of the Association, as determined under the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

ARTICLE XIII
ACTION WITHOUT MEETING

Any action required or permitted by Applicable Law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote, if written consent specifically authorizing the proposed action is signed by the Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all the Members entitled to vote thereon were present. If the action is proposed by the Association, the Board of Directors shall provide each Member written notice at least ten (10) days in advance of the date the Board proposes to initiate securing consent as contemplated by this Article XIII. Consents obtained pursuant to this Article XIII shall be dated and signed within sixty (60) days after receipt of the earliest dated consent and delivered to the Association at its principal place of business in Texas. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice

to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

ARTICLE XIV
AMENDMENT

Except as otherwise provided by the terms and provisions of Article IV of this Certificate of Formation, this Certificate of Formation may be amended by the Declarant during the Development Period or by a Majority of the Board of Directors; provided, however, that any amendment to this Certificate of Formation by a Majority of the Board of Directors must be approved in advance and in writing by the Declarant during the Development Period.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, this 3rd day of December, 2020.

Robert D. Burton, Incorporator

AFTER RECORDING RETURN TO:
Robert D. Burton, Esq.
Winstead PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

HARVEST TOWNHOMES
COMMUNITY MANUAL

TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company, as the Declarant under the Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, recorded under Document No. _____ in the Official Public Records of Denton County, Texas, certifies that the foregoing Community Manual was adopted for the benefit of Harvest Townhome Community Association, Inc., a Texas non-profit corporation, as part of the initial project documentation for Harvest Townhomes. This Community Manual becomes effective when recorded.

IN WITNESS WHEREOF, the undersigned has executed this Community Manual on the _____ day of _____, 20____.

DECLARANT:

TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company

By: _____
Printed Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me this ____ day of _____, 20___ by _____ _____, _____ of TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)

_____
Notary Public Signature

Cross-reference to Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, recorded under Document No. _____ in the Official Public Records of Denton County, Texas, as may be amended from time to time.

COMMUNITY MANUAL

for

HARVEST TOWNHOMES

A Residential Community in Denton County

TOWNHOMES AT HARVEST PHASE 1, LLC, is the developer of Harvest Townhomes. The guiding principles for the Community have been set forth in the governing documents for Harvest Townhomes, which include the Development Documents and the Association Documents (both defined below) and are collectively referred to as the Documents (the "**Documents**"). The Documents include such instruments as the Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes (the "**Declaration**"), the Design Guidelines, if any, and this Community Manual (collectively referred to as the "**Development Documents**"), all of which are recorded in the property records by the developer generally prior to the time that you purchased your property. The Development Documents contain covenants, conditions and restrictions which not only encumber your property, but also have a legal and binding effect on all Owners and Residents in the Community, now or in the future.

Under the Development Documents, the developer is the "**Declarant**" who has reserved certain rights to facilitate the development, construction, and marketing of the Community, including its size, shape and composition, while the Community is being built-out (the "**Development Period**"). Furthermore, the Development Documents identify and set forth the obligations of Harvest Townhome Community Association, Inc., the non-profit corporation created by the Declarant to exercise the authority and assume the powers described in the Declaration (the "**Association**").

Other specific Documents include such instruments as the Certificate of Formation and Bylaws which set forth the corporate governance structure of the Association as well as the various Rules and Regulations, which include rules, regulations, policies and procedures outlining the operation of the Association and required standards for use of property, activities and conduct (the "**Association Documents**"). It is the Association Documents which are included within this Community Manual, as further set forth herein.

Capitalized terms used but not defined in this Community Manual shall have the meaning subscribed to such terms in the Declaration.

This Community Manual becomes effective when Recorded.

HARVEST TOWNHOMES

COMMUNITY MANUAL

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ATTACHMENT 1

CERTIFICATE OF FORMATION

[*SEE ATTACHED*]

ATTACHMENT 2

BYLAWS
OF
HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.

ARTICLE I
INTRODUCTION

The name of the corporation is Harvest Townhome Community Association, Inc., a Texas non-profit corporation, hereinafter referred to as the "Association". The principal office of the Association shall be located in Denton County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, County of Denton, as may be designated by the Board of Directors, as provided in these Bylaws.

The Association is organized to be a nonprofit corporation.

Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, recorded in the Official Public Records of Denton County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.

ARTICLE II
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

Section 2.1. Assessment. "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

Section 2.2. Association. "Association" shall mean and refer to Harvest Townhome Community Association, Inc., a Texas non-profit corporation.

Section 2.3. Association Property. "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now or hereafter owned or held by the Association.

Section 2.4. Association Rules. "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

Section 2.5. Board. "Board" shall mean the Board of Directors of the Association.

Section 2.6. Bylaws. "Bylaws" shall mean the bylaws of the Association, which may be initially adopted and Recorded by Declarant or the Board of the Association and Recorded as part of the initial project documentation for the benefit of the Association. The Bylaws may be amended, from time to time, by the Declarant until expiration or termination of the Development Period (as defined in the Declaration). Any amendment to the Bylaws proposed by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration of the Development Period, the Bylaws may be amended by a Majority of the Board.

Section 2.7. Certificate. "Certificate" shall mean the Certificate of Formation of Harvest Townhome Community Association, Inc., a Texas non-profit corporation, filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

Section 2.8. Community Manual. "Community Manual" shall mean the community manual of the Association, which may be initially adopted and Recorded by the Declarant or the Board of the Association and Recorded as part of the initial project documentation for the benefit of the Association and the Property. The Community Manual may include the Bylaws, Rules and Regulations and other policies governing the Association. The Bylaws, Rules and Regulations and other policies set forth in the Community Manual may be amended, from time to time, by the Declarant until expiration or termination of the Development Period (as defined in the Declaration). Any amendment to the Bylaws, Rules and Regulations and other policies governing the Association prosecuted by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

Section 2.9. Declarant. "Declarant" shall mean **TOWNHOMES AT HARVEST PHASE 1, LLC,** a Texas limited liability company, its successors or assigns; provided that any assignment(s) of the rights of **TOWNHOMES AT HARVEST PHASE 1, LLC,** a Texas limited liability company, as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Denton County, Texas.

Section 2.10. Declaration. "Declaration" shall mean the "Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes", recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time.

Section 2.11. Majority. "Majority" shall mean more than half.

Section 2.12. Manager. "Manager" shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

Section 2.13. Member. "Member" or "Members" shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

Section 2.14. Mortgage. "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

Section 2.15. Mortgagee. "Mortgagee" or "Mortgagees" shall mean the holder or holders of any lien or liens upon any portion of the Property.

Section 2.16. Owner. "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

Section 2.17. Property. "Property" shall mean and refer to the property subject to the terms and provisions of the Declaration.

Section 2.18. Restrictions. "Restrictions" means, singularly or collectively as the case may be, the Declaration, the Certificate, Bylaws, the Community Manual, the Design Guidelines, if any, and any Rules and Regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Restriction is part of a Restriction.

ARTICLE III
MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 3.1. Membership. Each Owner of a Lot is a mandatory Member of the Association, as more fully set forth in the Declaration.

Section 3.2. Place of Meetings. Meetings of the Association shall be held where designated by the Board, either within the Property or as convenient as possible and practical.

Section 3.3. Annual Meetings. There shall be an annual meeting of the Members of the Association for the purposes of Association-wide elections or votes and for such other Association business at such reasonable place, date and time as set by the Board.

Section 3.4. Special Meetings. Special meetings of Members may be called in accordance with Section 22.155 of the Texas Business Organizations Code or any successor statute.

Section 3.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting or by publication in a newspaper of general circulation, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President, the Secretary, or the officers or persons calling the meeting. In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid. If an election or vote of the Members will occur outside of a meeting of the Members (i.e., absentee or electronic ballot), then the Association shall provide notice to each Member no later than the 20th day before the latest date on which a ballot may be submitted to be counted.

Section 3.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting by a Member shall be deemed a waiver of notice of all business transacted at such meeting unless an objection by a Member on the basis of lack of proper notice is raised before the business is put to a vote.

Section 3.7. Quorum. Except as provided in these Bylaws or in the Declaration, the presence of the Members representing five percent (5%) of the total votes in the Association shall constitute a quorum at all Association meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum, provided that Members representing at least five percent (5%) of the total votes in the Association remain in attendance, and provided that any action taken is approved by at least a Majority of the votes present at such adjourned meeting, unless otherwise provided in the Declaration.

Section 3.8. Conduct of Meetings. The President or any other person appointed by the Board shall preside over all Association meetings, and the Secretary, or the Secretary's designee, shall keep the

minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 3.9. Voting. The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Except as otherwise provided in the Declaration, action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Members having a Majority of the total votes present at such meeting in person or proxy or by absentee ballot or electronic voting, if such votes are considered present at the meeting as further set forth herein. Cumulative voting shall not be allowed. The person holding legal title to a Lot shall be entitled to cast the vote allocated to such Lot and not the person merely holding beneficial title to the same unless such right is expressly delegated to the beneficial Owner thereof in writing. **Any provision in the Association's governing documents that would disqualify an Owner from voting in an Association election of Board Members or on any matter concerning the rights or responsibilities of the Owner is void.** In a Board election, each candidate is allowed to name one person to observe the counting of the ballots, provided that the designated observer (i) is prohibited from seeing the name of the Member who cast any ballot, and (ii) shall not be disruptive, and if found to be disruptive, shall be removed.

Section 3.10. Methods of Voting: In Person; Proxies; Absentee Ballots; Electronically. The voting rights of an Owner may be cast or given: (a) in person or by proxy at a meeting of the Association; (b) by absentee ballot; or (c) by electronic ballot. Any vote cast in an election or vote by a Member of the Association must be in writing and signed by the Member. Electronic votes constitute written and signed ballots. In an Association election, written and signed ballots are not required for uncontested races. Votes shall be cast as provided in this Section:

(A) Proxies. Any Member may give a revocable written proxy in the form as prescribed by the Board from time to time to any person authorizing such person to cast the Member's vote on any matter. A Member's vote by proxy is subject to any limitations of Texas law relating to the use of general proxies and subject to any specific provision to the contrary in the Declaration or these Bylaws. No proxy shall be valid unless signed by the Member for which it is given or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Proxies shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall a proxy be valid more than eleven (11) months after the effective date of the proxy. Every proxy shall be revocable and shall automatically cease upon conveyance of the Lot for which it was given.

(B) Absentee and Electronic Ballots. An absentee or electronic ballot: (1) may be counted as an Owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot; (2) may not be counted, even if properly delivered, if the Owner attends any meeting to vote in person, so that any vote cast at a meeting by an Owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and (3) may not be counted on the final vote of a proposal if the proposal was amended at the meeting to be different from the exact language on the absentee or electronic ballot. For the purposes of this Section, a nomination taken from the floor in a Board member election is not considered an amendment to the proposal for the election.

(i) *Absentee Ballots.* No absentee ballot shall be valid unless it is in writing, signed by the Member for which it is given or his duly authorized attorney-in-fact, dated, and filed with

the Secretary of the Association prior to the meeting for which it is to be effective. Absentee ballots shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall an absentee ballot be valid after the specific meeting or lawful adjournment of such meeting at which such ballot is counted or upon conveyance of the Lot for which it was given. Any solicitation for votes by absentee ballot must include:

a. an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

b. instructions for delivery of the completed absentee ballot, including the delivery location; and

c. the following language: ***"By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."***

(ii) *Electronic Ballots.* "Electronic ballot" means a ballot: (a) given by email, facsimile or posting on a website; (b) for which the identity of Owner submitting the ballot can be confirmed; and (c) for which the Owner may receive a receipt of the electronic transmission and receipt of the Owner's ballot. If an electronic ballot is posted on a website, a notice of the posting shall be sent to each Owner that contains instructions on obtaining access to the posting on the website.

Section 3.11. Tabulation of and Access to Ballots. A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity may not tabulate or otherwise be given access to the ballots cast in that election or vote except such person may be given access to the ballots cast in the election or vote as part of a recount process. A person tabulating votes in an Association election or vote or who performs a recount pursuant to *Section 3.12* may not disclose to any other person how an individual voted. Notwithstanding any provision of these Bylaws to the contrary, only a person who tabulates votes pursuant to this Section or performs a recount pursuant to *Section 3.12* shall be given access to any Association ballots.

Section 3.12. Recount of Votes. Any Member (the "**Recount Requesting Member**") may, not later than the fifteenth (15th) day after the later of the date of any meeting of Members at which an election or vote was held, or the date of the announcement of the results of the election or vote, require a recount of the votes (the "**Recount Request**"). A Recount Request must be submitted in writing either: (i) by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier, with signature confirmation service to the Association's mailing address as reflected on the latest management certificate; or (ii) in person to the Association's managing agent as reflected on the latest management certificate or to the address to which absentee and proxy ballots are mailed. The

Recount Requesting Member shall be required to pay, in advance, expenses associated with the recount as estimated by the Association pursuant to subsection (a) below.

(a) Cost of Recount. The Association shall estimate the costs for performing the recount by a person qualified to tabulate votes under subsection (b), and no later than the 20th day after the date the Association receives the Recount Request, shall send an invoice for the estimated costs (the "**Initial Recount Invoice**") to the Recount Requesting Member at the Recount Requesting Member's last known address according to the Association's records. The Recount Requesting Member must pay the Initial Recount Invoice in full to the Association on or before the 30th day after the date the Initial Recount Invoice was delivered to the Recount Requesting Member (the "**Deadline**"). If the Initial Recount Invoice is not paid by the Recount Requesting Member by the Deadline, the Recount Requesting Member's Recount Request shall be considered withdrawn and the Association shall not be required to perform a recount. If the Initial Recount Invoice is paid by the Recount Requesting Member by the Deadline, then on or before the 30th day after the date of receipt of payment of the Invoice, the recount must be completed and the Association must provide each Recount Requesting Member with notice of the results of the recount. If the recount changes the results of the election, the Association shall reimburse the Recount Requesting Member for the cost of the recount not later than the 30th day after the date the results of the recount are provided. If the recount does not change the results of the election, and the estimated costs included on the Initial Recount Invoice are either lesser or greater than the actual costs of the recount, the Association shall send a final invoice (the "**Final Recount Invoice**") to the Recount Requesting Member on or before the 30th business day after the date the results of the recount are provided. If the Final Recount Invoice reflects that additional amounts are owed by the Recount Requesting Member, the Recount Requesting Member shall remit such additional amounts to the Association immediately. Any additional amounts not paid to the Association by the Recount Requesting Member before the 30th business day after the date the Final Recount Invoice is sent may be charged as an Individual Assessment against the Recount Requesting Member. If the costs estimated in the Initial Recount Invoice costs exceed the amount reflected in the Final Recount Invoice, then the Recount Requesting Member shall be entitled to a refund, which such refund shall be paid at the time the Final Recount Invoice is delivered pursuant to this Section.

(b) Vote Tabulator. Following receipt of payment of the Initial Recount Invoice, the Association shall retain for the purpose of performing the recount, the services of a person qualified to tabulate votes. The Association shall enter into a contract for the services of a person who: (i) is not a Member of the Association or related to a Member of the Association Board within the third degree by consanguinity or affinity; and (ii) is either a person agreed on by the Association and each person requesting a recount or is a current or former county judge, county elections administrator, justice of the peace or county voter registrar.

(c) Board Action. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Section 3.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by Members holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated, and delivered to the Association at its principal place of business in Texas. Such

consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

ARTICLE IV
BOARD OF DIRECTORS

Section 4.1. Authority; Number of Directors.

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Certificate. The initial Directors shall serve until their successors are elected and qualified.

(b) In accordance with Section 5.03 of the Declaration, *i.e.*, no later than the 10th anniversary of the date the Declaration is Recorded, the President of the Association will thereupon call a meeting of the Members of the Association (the "**Initial Member Election Meeting**") where the Members will elect one (1) Director for a one (1) year term ("**Initial Member Elected Director**"). Declarant will continue to appoint and remove two-thirds (2/3) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period. The individual elected to the Board at the Initial Member Election Meeting and his or her successors shall be elected for a one (1) year term.

(c) At the expiration or termination of the Development Period, the Declarant will thereupon call a meeting of the Members of the Association where the Declarant appointed Directors will resign and the Members, including Declarant, will elect three (3) new directors (to replace all Declarant appointed Directors and the Initial Member Elected Director) (the "**Member Election Meeting**"), one (1) Director for a three (3) year term, one (1) Director for a two (2) year term, and one (1) Director for a one (1) year term (with the individual receiving the highest number of votes to serve the three (3) year term, the individual receiving the next highest number of votes to serve the two (2) year term, and the individual receiving the third highest number of votes to serve a one (1) year term). Upon expiration of the term of a Director elected by the Members pursuant to this *Section 4.1(c)*, his or her successor will be elected for a term of two (2) years.

(d) A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

(e) Each Director, other than Directors appointed by Declarant, shall be a Member. In the case of corporate, partnership, or other entity ownership of a Lot, the Director must be a duly authorized agent or representative of the corporation, the partnership, or other entity which owns the Lot. Other than as set forth in this subparagraph (e), the Association may not restrict an Owner's right to run for a position on the Board.

Section 4.2. Compensation. The Directors shall serve without compensation for such service. As determined by the Board, Directors may be reimbursed for any reasonable and necessary out-of-pocket expenses.

Section 4.3. Nominations to Board of Directors. Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

Section 4.4. Vacancies on Board of Directors. Except with respect to Directors appointed by the Declarant, if the office of any elected Director shall become vacant by reason of death, resignation, or disability, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws. Except with respect to Directors appointed by the Declarant, any Board Member whose term has expired or who has been removed from the Board must be elected by the Members.

Section 4.5. Removal of Directors. Subject to the right of Declarant to nominate and appoint Directors as set forth in *Section 4.1* of these Bylaws, an elected Director may be removed, with or without cause, by the vote of Members holding a Majority of the votes entitled to be cast in the Association.

Section 4.6. Solicitation of Candidate for Election to the Board. At least thirty (30) days before the date an Association disseminates absentee ballots or other ballots to Members for the purpose of voting in a Board election, the Association shall provide notice (the "**Solicitation Notice**") of the election to the Members. The Solicitation Notice shall: (a) solicit candidates that are eligible under *Section 4.1(e)* and interested in running for a position on the Board; (b) state that an eligible candidate has fifteen (15) days to respond to the Solicitation Notice and request to be placed on the ballot; and (c) must be: (1) mailed to each Member; (2) e-mailed to each Member that has registered their e-mail address with the Association; or (3) posted in a conspicuous manner reasonably designed to provide notice to Members, such as: (i) within the Common Area or, with the Member's consent, on other conspicuously located privately owned property within the subdivision; or (ii) on any website maintained by the Association or other internet media.

ARTICLE V
MEETINGS OF DIRECTORS

Section 5.1. Development Period. The provisions of this *Article V* do not apply to Board meetings during the Development Period (as defined in the Declaration) during which period the Board may take action by unanimous written consent in lieu of a meeting pursuant to *Section 5.10*, except with respect to a meeting conducted for the purpose of: (a) adopting or amending the Documents (i.e., declarations, bylaws, rules, and regulations); (b) increasing the amount of Regular Assessments of the Association or adopting or increasing a Special Assessment; (c) electing non-Declarant Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

Section 5.2. Definition of Board Meetings. A meeting of the Board means a deliberation between a quorum of the Board, or between a quorum of the Board and another person, during which Association business is considered and the Board takes formal action.

Section 5.3. Regular Meetings. Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 5.4. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 5.5. Quorum. A Majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a Majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 5.6. Open Board Meetings. All regular and special Board meetings must be open to Owners. However, the Board has the right to adjourn a meeting and reconvene in closed executive session to consider actions involving: (a) personnel; (b) pending or threatened litigation; (c) contract negotiations; (d) enforcement actions; (e) confidential communications with the Association's attorney; (f) matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made by the Board in executive session must be summarized orally in general terms and placed in the minutes. The oral summary must include a general explanation of expenditures approved in executive session.

Section 5.7. Location. Except if otherwise held by electronic or telephonic means, a Board meeting must be held in the county in which all or a part of the property in the subdivision is located or in a county adjacent to that county, as determined in the discretion of the Board.

Section 5.8. Record; Minutes. The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board.

Section 5.9. Notices. Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be: (a) mailed to each Member not later than the tenth

(10th) day or earlier than the sixtieth (60th) day before the date of the meeting; **or** (b) provided at least seventy-two (72) hours before the start of the meeting by: (i) posting the notice in a conspicuous manner reasonably designed to provide notice to Members in a place located on the Association's common area or on any website maintained by the Association; and (ii) sending the notice by e-mail to each Member who has registered an e-mail address with the Association. It is the Member's duty to keep an updated e-mail address registered with the Association. The Board may establish a procedure for registration of email addresses, which procedure may be required for the purpose of receiving notice of Board meetings. If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this Section. If a regular or special Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner as set forth above within two (2) hours after adjourning the meeting being continued.

Section 5.10. Unanimous Consent. During the Development Period, Directors may vote by unanimous written consent. Unanimous written consent occurs if all Directors individually or collectively consent in writing to a Board action. The written consent must be filed with the minutes of Board meetings. Action by written consent shall be in lieu of a meeting and has the same force and effect as a unanimous vote of the Directors. As set forth in *Section 5.1*, Directors may not vote by unanimous consent if the Directors are considering any of the following actions: (a) adopting or amending the Documents (i.e., declarations, bylaws, rules, and regulations); (b) increasing the amount of Regular Assessments of the Association or adopting or increasing a Special Assessment; (c) electing non-Declarant Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

Section 5.11. Meeting without Prior Notice. The Board may take action outside a meeting including voting by electronic or telephonic means without prior notice to the Members if each Board member is given a reasonable opportunity (i) to express his or her opinions to all other Board members and (ii) to vote. Any action taken without notice to Members must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may not, unless done in an open meeting for which prior notice was given to the Members pursuant to *Section 5.9* above, consider or vote on: (a) fines; (b) damage assessments; (c) the initiation of foreclosure actions; (d) the initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; (e) increases in assessments; (f) levying of special assessments; (g) appeals from a denial of architectural control approval; (h) a suspension of a right of a particular Member before the Member has an opportunity to attend a Board meeting to present the Member's position, including any defense, on the issue; (i) the lending or borrowing of money; (j) the adoption of any amendment of a dedicatory instrument; (k) the approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than 10 percent (10%); (l) the sale or purchase of real property; (m) the filling of a vacancy on the Board; (n) the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or (o) the election of an officer.

Section 5.12. Telephone and Electronic Meetings. Any action permitted to be taken by the Board may be taken by telephone or electronic methods provided that: (1) each Board member may hear and be heard by every other Board member; (2) except for any portion of the meeting conducted in executive session: (i) all Members in attendance at the meeting may hear all Board members; and (ii) any

Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by a participating Board member at the same meeting; and (3) the notice of the Board meeting provides instructions to the Members on how to access the electronic or telephonic communication method used in the meeting. Participation in such a meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE VI
POWERS AND DUTIES OF THE BOARD

Section 6.1. Powers. The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) Adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the right of a Member to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Association Rules by such Member exists;

(c) Exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Restrictions;

(d) To enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Property;

(e) Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(f) Employ such employees as they deem necessary, and to prescribe their duties;

(g) As more fully provided in the Declaration, to:

(1) Fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and

(2) Foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(h) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

(i) Procure and maintain adequate liability and hazard insurance on Association Property;

(j) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(k) Exercise such other and further powers or duties as provided in the Declaration or by law.

ARTICLE VII
OFFICERS AND THEIR DUTIES

Section 7.1. Enumeration of Offices. The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

Section 7.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 7.3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

Section 7.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6. Vacancies. A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to *Section 7.4*.

Section 7.8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice President. The Vice President, if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

(d) Assistant Secretaries. Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

Section 7.9. Execution of Instruments. Except when the Restrictions require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association, including without limitation checks from the Association's bank account. In the absence of Board designation, and unless otherwise provided herein, the President and the Secretary are the only persons authorized to execute instruments on behalf of the Association.

ARTICLE VIII
OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a Majority of the number of Directors fixed by these Bylaws, designate two or more Directors or Members (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board.

ARTICLE IX
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE X
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

ARTICLE XI
CORPORATE SEAL

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

ARTICLE XII
AMENDMENTS

These Bylaws may be amended by: (i) the Declarant until expiration or termination of the Development Period; or (ii) a Majority vote of the Board of Directors with the advance written consent of the Declarant until expiration or termination of the Development Period.

ARTICLE XIII
INDEMNIFICATION OF DIRECTORS AND OFFICERS

The Association shall indemnify every Director, Officer, or Committee Member against, and reimburse and advance to every Director, Officer and Committee Member for all liabilities, costs and expenses' incurred in connection with such directorship or office and any actions taken or omitted in such capacity to the greatest extent permitted under the Texas Business Organizations Code and all other applicable laws at the time of such indemnification, reimbursement or advance payment; provided, however, no Director, Officer or Committee Member shall be indemnified for: (a) a breach of duty of loyalty to the Association or its Members; (b) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law; (c) a transaction from which such Director, Officer or Committee Member received an improper benefit, whether or not the benefit resulted from an action taken within the scope of directorship or office; or (d) an act or omission for which the liability of such Director, Officer or Committee Member is expressly provided for by statute.

ARTICLE XIV
MISCELLANEOUS

Section 14.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 14.2. Review of Statutes and Court Rulings. Users of these Bylaws should also review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by these Bylaws.

Section 14.3. Conflict. In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between these Bylaws and any provision of the applicable laws of the State of Texas, the conflicting aspect of the Bylaws provision is null and void, but all other provisions of these Bylaws remain in full force and effect.

Section 14.4. Interpretation. The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions or articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

Section 14.5. No Waiver. No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ATTACHMENT 3

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
FINE AND ENFORCEMENT POLICY

1. Background. Harvest Townhomes is subject to that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time (the "**Declaration**"). In accordance with the Declaration, Harvest Townhome Community Association, Inc., a Texas non-profit corporation (the "**Association**") was created to administer the terms and provisions of the Declaration. Unless the Declaration or Applicable Law expressly provides otherwise, the Association acts through a majority of its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, Certificate, Bylaws, Community Manual, and any Rules and Regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time (collectively, the "**Restrictions**"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration and the obligations of the Owners to compensate the Association for costs incurred by the Association for enforcing violations of the Restrictions.

   The Board hereby adopts this Fine and Enforcement Policy to establish equitable policies and procedures for the levy of fines within the Association in compliance with the Chapter 209 of the Texas Property Code, titled the "Texas Residential Property Owners Protection Act," as it may be amended (the **"Act"**). To the extent any provision within this policy is in conflict with the Act or any other applicable law, such provision shall be modified to comply with the applicable law.

   Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Restrictions.

2. Policy. The Association uses fines to discourage violations of the Restrictions, and to encourage compliance when a violation occurs – not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Restrictions. The Association's use of fines does not interfere with its exercise of other rights and remedies for the same violation.

3. Owner's Liability. An Owner is liable for fines levied by the Association for violations of the Restrictions by the Owner and the relatives, guests, employees, and agents of the Owner and residents. Regardless of who commits the violation, the Association may direct all communications regarding the violation to the Owner.

4. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Restrictions. If the Association allows fines to accumulate, the Association may establish a maximum amount for a particular fine, at which point the total fine will be capped.

5. Violation Notice. Except as set forth in Section 5(C) below, before levying a fine, the Association will give (i) a written violation notice via certified mail to the Owner (at the Owner's last known address as shown in the Association records) (the "**Violation Notice**") and (ii) an opportunity to be heard, if requested by the Owner. The Association's Violation Notice will contain the following items: (1) the date the Violation Notice is prepared or mailed; (2) a description of the violation or property damage that is the basis for the Individual Assessment, suspension action, or other charge; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation and a reasonable timeframe in which the violation is required to be cured to avoid the fine or suspension; (5) the amount of the possible fine; (6) a statement that no later than the thirtieth (30th) day after the date the notice was mailed, the Owner may request a hearing pursuant to Section 209.007 of the Texas Property Code, and further, if the hearing held pursuant to Section 209.007 of the Texas Property Code is to be held by a committee appointed by the Board, a statement notifying the Owner that he or she has the right to appeal the committee's decision to the Board by written notice to the Board; and (7) a statement that the Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. section *et seq*), if the Owner is serving on active military duty. The Violation Notice sent out pursuant to this paragraph is further subject to the following:

(A) First Violation. If the Owner has not been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months, the Violation Notice will state those items set out in (1) – (7) above, along with a reasonable timeframe by which the violation must be cured to avoid the fine. The Violation Notice must state that any future violation of the same rule may result in the levy of a fine. A fine pursuant to the *Schedule of Fines* may be levied if an Owner does not cure the violation within the timeframe set forth in the notice.

(B) Uncurable Violation/Violation of Public Health or Safety. If the violation is of an uncurable nature or poses a threat to public health or safety (as exemplified in Section 209.006 of the Texas Property Code), then the Violation Notice shall state those items set out in (1), (2), (3), (5), (6), and (7) above, and the Association shall have the right to exercise any enforcement remedy afforded to it under the Restrictions, including but not limited to the right to levy a fine pursuant to the *Schedule of Fines*.

(C) Repeat Violation without Attempt to Cure. If the Owner has been given a Violation Notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months but commits the violation again, then the Owner shall not be entitled to an additional Violation Notice or a hearing pursuant to Section 209.007 of the Texas Property Code, and the Association shall have the right to exercise any enforcement remedy afforded to it under the Restrictions, including but not limited to the right to levy a fine pursuant to the *Schedule of Fines*. After an Owner has been provided a Violation Notice as set forth herein and assessed fines in the amounts set forth in the *Schedule of Fines*, if the Owner has never cured the violation in response to any Violation Notices sent or any fines levied, then the Board, in

its sole discretion, may determine that such a circumstance is a continuous violation which warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board.

6. Violation Hearing. If the Owner is entitled to an opportunity to cure the violation, then the Owner has the right to submit a written request to the Association for a hearing before the Board or a committee appointed by the Board to discuss and verify the facts and resolve the matter. To request a hearing, the Owner must submit a written request (the "**Request**") to the Association's manager (or the Board if there is no manager) within thirty (30) days after receiving the Violation Notice. The Association must then hold the hearing requested no later than thirty (30) days after the Board receives the Request. The Board must notify the Owner of the date, time, and place of the hearing at least (10) days' before the date of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. The Board or the Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. Notwithstanding the foregoing, the Association may exercise its other rights and remedies as set forth in Section 209.007(d) and (e) of the Texas Property Code. Any hearing before the Board will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner shall attend the hearing in person, but may be represented by another person (i.e., attorney) during the hearing, upon advance written notice to the Board. If an Owner intends to make an audio recording of the hearing, such Owner's request for hearing shall include a statement noticing the Owner's intent to make an audio recording of the hearing, otherwise, no audio or video recording of the hearing may be made, unless otherwise approved by the Board. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, imposed. A copy of the Violation Notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied. Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the agenda attached hereto as Exhibit A.

7. Due Date. Fine and/or damage charges are due immediately if the violation is uncurable or poses a threat to public health or safety. If the violation is curable, the fine and/or damage charges are due immediately after the later of: (1) the date that the cure period set out in the first Violation Notice ends and the Owner does not attempt to cure the violation or the attempted cure is unacceptable to Association, or (2) if a hearing is requested by the Owner, such fines or damage charges will be due immediately after the Board's final decision on the matter, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

8. Lien Created. The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest as provided in Section 6.09 of the Declaration and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to Section 6.01(b) of the Declaration. The fine and/or damage charge will be considered an Assessment for the purpose of this Article and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to Article 6 of the Declaration.

9. Levy of Fine. Any fine levied shall be reflected on the Owner's periodic statements of account or delinquency notices.

10. Foreclosure. The Association may not foreclose its assessment lien on a debt consisting solely of fines.

11. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until the Association records an amendment to this policy in the county's official public records.

Schedule of Fines

The Board has adopted the following general schedule of fines. The number of notices set forth below does not mean that the Board is required to provide each notice prior to exercising additional remedies as set forth in the Restrictions. The Board may elect to pursue such additional remedies at any time in accordance with applicable law. The Board also reserves the right to set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effect of the violation:

FINES‡:

New Violation: **Notice of Violation**	**Fine Amount:** **$25.00 (if a curable violation, may be avoided if Owner cures the violation by the time specified in the notice)**
Repeat Violation (No Right to Cure or Uncurable Violation):	**Fine Amount:** **1st Notice $50.00** **2nd Notice $75.00** **3rd Notice $100.00** **4th Notice $125.00**
Continuous Violation: **Continuous Violation Notice**	**Amount TBD**

‡ The Board reserves the right to adjust these fine amounts based on the severity and/or frequency of the violation.

EXHIBIT A

HEARING BEFORE THE BOARD

Note: An individual will act as the presiding hearing officer. The hearing officer will provide introductory remarks and administer the hearing agenda.

I. Introduction:

Hearing Officer. The Board has convened for the purpose of providing [Owner] an opportunity to be heard regarding a notice of violation of the Restrictions sent by the Association.

The hearing is being conducted as required by Section 209.007(a) of the Texas Property Code, and is an opportunity for [Owner] to discuss, verify facts, and attempt to resolve the matter at issue. The Board may be able to resolve the dispute at the hearing or the Board may elect to take the matter under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within fifteen (15) days.

II. Presentation of Facts:

Hearing Officer. This portion of the hearing is to permit a representative of the Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines or penalties. After the Association's representative has finished his presentation, the Owner or its representative will be given the opportunity to present photographs or other material relevant to the violation, fines or penalties. The Board may ask questions during either party's presentation. It is requested that questions by the [Owner] be held until completion of the presentation by the Association's representative.

[Presentations]

III. Discussion:

Hearing Officer. This portion of the hearing is to permit the Board and [Owner] to discuss factual disputes relevant to the violation. Discussion regarding any fine or penalty is also appropriate. Discussion should be productive and designed to seek, if possible, a mutually agreed upon resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.

IV. Resolution:

Hearing Officer. This portion of the hearing is to permit discussion between the Board and [Owner] regarding the final terms of a mutually agreed upon resolution if such resolution was agreed upon during the discussion phase of the hearing. If no mutually agreed upon resolution was reached, the Hearing Officer may: (i) request that the Board enter into executive session to discuss the matter; (ii) request that the Board take the matter under advisement and adjourn the hearing; or (iii) adjourn the hearing.

ATTACHMENT 4

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
ASSESSMENT COLLECTION POLICY

Harvest Townhomes is a community (the "**Community**") created by and subject to the Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, Recorded in the Official Public Records of Denton County, Texas, and any amendments or supplements thereto (the "**Declaration**"). The operation of the Community is vested in Harvest Townhome Community Association, Inc. (the "**Association**"), acting through its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Declaration, Certificate, Bylaws, Community Manual, and any Rules and Regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time (collectively, the "**Restrictions**"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration.

The Board hereby adopts this Assessment Collection Policy to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Restrictions. Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Restrictions.

SECTION 1. DELINQUENCIES, LATE CHARGES & INTEREST

1-A. Due Date. An Owner will timely and fully pay Assessments. Regular Assessments are assessed annually and are due and payable on the first calendar day of the month at the beginning of the fiscal year, or in such other manner as the Board may designate in its sole and absolute discretion.

1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full — including collection costs, interest and late fees.

1-C. Late Fees & Interest. If the Association does not receive full payment of an Assessment by 5:00 p.m. on the due date established by the Board, the Association may levy a late fee of $25 per month and/or interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1 and 1/2% per month) until paid in full.

1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.

1-E. Insufficient Funds. The Association may levy a charge of $25 for any check returned to the Association marked "not sufficient funds" or the equivalent.

1-F. Waiver. Properly levied collection costs, late fees, and interest may only be waived by a Majority of the Board.

SECTION 2. INSTALLMENTS & ACCELERATION

If an Assessment, other than a Regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of the Assessment. An Assessment, other than a Regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

SECTION 3. PAYMENTS

3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association shall be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

(1) Delinquent assessments	(4) Other attorney's fees
(2) Current assessments	(5) Fines
(3) Attorney fees and costs associated with delinquent assessments	(6) Any other amount

3-B. Payment Plans. The Association shall offer a payment plan to a delinquent Owner with a minimum term of at least three (3) months from the date the payment plan is requested for which the Owner may be charged reasonable administrative costs and interest. The Association will determine the actual term of each payment plan offered to an Owner in their sole and absolute discretion. An Owner is not entitled to a payment plan if the Owner has defaulted on a previous payment plan in the last two (2) years. The Association is not required to make a payment plan available to a Member after the Delinquency Cure Period allowed under Paragraph 5-B expires. If an Owner is in default at the time the Owner submits a payment, the Association is not required to follow the application of payments schedule set forth in Paragraph 3-A.

3-C. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.

3-D. Partial and Conditioned Payment. The Association may refuse to accept partial payment (*i.e.,* less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent

Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.

3-E. Notice of Payment. If the Association receives full payment of the delinquency after Recording a notice of lien, the Association will cause a release of notice of lien to be publicly Recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and Recording the release.

3-F. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

SECTION 4. LIABILITY FOR COLLECTION COSTS

4-A. Collection Costs. The defaulting Owner may be liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

SECTION 5. COLLECTION PROCEDURES

5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's Manager, an attorney, or a debt collector.

5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by certified mail, stating: (a) the amount delinquent and the total amount of the payment required to make the account current, (b) the options the Owner has to avoid having the account turned over to a collection agent, as such term is defined in Texas Property Code Section 209.0064, including information regarding availability of a payment plan through the Association, and (c) that the Owner has thirty (30) days for the Owner to cure the delinquency before further collection action is taken (the "**Delinquency Cure Period**"). The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.

5-C. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lien-holders, including the mortgage company.

5-D. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.

5-E. Notification of Mortgage Lender. The Association may notify the Mortgage lender of the default obligations.

5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.

5-G. Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Manager of the Association or the Board of the Association shall refer the delinquent

account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following actions unless otherwise directed by the Board:

(1) Initial Notice: Preparation of the Initial Notice of Demand for Payment Letter. If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association), then

(2) Lien Notice: Preparation of the Lien Notice and Demand for Payment Letter and Recordation of a Notice of Unpaid Assessment Lien. If the account is not paid in full within 30 days, then

(3) Final Notice: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose and Notice of Intent to Foreclose to Lender. If the account is not paid in full within 30 days, then

(4) Foreclosure of Lien: Only upon specific approval by a majority of the Board.

5-H. Notice of Lien. The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's home to be publicly Recorded. In that event, a copy of the notice will be sent to the defaulting Owner, and may also be sent to the Owner's Mortgagee.

5-I. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.

5-J. Suspension of Use of Certain Facilities or Services. The Board may suspend the use of the Common Area amenities by an Owner, or his tenant, whose account with the Association is delinquent for at least thirty (30) days.

SECTION 6. GENERAL PROVISIONS

6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, Manager, and attorney of the Association may exercise their independent, collective, and respective judgment in applying this policy.

6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Restrictions and the laws of the State of Texas.

6-C. Limitations of Interest. The Association, and its officers, directors, Managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Restrictions or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum

in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Assessments, or reimbursed to the Owner if those Assessments are paid in full.

6-D. Notices. Unless the Restrictions, applicable law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that an Owner's property is owned by two (2) or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one resident is deemed notice to all residents. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.

6-E. Amendment of Policy. This policy may be amended from time to time by the Board.

ATTACHMENT 5

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
RECORDS INSPECTION, COPYING AND RETENTION POLICY

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, Recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time.

Note: Texas statutes presently render null and void any restriction in the Declaration which restricts or prohibits the inspection, copying and/or retention of association records and files in violation of the controlling provisions of the Texas Property Code or any other applicable state law. The Board has adopted this policy in lieu of any express prohibition or any provision regulating such matters which conflict with Texas law, as set forth in the Declaration.

1. ***Written Form.*** The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

2. ***Request in Writing; Pay Estimated Costs In Advance.*** An Owner (or an individual identified as an Owner's agent, attorney or certified public accountant, provided the designation is in writing and delivered to the Association) may submit a written request via certified mail to the Association's mailing address or authorized representative listed in the management certificate to access the Association's records. The written request must include sufficient detail describing the books and records requested and whether the Owner desires to inspect or copy the records. Upon receipt of a written request, the Association may estimate the costs associated with responding to each request, which costs may not exceed the costs allowed pursuant to Texas Administrative Code Section 70.3, as may be amended from time to time (a current copy of which is attached hereto). Before providing the requested records, the Association will require that the Owner remit such estimated amount to the Association. The Association will provide a final invoice to the Owner on or before the 30th business day after the records are provided by the Association. If the final invoice includes additional amounts due from the requesting party, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Owner, may be added to the Owner's account as an Assessment. If the estimated costs exceeded the final invoice amount, the Owner is entitled to a refund, and the refund shall be issued to the Owner not later than the 30th business day after the date the final invoice is sent to the Owner.

3. ***Period of Inspection.*** Within ten (10) business days from receipt of the written request, the Association must either: (1) provide the copies to the Owner; (2) provide available inspection dates; or (3) provide written notice that the Association cannot produce the documents within the ten (10) business days along with either: (i) another date within an additional fifteen (15) business days on which the records may either be inspected or by which the copies will be sent to the Owner; or (ii) a notice that after a diligent search, the requested records are missing and cannot be located.

4. ***Records Retention.*** The Association shall keep the following records for at least the time periods stated below:

a. **PERMANENT:** The Articles of Incorporation or the Certificate of Formation, the Bylaws and the Declaration, any and all other governing documents, guidelines, rules, regulations and policies and all amendments thereto Recorded in the property records to be effective against any Owner and/or Member of the Association.

b. **FOUR (4) YEARS:** Contracts with a term of more than one (1) year between the Association and a third party. The four (4) year retention term begins upon expiration of the contract term.

c. **FIVE (5) YEARS:** Account records of each Owner. Account records include debit and credit entries associated with amounts due and payable by the Owner to the Association, and written or electronic records related to the Owner and produced by the Association in the ordinary course of business.

d. **SEVEN (7) YEARS:** Minutes of all meetings of the Board and the Owners.

e. **SEVEN (7) YEARS:** Financial books and records produced in the ordinary course of business, tax returns and audits of the Association.

f. **GENERAL RETENTION INSTRUCTIONS:** "Permanent" means records which are not to be destroyed. Except for contracts with a term of one (1) year or more (See item 4.b. above), a retention period starts on the last day of the year in which the record is created and ends on the last day of the year of the retention period. For example, if a record is created on June 14, 2020, and the retention period is five (5) years, the retention period begins on December 31, 2020 and ends on December 31, 2025. If the retention period for a record has elapsed and the record will be destroyed, the record should be shredded or otherwise safely and completely destroyed. Electronic files should be destroyed to ensure that data cannot be reconstructed from the storage mechanism on which the record resides.

5. ***Confidential Records.*** As determined in the discretion of the Board, certain Association records may be kept confidential such as personnel files, Owner account or other personal information (except addresses) unless the Owner requesting the records provides a court order or written authorization from the person whose records are sought.

6. ***Attorney Files.*** Attorney's files and records relating to the Association (excluding invoices requested by an Owner pursuant to Texas Property Code Section 209.008(d)), are not records of the Association and are not: (a) subject to inspection by the Owner; or (b) subject to production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document. The Association is not required under any circumstance to produce a document for inspection or copying that constitutes attorney work product or that is privileged as an attorney-client communication.

7. ***Presence of Board Member or Manager; No Removal.*** At the discretion of the Board or the Association's Manager, certain records may only be inspected in the presence of a Board member or employee of the Association's Manager. No original records may be removed from the office without the express written consent of the Board.

TEXAS ADMINISTRATIVE CODE
TITLE 1, PART 3, CHAPTER 70
RULE §70.3 - CHARGES FOR PROVIDING COPIES OF PUBLIC INFORMATION

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §70.4 of this title (relating to Requesting an Exemption).

(b) Copy charge.

(1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is $.10 per page or part of a page. Each side that has recorded information is considered a page.

(2) Nonstandard copy. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

(A) Diskette--$1.00;

(B) Magnetic tape--actual cost;

(C) Data cartridge--actual cost;

(D) Tape cartridge--actual cost;

(E) Rewritable CD (CD-RW)--$1.00;

(F) Non-rewritable CD (CD-R)--$1.00;

(G) Digital video disc (DVD)--$3.00;

(H) JAZ drive--actual cost;

(I) Other electronic media--actual cost;

(J) VHS video cassette--$2.50;

(K) Audio cassette--$1.00;

(L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper--See also §70.9 of this title)--$.50;

(M) Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic--actual cost.

(c) Labor charge for programming. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

(1) The hourly charge for a programmer is $28.50 an hour. Only programming services shall be charged at this hourly rate.

(2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Texas Government Code.

(3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of §552.261(b) of the Texas Government Code.

(d) Labor charge for locating, compiling, manipulating data, and reproducing public information.

(1) The charge for labor costs incurred in processing a request for public information is $15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

(2) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:

(A) Two or more separate buildings that are not physically connected with each other; or

(B) A remote storage facility.

(3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(A) To determine whether the governmental body will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or

(B) To research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.

(4) When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Texas Government Code, Chapter 552, §552.261(b).

(6) For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

(1) Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

(2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $15.00 x .20 = $3.00; or Programming labor charge, $28.50 x .20 = $5.70. If a request requires one hour of labor charge for locating, compiling, and reproducing information ($15.00 per hour); and one hour of programming labor charge ($28.50 per hour), the combined overhead would be: $15.00 + $28.50 = $43.50 x .20 = $8.70.

(f) Microfiche and microfilm charge.

(1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for governmental bodies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

(2) If only a master copy of information in microfilm is maintained, the charge is $.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

(1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

(2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

(1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

(2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.

(3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: mainframe--$10 per CPU minute; Midsize--$1.50 per CPU minute; Client/Server--$2.20 per clock hour; PC or LAN--$1.00 per clock hour.

(4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU

clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $10 / 3 = $3.33; or $10 / 60 x 20 = $3.33.

(5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the §552.231 of the Texas Government Code.

(i) Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

(j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(k) Sales tax. Pursuant to Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).

(l) Miscellaneous charges: A governmental body that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee.

(m) These charges are subject to periodic reevaluation and update.

Source Note: The provisions of this §70.3 adopted to be effective September 18, 1996, 21 TexReg 8587; amended to be effective February 20, 1997, 22 TexReg 1625; amended to be effective December 3, 1997, 22 TexReg 11651; amended to be effective December 21, 1999, 24 TexReg 11255; amended to be effective January 16, 2003, 28 TexReg 439; amended to be effective February 11, 2004, 29 TexReg 1189; transferred effective September 1, 2005, as published in the Texas Register September 29, 2006, 31 TexReg 8251; amended to be effective February 22, 2007, 32 TexReg 614.

ATTACHMENT 6

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
STATUTORY NOTICE OF POSTING AND RECORDATION OF ASSOCIATION GOVERNING DOCUMENTS

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, Recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time.

1. Dedicatory Instruments. As set forth in Texas Property Code Section 202.001, "dedicatory instrument" means each document governing the establishment, maintenance or operation of a residential subdivision, planned unit development, condominium or townhouse regime, or any similar planned development. The term includes the Declaration or similar instrument subjecting real property to: (a) restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association; (b) properly adopted Rules and Regulations of the property owners' association; or (c) all lawful amendments to the covenants, bylaws, instruments, rules, or regulations, or as otherwise referred to in this notice as the "Governing Documents."

2. Recordation of All Governing Documents. The Association shall file all of the Governing Documents in the real property records of each county in which the property to which the documents relate is located. Any dedicatory instrument comprising one of the Governing Documents of the Association has no effect until the instrument is filed in accordance with this provision, as set forth in Texas Property Code Section 202.006.

3. Online Posting of Governing Documents. The Association shall make all of the Governing Documents relating to the Association or subdivision and filed in the county deed records available on a website if the Association, or a management company on behalf of the Association, maintains a publicly accessible website.

ATTACHMENT 7

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
EMAIL REGISTRATION POLICY

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, Recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time.

1. ***Purpose.*** The purpose of this Email Registration Policy is to facilitate proper notice of annual and special meetings of members of the Association pursuant to Section 209.0051(e) of the Texas Property Code.

2. ***Email Registration.*** Should the owner wish to receive any and all email notifications of annual and special meetings of members of the Association, it is the owner's sole responsibility to register his/her email address with the Association and to continue to keep the registered email address updated and current with the Association. In order to register an email address, the owner must provide their name, address, phone number and email address through the method provided on the Association's website, if any, and/or to the official contact information provided by the Association for the community manager.

3. ***Failure to Register.*** An owner may not receive email notification or communication of annual or special meetings of members of the Association should the owner fail to register his/her email address with the Association and/or properly and timely maintain an accurate email address with the Association. Correspondence to the Association and/or Association manager from an email address or by any method other than the method described in Paragraph No. 2 above will not be considered sufficient to register such email address with the Association.

4. ***Amendment.*** The Association may, from time to time, modify, amend, or supplement this Policy or any other rules regarding email registration.

ATTACHMENT 8

HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.
GENERATOR POLICY

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes, Recorded in the Official Public Records of Denton County, Texas, as the same may be amended from time to time.

A. **ARCHITECTURAL REVIEW APPROVAL REQUIRED**

As part of the installation and maintenance of a generator on an Owner's Lot, an Owner may submit plans for and install a standby electric generator ("**Generator**") upon written approval by the architectural review authority under the Declaration (the **"ACC**").

B. **GENERATOR PROCEDURES AND REQUIREMENTS**

1. Application. Approval by the ACC is required prior to installing a Generator. To obtain the approval of the ACC for a Generator, the Owner shall provide the ACC with the following information: (i) the proposed site location of the Generator on the Owner's Lot; (ii) a description of the Generator, including a photograph or other accurate depiction; and (iii) the size of the Generator (the **"Generator Application"**). A Generator Application may only be submitted by a tenant if the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Generator Application. The ACC is not responsible for: (i) errors or omissions in the Generator Application submitted to the ACC for approval; (ii) supervising installation or construction to confirm compliance with an approved Generator Application or (iii) the compliance of an approved application with Applicable Law.

2. Approval Conditions. Each Generator Application and all Generators to be installed in accordance therewith must comply with the following:

(i) The Owner must install and maintain the Generator in accordance with the manufacturer's specifications and meet all applicable governmental health, safety, electrical, and building codes.

(ii) The Owner must use a licensed contractor(s) to install all electrical, plumbing, and fuel line connections and all electrical connections must be installed in accordance with all applicable governmental health, safety, electrical, and building codes.

(iii) The Owner must install all natural gas, diesel fuel, biodiesel fuel, and/or hydrogen fuel line connections in accordance with applicable governmental health, safety, electrical, and building codes.

(iv) The Owner must install all liquefied petroleum gas fuel line connections in accordance with the rules and standards promulgated and adopted by the Railroad Commission of Texas and other applicable governmental health, safety, electrical, and building codes.

(v) The Owner must install and maintain all non-integral standby Generator fuel tanks in compliance with applicable municipal zoning ordinances and governmental health, safety, electrical, and building codes.

(vi) The Owner must maintain in good condition the Generator and its electrical lines and fuel lines. The Owner is responsible to repair, replace, or remove any deteriorated or unsafe component of a Generator, including electrical and fuel lines.

(vii) The Owner must screen a Generator if it is visible from the street faced by the residence, located in an unfenced side or rear yard of a Lot, and is visible either from an adjoining residence or from adjoining property owned by the Association, and/or is located in a side or rear yard fenced by a wrought iron or residential aluminum fence and is visible through the fence either from an adjoining residence or from adjoining property owned by the Association.

(viii) The Owner may only perform periodic testing of the Generator consistent with the manufacturer's recommendations between the hours of 9 a.m. to 5 p.m., Monday through Friday.

(ix) No Owner shall use the Generator to generate all or substantially all of the electric power to the Owner's residence unless the utility-generated electrical power to the residence is not available or is intermittent due to causes other than nonpayment for utility service to the residence.

(x) No Owner shall locate the Generator (i) in the front yard of a residence; or (ii) in the side yard of a residence facing a street.

(xi) No Owner shall locate a Generator on property owned by the Association.

(xii) No Owner shall locate a Generator on any property owned in common by members of the Association.

3. Process. Any proposal to install a Generator on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this Generator Policy when considering any such request.

4. Approval. Each Owner is advised that if the Generator Application is approved by the ACC, installation of the Generator must: (i) strictly comply with the Generator Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Generator to be installed in accordance with the approved Generator Application, the ACC may require the Owner to: (a) modify the Generator Application to accurately reflect the Generator installed on the Property; or (b) remove the Generator and reinstall the Generator in accordance with the approved Generator Application. Failure to install the Generator in accordance with the approved Generator Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Declaration and may subject the Owner to fines and penalties. Any requirement imposed by the ACC to resubmit a Generator Application or remove and relocate a Generator in accordance with the approved Generator Application shall be at the Owner's sole cost and expense.

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AFTER RECORDING RETURN TO:

ROBERT D. BURTON
WINSTEAD PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: RBURTON@WINSTEAD.COM

SUBORDINATE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR

HARVEST TOWNHOMES

[DENTON COUNTY, TEXAS]

Declarant: TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company

THIS PROPERTY IS ALSO SUBJECT TO THE TERMS AND CONDITIONS OF: (I) THAT CERTAIN CORRECTION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARVEST RESIDENTIAL COMMUNITY, RECORDED UNDER DOCUMENT NO. 2013-64277, OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS, AS AMENDED; AND (II) THAT CERTAIN HARVEST RESIDENTIAL COMMUNITY ASSOCIATION, INC. DEDICATORY INSTRUMENT MANUAL, UNDER DOCUMENT NO. 2014-53889, OFFICIAL PUBLIC RECORDS OF DENTON COUNTY, TEXAS RECORDED (COLLECTIVELY, THE "**MASTER PLAN DOCUMENTS**").

SUBORDINATE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HARVEST TOWNHOMES

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SUBORDINATE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
HARVEST TOWNHOMES

This Subordinate Declaration of Covenants, Conditions and Restrictions for Harvest Townhomes (the "**Declaration**") is made by **TOWNHOMES AT HARVEST PHASE 1, LLC,** a Texas limited liability company (the "**Declarant**"), and is as follows:

R E C I T A L S:

A. This Declaration is filed with respect to Lots 19 through 28, Block 12, Lots 1 through 36, Block 14, Lots 1 through 48, Block 15, and Lots 1 through 26, Block 16, Harvest Townhomes Phase 1, a subdivision in Denton County, Texas, according to the plat Recorded under Document No. 2020-357, Plat Records of Denton County, Texas (the "**Property**"). Declarant is the owner of the Property.

B. Article 1 of that certain Correction Declaration of Covenants, Conditions and Restrictions for Harvest Residential Community, recorded under Document No. 2013-64277, Official Public Records of Denton County, Texas, as amended (the "**Master Declaration**"), permits a Sub-Declaration to be filed pertaining to all or a portion of the Property (as defined in the Master Declaration), provided that a Sub-Declaration is approved in advance and in writing by the Declarant during the Declarant Control Period (as defined in the Master Declaration).

C. Declarant intends for this Declaration to serve as one of the Sub-Declarations permitted under the Master Declaration.

D. The Master Declarant (defined below) has consented to the Recordation of this Declaration by its execution of this Declaration in the space provided below.

E. Declarant desires to create and carry out a uniform plan for the development, improvement, and sale of the Property.

F. By the filing of this Declaration, Declarant serves notice that the Property is subject to the terms and provisions of this Declaration.

NOW, THEREFORE, it is hereby declared: (i) that the Property (or any portion thereof) will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) that each contract or deed conveying the Property (or any portion thereof) will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by

reference in said contract or deed; and (iii) that this Declaration will supplement and be in addition to the covenants, conditions and restrictions of the Master Declaration.

This Declaration uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Declaration, the text will control.

ARTICLE 1
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration will have the meanings hereinafter specified:

"Applicable Law" means the statutes and public laws and ordinances in effect at the time a provision of the Restrictions is applied, and pertaining to the subject matter of the Restriction provision, including but not limited to, all ordinances and any other applicable building codes, zoning restrictions and permits or other applicable regulations. Statutes and ordinances specifically referenced in the Restrictions are "Applicable Law" on the date of the Restrictions, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

"**Architectural Control Committee**" or "**ACC**" means the committee created pursuant to this Declaration to review and approve or deny plans for the construction, placement, modification, alteration or remodeling of any Improvements on a Lot, Structure or Dwelling. As provided in *Article 9* below, the Declarant acts as the ACC and the ACC is not a committee of the Association until the Declarant has assigned its right to appoint and remove all ACC members to the Association in a Recorded written instrument.

"**Area of Common Responsibility**" means those portions of a Structure or Dwelling that are designated, from time to time, by this Declaration or the Association to be maintained, repaired, and replaced by the Association, as a common expense, as reflected in the Designation of Area of Common Responsibility and Maintenance Chart attached to this Declaration as Exhibit "A".

"**Assessment**" or "**Assessments**" means assessments imposed by the Association under this Declaration.

"**Assessment Unit**" has the meaning set forth in *Section 6.07(b)*.

"**Association**" means **HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.**, a Texas non-profit corporation, which has been created by Declarant to exercise the authority and assume the powers specified in *Article 5* and elsewhere in this Declaration. The

failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Certificate, the Bylaws, and Applicable Law.

"**Board**" means the Board of Directors of the Association.

"**Bulk Rate Contract" or "Bulk Rate Contracts**" means one or more contracts which are entered into by the Association for the provision of utility services or other services of any kind or nature to the Lots. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick-up services, propane service, natural gas service, lawn maintenance services, wastewater services, and any other services of any kind or nature which are considered by the Board to be beneficial to all or a portion of the Property or the Common Area. Each Bulk Rate Contract must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

"**Bylaws**" means the Bylaws of the Association as amended from time to time.

"**Certificate**" means the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

"**Common Area**" means any property and facilities that the Association owns or in which it otherwise holds rights or obligations, including any property or facilities held by the Declarant for the benefit of the Association or its Members. Common Area also includes any property that the Association holds under a lease, license, or any easement in favor of the Association. Some Common Area will be solely for the common use and enjoyment of the Owners, Residents, and their guests, tenants and invitees, while other portions of the Common Area may be for the use and enjoyment of the Owners, Residents, their guests, tenants and invitees, and members of the public.

"**Community Manual**" means the community manual, which may be initially adopted and recorded by the Declarant as part of the initial project documentation for the benefit of the Association and the Property. The Community Manual may include the Bylaws, Rules and Regulations and other policies governing the Association. The Community Manual may be amended or supplemented, from time to time, by the Declarant until expiration or termination of the Development Period. Any amendment to the Bylaws, Rules and Regulations and other policies governing the Association prosecuted by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

"**Community Systems**" means any and all cable television, telecommunications, alarm/monitoring, internet, telephone or other lines, conduits, wires, amplifiers, towers,

antennas, satellite dishes, equipment, materials and installations and fixtures (including those based on, containing and serving future technological advances not now known), if installed by Declarant pursuant to any grant of easement or authority by Declarant or the Association within the Property.

"**Design Guidelines**" means the standards for design, construction, landscaping, and exterior items proposed to be placed on any Lot, adopted pursuant to *Section 9.02(c*), as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Property. At Declarant's option, Declarant may adopt or amend from time to time the Design Guidelines for the Property or any portion thereof. Notwithstanding anything in this Declaration to the contrary, Declarant will have no obligation to establish Design Guidelines for the Property or any portion thereof.

"**Development Period**" means the period of time beginning on the date when this Declaration has been Recorded and ending twenty (20) years thereafter, unless earlier terminated by Declarant. Declarant may terminate the Development Period by an instrument executed by Declarant and Recorded. The Development Period is the period in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property, and the right to direct the size, shape and composition of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Property.

"**Dwelling**" means the single family residence located on a Lot, together with any garage incorporated therein, whether or not the Dwelling is occupied for residential purposes.

"**Homebuilder**" means an Owner (other than the Declarant) who acquires a Lot for the construction of a single family residence for resale to a third party.

"**Improvement**" means all physical enhancements and alterations to the Property, including but not limited to grading, clearing, removal of trees, and site work, and every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, balconies, porches, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, alteration of drainage flow, mailboxes, poles, signs, antennas, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

"**Lot**" means any portion of the Property designated by Declarant or as shown as a subdivided Lot on a Plat other than Common Area.

"**Majority**" means more than half.

"**Manager**" has the meaning set forth in *Section 5.05(h)*.

"**Master Association**" means Harvest Residential Community Association, Inc., a Texas non-profit corporation, created or to be created pursuant to the Master Declaration.

"**Master Association Assessments**" means any charge levied by the Master Association pursuant to the Master Declaration or Applicable Law.

"**Members**" means every person or entity that holds membership privileges in the Association.

"**Mortgage**" or "**Mortgages**" means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot.

"**Mortgagee**" or "**Mortgagees**" means the holder(s) of any Mortgage(s).

"**Owner**" means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot pursuant to foreclosure of the lien of its Mortgage.

"**Plat**" means a Recorded subdivision plat of any portion of the Property and any amendments thereto.

"**Record, Recordation, Recorded, and Recording**" means recorded or to be recorded in the Official Public Records of Denton County, Texas.

"**Resident**" means an occupant or tenant of a Lot, regardless of whether the person owns the Lot.

"**Restrictions**" means the restrictions, covenants, and conditions contained in this Declaration, the Design Guidelines, Bylaws, Community Manual, Rules and Regulations, or in any other policies promulgated by the Board pursuant to this Declaration, as adopted and amended from time to time. *See Table 1* for a summary of the Restrictions.

"Rules and Regulations" means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Property or the Common Area, including any amendments to those instruments.

"**Solar Energy Device**" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that

has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

"**Structure**" means a building containing two (2) or more Dwellings that: (i) is located on two (2) or more adjacent Lots; and (ii) has one (1) or more party walls separating the Dwellings comprising such building.

TABLE 1: RESTRICTIONS	
Declaration (Recorded)	Creates obligations that are binding upon the Association and all present and future owners of the Property.
Certificate of Formation (Recorded)	Establishes the Association as a Texas nonprofit corporation.
Bylaws (Recorded)	Governs the Association's internal affairs, such as elections, meetings, etc.
Community Manual (Recorded)	Establishes Rules and Regulations and policies governing the Association.
Design Guidelines (if adopted, Recorded)	Governs the design and architectural standards for the construction of Improvements and modifications thereto.
Rules and Regulations (if adopted, Recorded)	Regulates the use of property, activities, and conduct within the Property and Common Area.
Board Resolutions (adopted by the Board of the Association)	Establishes rules, policies, and procedures for the Property, Owners, and the Association.

ARTICLE 2
GENERAL AND USE RESTRICTIONS

This Declaration is a "Sub-Declaration" and the Association is a "Sub-Association" as such terms are defined in the Master Declaration. Article 1 of the Master Declaration provides that if a Sub-Declaration is filed, the Sub-Declaration may provide that the Sub-Association created by the Sub-Declaration provide maintenance to, and insurance for, a portion of the Property in lieu of the maintenance and insurance contemplated to be provided by the Owners in accordance with Article VIII and Article IX of the Master Declaration. This Declaration provides that the Association will provide maintenance and insurance for portions of the Lots and the Dwellings. All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.01 General.

(a) Conditions and Restrictions. All Lots within the Property will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the Restrictions.

NOTICE

The Restrictions are subject to change from time to time. By owning or occupying a Lot, you agree to remain in compliance with the Restrictions, as they may change from time to time.

(b) Ordinances. Ordinances and requirements imposed by local governmental authorities are applicable to all Lots within the Property. Compliance with the Restrictions is not a substitute for compliance with Applicable Law. Please be advised that the Restrictions do not purport to list or describe each restriction or ordinance or regulation which may be applicable to a Lot located within the Property. Each Owner is advised to review all ordinances, requirements, regulations and encumbrances affecting the use and improvement of their Lot prior to submitting plans to the ACC for approval. Furthermore, approval by the ACC should not be construed by the Owner that any Improvement complies with the terms and provisions of any ordinances, requirements, regulations, or encumbrances which may affect the Owner's Lot. Certain encumbrances may benefit parties whose interests are not addressed by the ACC.

2.02 Conceptual Plans. All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Property or the Common Area (collectively, the "**Conceptual Plans**") are conceptual in nature and are intended to be used for illustrative purposes only. The land uses and Improvements reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property or the Common Area may include uses which are not shown on the Conceptual Plans. Neither Declarant nor any Homebuilder or other developer of any portion of the Property or the Common Area makes any representation or warranty concerning such land uses and Improvements shown on the Conceptual Plans or otherwise planned for the Property or the Common Area and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans or any statements made by the Declarant or any of Declarant's representatives regarding the proposed land uses, or proposed or planned Improvements in making the decision to purchase any land or Improvements within the Property. Each Owner who acquires a Lot acknowledges that development of the Property and/or the Common Area will likely extend over many years, and agrees that the Association will not engage in, or use Association funds to support, protest, challenge, or make any other form of objection to development of the Property or the Common Area or changes in the Conceptual Plans as they may be amended or modified from time to time.

2.03 Single-Family Residential Use. The Lots shall be used solely for private single family residential purposes. The Lots may not be used for any other purposes without the prior written consent of the Declarant, which consent may be withheld by the Declarant in its sole and absolute discretion.

No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of a Lot, except an Owner or Resident may conduct business activities within a Dwelling so long as: (i) such activity complies with Applicable Law; (ii) participation in the business activity is limited to the Owner(s) or Resident(s) of a residence; (iii)

the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business within the Property, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Property; (v) the business does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Residents within the Property as may be determined in the sole discretion of the Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the Dwelling nor Lot will be considered open to the public. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required.

Leasing of a Dwelling shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

Notwithstanding any provision in this Declaration to the contrary, until the expiration or termination of the Development Period:

(i) Declarant, Homebuilder, and/or its licensees may construct and maintain upon portions of the Common Area, any Lot, or portion of the Property owned by the Declarant, such facilities and may conduct such activities, which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single family residences constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its licensees shall have an easement over and across the Common Area for access and use of such facilities at no charge; and

(ii) Declarant and/or its licensees will have an access easement over and across the Common Area for the purpose of making, constructing and installing Improvements upon the Common Area and the Property.

2.04 Rentals. Nothing in this Declaration will prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that: (i) all

rentals must be for terms of at least twelve (12) months; and (ii) no portion of a Lot (other than the entire Lot) may be rented. All leases shall be in writing. Notice of any lease, together with such additional information as may be required by the Board, will be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. Each lease must provide, or be deemed to provide, that the Board shall have the right to terminate the lease upon default by the tenant in observing any provisions of the Restrictions. Regardless of whether or not expressed in the applicable lease, all Owners shall be jointly and severally liable with the tenants of such Lot to the Association for any amount which is required by the Association to effect such repairs or to pay any claim for any injury or damage to property caused by the negligence of the tenant of such Lot or for the acts or omissions of the tenant(s) of such Lot which constitute a violation of, or non-compliance with, the provisions of the Documents. All leases shall comply with and be subject to the provisions of the Restrictions and the provisions of same shall be deemed expressly incorporated into any lease of a Lot. This *Section 2.04* shall also apply to assignments and renewals of leases.

2.05 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the ACC; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the ACC.

2.06 Hazardous Activities. No activities may be conducted on or within the Property and no Improvements may be constructed on or within any portion of the Property which, in the opinion of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Property unless discharged in conjunction with an event approved in advance by the Board and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Property may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.07 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area, or the Improvements located thereon, without the prior written approval of the Board.

2.08 Mining and Drilling. Except for the Third Party Oil, Gas and Mineral Interests defined below, no portion of the Property or the Common Area may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements and/or the development of the

Property or the Common Area by the Declarant. This *Section 2.08* shall not apply to minerals, resources and groundwater, or some portion thereof or some interest therein, that may have been conveyed or reserved by third parties prior to Declarant's ownership of the Property (the "**Third Party Oil, Gas and Mineral Interests**"). No representation or warranty, express or implied, is made as to the ownership of the minerals, resources and groundwater or any portion thereof or any interest therein.

2.09 **Noise**. No exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any portion of the Property. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its Residents. Without limiting the generality of the foregoing, if any noise or nuisance emanates from any Improvement on any Lot, the Association may (but shall not be obligated to) enter any such Improvement and take such reasonable actions necessary to terminate such noise (including silencing any burglar or break-in alarm).

2.10 **Clotheslines; Window Air Conditioners**. No clotheslines and no outdoor clothes drying or hanging shall be permitted within the Property, nor shall anything be hung, painted or displayed on the outside of the windows (or inside, if visible from the outside) or placed on the outside walls or outside surfaces of doors of any of the Dwelling, and no awnings, canopies or shutters (except for those heretofore or hereinafter installed by Declarant) shall be affixed or placed upon the exterior walls or roofs of Dwellings, or any part thereof, nor relocated or extended, without the prior written consent of the ACC. Window air conditioners are prohibited.

2.11 **Animals - Household Pets**. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Property (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such pot-bellied pigs, miniature horses, goats, exotic snakes or lizards, monkeys, chickens or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner may keep more than two (2) animals, unless otherwise approved by the Board. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than within the Owner's residence, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Property. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside area. All pet

waste will be removed and appropriately disposed of by the owner of the pet. All pets must be registered, licensed and vaccinated as required by Applicable Law. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner, upon written notice, may be required to remove the pet from the Property.

2.12 Rubbish and Debris. No rubbish or debris of any kind may be placed or permitted to accumulate on or within the Property, and no odors will be permitted to arise therefrom so as to render all or any portion of the Property unsanitary, unsightly, offensive, or detrimental to any other property or Residents. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

2.13 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

(i) inside the garage of the single-family residence constructed on the Lot; or

(ii) behind the single-family residence, retaining wall, or fence constructed on the Lot, or concealed by landscaping, in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Lot.

The Board shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored. All trash containers and recycling bins must be removed from the street within 24 hours of trash pick-up.

Residents are required to remove all trash and recycling containers from the street within 24 hours of trash or recycling pick up.
Violations of this provision may result in a fine.

2.14 Antennas. Except as expressly provided below, no exterior radio or television antennas or aerial or satellite dish or disc, shall be erected, maintained, or placed on a Lot without the prior written approval of the ACC; provided, however, that:

(i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local

multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television or radio broadcast signals;

(collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the ACC, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Property.

Except as expressly provided herein, no exterior radio or television antennas or aerial or satellite dish or disc, shall be erected, maintained, or placed on a Lot without the prior written approval of the ACC.

2.15 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and shall not encroach upon any street, Common Area, or any other portion of the Property. A Permitted Antenna shall be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Property, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the ACC are as follows:

(i) Attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) Attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The ACC may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas. A Permitted Antenna exists at the sole risk of the Owner and/or Resident of the Lot. The Association does not insure the Permitted Antenna and is not liable to the Owner or any other person for any loss or damage to the Permitted Antenna from any cause. Additionally, the Association is not responsible for any loss or damage to a single family residence caused by the installation, maintenance or removal of a Permitted Antenna. The Owner will defend and indemnify the Association, its directors,

officers, and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from the Owner's Permitted Antenna.

2.16 Signs. Unless otherwise prohibited by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the ACC, except for:

(i) signs which are permitted pursuant to the Design Guidelines or any Rules and Regulations;

(ii) signs which are part of Declarant's or Homebuilder's overall marketing, sale, or construction plans or activities for the Property;

(iii) one (1) 18" x 24" temporary "For Sale" sign placed in a window of the Dwelling on the Lot. The sign must be removed within two (2) business days following the sale or lease of the Lot;

(iv) permits as may be required by legal proceedings or a governmental entity;

(v) candidate or measure signs may be erected provided the sign: (a) is erected no earlier than the 90th day before the date of the election to which the sign relates; (b) is removed no later than the 10th day after the date of the election to which the sign relates; (c) is ground-mounted; and (d) measures no more than eighteen (18) by twenty-four (24) inches (18"x24"). Only one sign may be erected for each candidate or measure. In addition, signs which include any of the components or characteristics described in Section 259.002(d) of the Texas Election Code are prohibited;

(vi) a religious item on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame), provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches;

(vii) a "no soliciting" and "security warning" sign near or on the front and rear door to their residence, provided, that the sign may not exceed twenty-five (25) square inches.

2.17 Flags – Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university ("**Permitted Flag**") and is permitted to install a flagpole no more than six feet (6') in

length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**"). Only two (2) Permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the ACC. Approval by the ACC is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot ("**Freestanding Flagpole**"). To obtain ACC approval of any Freestanding Flagpole, the Owner shall provide the ACC with the following information: (a) the location of the Freestanding Flagpole to be installed on the Lot; (b) the type of Freestanding Flagpole to be installed; (c) the dimensions of the Freestanding Flagpole; and (d) the proposed materials of the Freestanding Flagpole (the "**Flagpole Application**"). A Flagpole Application may only be submitted by an Owner. The Flagpole Application shall be submitted in accordance with the provisions of *Article 9* of this Declaration.

2.18 **Flags – Installation and Display**. Unless otherwise approved in advance and in writing by the ACC, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

(i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(ii) Any Permitted Flagpole must be no longer than two feet (2') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;

(iii) Any Permitted Flag displayed on either a Permitted Flagpole or a Freestanding Flagpole may not be more than three feet in height by five feet in width (3'x5');

(iv) With the exception of flags displayed on Common Area or any Lot which is being used for marketing purposes by the Declarant or a Homebuilder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;

(v) The display of a Permitted Flag, or the location and construction of a Permitted Flagpole or Freestanding Flagpole must comply with all Applicable Law, easements and setbacks of record;

(vi) Each Permitted Flagpole and Freestanding Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction thereof and harmonious with the residence;

(vii) Any Permitted Flag, Permitted Flagpole and Freestanding Flagpole must be maintained in good condition and any deteriorated Permitted Flag or deteriorated or structurally unsafe Permitted Flagpole or Freestanding Flagpole must be repaired, replaced or removed;

(viii) A Permitted Flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring Lot; and

(ix) Any external halyard of a Permitted Flagpole or Freestanding Flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the Permitted Flagpole or Freestanding Flagpole.

The requirements of this *Section 2.18* shall not apply to any flag or flagpole erected by the Declarant.

2.19 Temporary Structures. No tent, shack, or other temporary building, or Improvement, or structure shall be placed upon the Property; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Declarant, Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant, approval to include the nature, size, duration, and location of such structure.

2.20 Unsightly Articles; Vehicles. No article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden and lawn maintenance equipment shall be kept at all times, except when in actual use, in garages and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag shall be permitted to remain visible on any Lot or to be parked on any street, driveway, or roadway within the Property or the Common Area.

Parking of commercial vehicles or equipment, recreational vehicles, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than in enclosed garages is prohibited; provided, construction, service and delivery vehicles may be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a residence.

Mobile homes are prohibited. Notwithstanding the foregoing, sales trailers or other temporary structures installed by the Declarant, Homebuilder or expressly approved by the ACC shall be permitted.

2.21 Basketball Goals; Permanent and Portable. Permanent and portable basketball goals are prohibited.

2.22 Garages. An Owner's automobile shall be parked overnight in the Owner's garage. All garages shall be maintained for the parking of automobiles, and may not be used for storage or other purposes which preclude its use for the parking of two (2) automobiles. Garage doors must be fully closed when not in use. No garage may be permanently enclosed or otherwise used for habitation unless approved in advance by the ACC. Cooking is prohibited in garages.

2.23 Decorations and Lighting. Unless otherwise permitted by *Section 2.16(vi)*, no decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the Dwelling or in the front yard or on any other portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the Board. Customary seasonal decorations for holidays are permitted without approval by the Board but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. Mercury vapor, sodium or halogen light, LED downlights, and color-changing lights are prohibited.

2.24 On Street Parking. Residents are strongly encouraged not to park on any road or street within the Property unless in the event of an emergency. "Emergency" for purposes of the foregoing sentence shall mean an event which jeopardizes life or property. "Parked" as used herein shall be defined as a vehicle left unattended by a licensed operator for more than thirty (30) consecutive minutes. This provision will not apply to Declarant or its designee during the Development Period. Visitor parking areas (being a street or alley) shall only be used for temporary parking. "Temporary" for the purposes of the foregoing sentence shall mean no more than twenty-four (24) hours.

2.25 Limited or Restricted Driveway Parking. No vehicle may be parked on a driveway constructed on a Lot if the vehicle, when parked, would obstruct or otherwise block ingress and egress to and from sidewalks adjacent to the driveway, i.e., no portion of the vehicle may extend over a line extended from the rear of one sidewalk adjacent to the driveway to the rear of the other sidewalk adjacent to the driveway, or would obstruct or otherwise block ingress and egress to and from any alley or fire lane.

2.26 Compliance with Restrictions. Each Owner, his or her family, Residents of a Dwelling, tenants, and the guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure

to comply with any of the Restrictions shall constitute a violation of the Restrictions and may result in a fine against the Owner in accordance with *Section 6.12* of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Board on behalf of the Association, the ACC or by an aggrieved Owner. Without limiting any rights or powers of the Association, the Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the provisions of Restrictions, and the Owner whose violation has been so remedied shall be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) shall be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot shall be secured by the liens reserved in this Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **Each such Owner shall release and hold harmless the Association and its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this *Section 2.26* (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or willful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence**.

2.27 Liability of Owners for Damage to Common Area. No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Area of Common Responsibility or Common Area without the prior written approval of the Board. Each Owner shall be liable to the Association for any and all damages to: (i) the Common Area and any Improvements constructed thereon; or (ii) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, including but not limited to the Area of Common Responsibility, which damages were caused by the neglect, misuse or negligence of such Owner or Owner's family, or by any tenant or other Resident of such Owner's Lot, or any guest or invitee of such Owner. The full cost of all repairs of such damage shall be levied as an Individual Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided in *Section 6.10* of this Declaration.

2.28 Water Quality Facilities, Drainage Facilities and Drainage Ponds. The Common Area may include one or more water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Property and are inspected, maintained and administered by the Association in accordance with all Applicable Law. Access to these facilities and ponds is limited to persons engaged by the Association to periodically

maintain such facilities. Each Resident is advised that the water quality facilities, sedimentation, drainage and detention facilities and ponds are an active utility feature integral to the proper operation of the Property and may periodically hold standing water. Each Resident is advised that entry into the water quality facilities, sedimentation, drainage and detention facilities or ponds may result in injury and is a violation of the Restrictions.

2.29 Party Walls. A fence or wall located on or near the dividing line between two (2) Lots or Dwellings constructed upon such Lots and intended to benefit both Lots constitutes a "**Party Wall**" and, to the extent not inconsistent with the provisions of this *Section 2.29*, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) Encroachments & Easement. If the Party Wall is on one Lot due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this *Section 2.29*. Each Lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

(b) Right to Repair. If the Party Wall is damaged or destroyed from any cause, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition, and the Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall.

(c) Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Official Public Records of Denton County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to require contribution from another Owner under this Section is appurtenant to the Lot and passes to the Owner's successors in title.

(d) Alterations. The Owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the adjoining Lot or residence. The Party Wall will always remain in the same location as when erected unless otherwise approved by the Owner of each Lot sharing the Party Wall and the ACC.

(e) Speakers. Speakers are prohibited from being installed in any Party Wall.

(f) Association Insurance. Notwithstanding the foregoing, Party Walls that are covered by an insurance policy maintained by the Association pursuant to *Section 8.01* shall be repaired and replaced in accordance to the provisions set forth in *Section 8.01*.

2.30 Injury to Person or Property. Neither the Association nor Declarant, or their respective directors, officers, committees, agents, and employees have a duty or obligation to any Owner, Resident or their guests: (a) to supervise minor children or any other person; (b) to fence or otherwise enclose any Lot or Common Area; or (c) to provide security or protection to any Owner, Resident, or their guests, employees, contractors, and invitees from harm or loss. By accepting title to a Lot, each Owner agrees that the limitations set forth in this Section are reasonable and constitute the exercise of ordinary care by the Association and Declarant. EACH OWNER AGREES TO RELEASE AND HOLD HARMLESS THE ASSOCIATION AND DECLARANT, AND DECLARANT'S AGENTS FROM ANY CLAIM OF DAMAGES, TO PERSON OR PROPERTY ARISING OUT OF AN ACCIDENT OR INJURY IN OR ABOUT THE PROPERTY TO THE EXTENT AND ONLY TO THE EXTENT CAUSED BY THE ACTS OR OMISSIONS OF SUCH OWNER, HIS TENANT, HIS GUESTS, EMPLOYEES, CONTRACTORS, OR INVITEES TO THE EXTENT SUCH CLAIM IS NOT COVERED BY INSURANCE OBTAINED BY THE ASSOCIATION AT THE TIME OF SUCH ACCIDENT OR INJURY.

2.31 View Impairment. Neither Declarant nor the Association guarantee or represent that any view over and across the Lots, or any open space or Common Area within the Property will be preserved without impairment. Neither the Declarant, the ACC, and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Area) will have the right to add trees and other landscaping from time to time, subject to Applicable Law. There shall be no express or implied easements for view purposes or for the passage of light and air.

2.32 Safety and Security. Each Owner and Resident of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property within the Property or the Common Area. The Association may, but shall not be obligated to, maintain or support certain activities within the Property or the Common Area designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Association, the Master Association, Master Declarant nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Property or the Common Area, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems, video doorbells or any mechanism or system for limiting access to the Property or the Common Area, cannot be compromised or circumvented; or that any such system or security measures undertaken will in

all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Residents of such Owner's Lot that the Association, the Master Association, their respective boards and committees, the Declarant and the Master Declarant are not insurers or guarantors of security or safety and that each person within the Property assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot and the contents thereof, resulting from acts of third parties.

2.33 **No Warranty of Enforceability**. Declarant makes no warranty or representation as to the present or future validity or enforceability of any Restrictions. Any Owner acquiring a Lot in reliance on the Restrictions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE 3
CONSTRUCTION RESTRICTIONS

3.01 **Approval for Construction**. Unless prosecuted by the Declarant, no Improvements shall hereafter be placed, maintained, erected, or constructed upon any Lot without the prior written approval of the ACC in accordance with *Article 9* of this Declaration.

3.02 **Construction Activities**. The Restrictions will not be construed or applied so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant or a Homebuilder) upon or within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of the Restrictions by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the ACC in its sole and reasonable judgment, the ACC will have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the ACC may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all reasonable expenses incurred in connection therewith.

3.03 **Drainage**. There shall be no interference with the established drainage patterns over any of the Property, including the Lots, except by Declarant, unless adequate provision is made for proper drainage and such provision is approved in advance by the ACC. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots or within the Property.

3.04 **Solar Energy Device**. A Solar Energy Device may be installed with the advance written approval of the ACC in accordance with the procedures set forth below.

(a) Application. To obtain ACC approval of a Solar Energy Device, the Owner shall provide the ACC with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "**Solar Application**"). A Solar Application may only be submitted by an Owner. The Solar Application shall be submitted in accordance with the provisions of *Article 9* of this Declaration. The installation of a Solar Energy Device on any portion of a Lot which is maintained by the Association, including on roofing or any yard area is prohibited.

(b) Approval Process. The ACC will review the Solar Application in accordance with the terms and provisions of *Article 9* of this Declaration. The ACC will approve a Solar Energy Device if the Solar Application complies with *Section 3.04(c)* below **UNLESS** the ACC makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 3.04(c)*, will create a condition that substantially interferes with the use and enjoyment of property within the Property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The ACC's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 3.04(b)* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located on the Owner's Lot, entirely within a fenced area of the Owner's Lot, or entirely within a fenced patio located on the Owner's Lot. If the Solar Energy Device will be located on the roof of the residence, the ACC may designate the location for placement unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the Solar Energy Device if installed in the location designated by the ACC. If the Owner desires to contest the alternate location proposed by the ACC, the Owner should submit information to the ACC which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device

will be located in the fenced area of the Owner's Lot or patio, no portion of the Solar Energy Device may extend above the fence line.

(ii) If the Solar Energy Device is mounted on the roof of the principal residence located on the Owner's Lot, then: (a) the Solar Energy Device may not extend higher than or beyond the roofline; (b) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; and (c) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

3.05 Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "**Rainwater Harvesting System**") may be installed with the advance written approval of the ACC.

(a) Application. To obtain ACC approval of a Rainwater Harvesting System, the Owner shall provide the ACC with the following information: (a) the proposed installation location of the Rainwater Harvesting System; and (b) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "**Rain System Application**"). A Rain System Application may only be submitted by an Owner.

(b) Approval Process. The decision of the ACC will be made in accordance with *Article 9* of this Declaration. Any proposal to install a Rainwater Harvesting System on property owned by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, each Rain System Application and each Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

(i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the ACC.

(ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.

(iii) The Rainwater Harvesting System is in no event located between the front of the residence constructed on the Owner's Lot and any adjoining or adjacent street.

(iv) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the ACC.

(v) If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, or another Owner's Lot, the ACC may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 3.05(d)* for additional guidance.

(d) Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, or another Owner's Lot, the ACC may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, Common Area, or another Owner's Lot. When reviewing a Rain System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, or another Owner's Lot, any additional requirements imposed by the ACC to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the ACC.

3.06 Xeriscaping. As part of the installation and maintenance of landscaping on an Owner's Lot, an Owner may submit plans for and install drought tolerant landscaping ("**Xeriscaping**") upon written approval by the ACC. All Owners implementing Xeriscaping shall comply with the following:

(a) Application. Approval by the ACC is required prior to installing Xeriscaping. To obtain the approval of the ACC for Xeriscaping, the Owner shall provide the ACC with the following information: (i) the proposed site location of the Xeriscaping on the Owner's Lot; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered with gravel, rocks and cacti (the "**Xeriscaping Application**"). A Xeriscaping Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The ACC is not responsible for: (a) errors or omissions in the Xeriscaping Application submitted to the ACC for approval; (b) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (c) the compliance of an approved application with Applicable Law.

(b) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

(i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the ACC. For purposes of this *Section 3.06*, "aesthetically compatible" shall mean overall and long-term aesthetic compatibility within the community. For example, an Owner's Lot plan may be denied if the ACC determines that: (a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or (b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner's Lot.

(ii) No Owners shall install gravel, rocks or cacti that in the aggregate encompass over ten percent (10%) of such Owner's front yard or ten percent (10%) of such Owner's back yard.

(iii) The Xeriscaping must not attract diseases and insects that are harmful to the existing landscaping on neighboring Lots, as reasonably determined by the ACC.

(c) Process. The decision of the ACC will be made within a reasonable time, or within the time period otherwise required by the principal deed restrictions which govern the review and approval of improvements. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association or property owned in common by members of the Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this *Section 3.06* when considering any such request.

(d) Approval. Each Owner is advised that if the Xeriscaping Application is approved by the ACC, installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the ACC may require the Owner to: (a) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (b) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner's

failure to comply with the post-approval requirements constitutes a violation of this Declaration and may subject the Owner to fines and penalties. Any requirement imposed by the ACC to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner's sole cost and expense.

3.07 Compliance with Setbacks. No residence or any other permanent structure or Improvement may be constructed on any Lot nearer to a street than the minimum building setback lines shown on the Plat and no building shall be located on any utility easements. The ACC may require additional setbacks in conjunction with the review and approval of proposed Improvements in accordance with *Article 9* of the Declaration.

ARTICLE 4
DISCLOSURES

This Article discloses selective features of the Property or the Common Area that may not be obvious to potential Owners and Residents. Because features may change over time, no disclosure in this Article should be relied upon without independent confirmation.

4.01 Service Contracts. Declarant may have contracted, on behalf of the Owner, for one or more services to be provided by vendors to the Dwellings on a contract basis, such as intrusion monitoring and cable television. In that event, whether or not an Owner chooses to use the service, the Owner is required its share of the contract for the contract period. The Association may serve as the conduit for the service fees and payments, which may be considered Regular Assessments or Individual Assessments. However, the Association is not the service provider and has no responsibility or liability for the availability or quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service.

4.02 Adjacent Thoroughfares. The Property is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

4.03 Fire Sprinkler Disclosure. The Structures may be constructed with a fire sprinkler system. If sprinklers are present, water lines and sprinkler heads may be in the ceilings above rooms in the Dwelling. This disclosure is given because damage to, or a malfunction of, a water line or sprinkler head may harm or destroy real and personal property. Each Owner is solely responsible for all of the following:

(i) determining the location and proper care of the sprinkler equipment, water lines and sprinkler heads in the Dwelling;

(ii) preserving the integrity and functionality of the portion of the fire sprinkler system in their Dwelling;

(iii) instructing each Resident, invitees and contractors about the care and protection of the sprinkler system, including any applicable rules adopted by the Board;

(iv) any damage to their Dwelling, an adjoining Dwelling, Common Area, and/or any personal property (such as furnishings and clothing) caused by the functioning or malfunctioning of any component of the sprinkler system in or serving their Dwelling; and

(v) complying with any municipal or other regulatory inspection requirements, at such Owner's expense.

Components of a fire sprinkler system may be located in the attic portion of the Dwelling. If the attic is also the location of air conditioning equipment or other equipment that requires periodic servicing or repair, to ensure protection of the water lines and sprinkler heads, the Owner is advised to closely supervise all persons using the attic.

The Association does not inspect or fix water lines and fire sprinkler heads, if any, in your Dwelling.

4.04 Adjacent Use. No representations are made regarding the use of adjacent property.

4.05 Outside Conditions. Since in every neighborhood there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Property that an Owner or Resident may find objectionable, and it shall be the sole responsibility of an Owner or Resident to become acquainted with neighborhood conditions that could affect the Property.

4.06 Concrete.

(a) Cracks. Minor cracks in poured concrete, including foundations, garage floors, sidewalks, driveways and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of a Structure.

(b) Exposed Floors. This Section applies to residences or Structures with exposed concrete floors. This notice is given because Owners may be inexperienced with concrete and expect it to be as forgiving as wood or sheetrock. In deciding whether, when, and how to fill cracks in exposed concrete floors, an Owner is hereby

made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor cracks more noticeable than if the cracks had been left in their natural state. In addition, an Owner is hereby made aware that any specification for polished concrete means that the concrete will be polished, but this does not mean an Owner will be able to actually see their reflection in the floor.

4.07 Construction Activities. Declarant, Homebuilders, and their licensees will be constructing portions of the Property and engaging in other construction activities related to the construction of Structures, Dwellings, and Common Area. Such construction activities may, from time to time, produce certain conditions on the Property, including, without limitation: (a) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (b) smoke; (c) noxious, toxic or corrosive fumes or gases; (d) obnoxious odors; (e) dust, dirt or flying ash; (f) unusual fire or explosion hazards; (g) temporary interruption of utilities; and/or (h) other conditions that may threaten the security or safety of Persons within the Property or the Common Area. Notwithstanding the foregoing, all Owners and Residents agree that such conditions on the Property or the Common Area resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

4.08 Moisture. Improvements within a Structure may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Residents, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold.

4.09 Mold and/or Mildew. Mold and/or mildew can grow in any portion of a Structure and/or Dwelling that is exposed to elevated levels of moisture including, but not limited to, those portions of a Structure and/or Dwelling in which HVAC condenser units are located. Each Owner is advised to regularly inspect the Owner's Dwelling for the existence of mold, mildew and/or water intrusion (except when the water intrusion is part of the normal functioning of Improvements and appliances such as showers, sinks, dishwashers and other similar appliances and Improvements) and/or damage.

4.10 Encroachments. Improvements may have been constructed on adjoining lands that encroach onto the Property. Declarant gives no representations or warranties as to property rights, if any, created by any such encroachments.

4.11 Budgets. Any budgets of the Association provided by the Declarant are based on estimated expenses only without consideration for the effects of inflation and may increase or decrease significantly when the actual expenses become known.

4.12 Light and Views. The natural light available to and views from a Dwelling or Lot can change over time due to among other things, additional development and the removal or addition of landscaping**. NATURAL LIGHT AND VIEWS ARE NOT PROTECTED.**

4.13 Schools. No representations are being made regarding which schools may now or in the future serve the Property.

4.14 Suburban Environment. The Property is located in a suburban environment. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, and other generators of sound and vibrations typically found in an suburban area. In addition to sound and vibration, there may be odors and light in suburban areas.

4.15 Water Runoff. The Property may still be subject to erosion and/or flooding during unusually intense or prolonged periods of rain. In addition, water may pond on various portions of the Property or the Common Area having impervious surfaces, such as rooftop terraces, patios, and balconies, as applicable.

4.16 Photography of the Property. Declarant, Homebuilders, and their licensees retain the right to obtain and use photography of the Property for publication and advertising purposes.

4.17 Changes to Street Names and Addresses. Declarant retains the right to change, in its sole discretion, the Property name and the street names and addresses in or within the Property including the street address of the Dwellings and/or Lots before or after conveyance to any third-party.

4.18 Plans. Any advertising materials, brochures, renderings, drawings, and the like, furnished by Declarant to Owner which purport to depict the Improvements to be constructed on any Lot are merely approximations and do not necessarily reflect the actual as-built conditions of the same.

4.19 Location of Utilities. Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

4.20 Wood. Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. It is these variations in wood that add to its aesthetic appeal. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the

next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some minor irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination, and surfaces may weather differently due to the type of wood, its location in or on a Dwelling, and other factors. Wood floors may require more maintenance than some man-made materials. Owners of Dwellings with wood floors should educate themselves about wood floor care.

4.21 Stone. Veins and colors of any marble, slate or other stone if any, within a Dwelling, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is the Owner's responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

4.22 Chemicals. Each Structure and Dwelling will contain products that have water, powders, solids and industrial chemicals, which will be used in construction. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Declarant is not responsible for any illness or allergic reactions that a person may experience as a result of mold, mildew, fungus or spores. It is the responsibility of the Owner to keep their Dwelling clean, dry, well ventilated and free of contamination.

4.23 Marketing. Declarant's use of a sales center and/or model homes or reference to other construction by Declarant is intended only to demonstrate the quality of finish detail, the basic floor plans and styles of the Dwellings available for purchase. A Structure and/or Dwelling may not conform to any model in any respect, or contain some or all of the amenities featured, such as furnishings and appliances. Likewise, any model of a Structure and/or Dwelling is intended only to demonstrate approximate size and basic architectural features. The Structures and/or Dwellings, as completed, may not conform to the models displayed by Declarant. Declarant may also have shown prospective purchasers model homes, floor plans, sketches, drawings, and scale models of Structures and/or Dwellings ("**Promotional Aids**").

Owner understands and agrees that the Promotional Aids are conceptual, subject to change, for display purposes only, and may not be incorporated into the Structures and/or Dwellings.

ARTICLE 5
HARVEST TOWNHOME COMMUNITY ASSOCIATION, INC.

5.01 Organization. The Association is a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas non-profit corporation. Neither the Certificate nor the Bylaws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.02 Membership.

(a) Mandatory Membership. Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with the ownership of the Lot that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot. Within thirty (30) days after acquiring legal title to a Lot, if requested by the Board, an Owner must provide the Association with: (i) a copy of the recorded deed by which the Owner has acquired title to the Lot; (ii) the Owner's address, email address, phone number, and driver's license number, if any; (iii) any Mortgagee's name and address; and (iv) the name, phone number, and email address of any Resident other than the Owner.

(b) Easement of Enjoyment – Common Area. Every Member will have a right and easement of enjoyment in and to all of the Common Area and an access easement by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot, subject to the following restrictions and reservations:

(i) the right of the Declarant, or the Declarant's designee, to cause such Improvements and features to be constructed upon the Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion;

(ii) the right of the Association to suspend the Member's right to use the Common Area for any period during which any Assessment against such Member's Lot remains past due and for any period during which such member is in violation of any provision of the Restrictions;

(iii) the right of Declarant (during the Development Period) and the Board thereafter, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for any purpose;

(iv) the right of Declarant (during the Development Period) and the Board thereafter, to grant easements or licenses over and across the Common Area;

(v) with the advance written approval of the Declarant during the Development Period, the right of the Association to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area;

(vi) the right of the Declarant, during the Development Period, and the Board, with the advance written approval of the Declarant during the Development Period, to promulgate Rules and Regulations regarding the use of the Common Area and any Improvements thereon; and

(vii) the right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant.

5.03 Governance. As more specifically described in the Bylaws, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for such purpose. **Notwithstanding the foregoing provision or any provision in this Declaration to the contrary, Declarant will have the sole right to appoint and remove all members of the Board until the tenth (10th) anniversary of the date this Declaration is Recorded. No later than the tenth (10th) anniversary of the date this Declaration is Recorded, or sooner as determined by Declarant, the Board must hold a meeting of Members of the Association for the purpose of electing one-third (⅓) of the Board (the "Initial Member Election Meeting"), which Board member(s) must be elected by Owners other than the Declarant. Declarant shall continue to have the sole right to appoint and remove two-thirds (⅔) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period.**

5.04 Voting Rights. The right to cast votes and the number of votes which may be cast for election of members to the Board (except as provided by *Section 5.03*) and on all other matters to be voted on by the Members will be calculated as set forth below.

(i) Owner Votes. The Owner of each Lot will have one (1) vote for each Lot so owned.

(ii) Declarant Votes. In addition to the votes to which Declarant is entitled by reason of *Section 5.04(i)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

(iii) Co-Owner Votes. When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this *Section 5.04*.

5.05 Powers. The Association has the powers of a Texas nonprofit corporation. It further has the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by Applicable Law or this Declaration. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, has the following powers at all times:

(a) Rules and Regulations, Bylaws and Community Manual. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such Rules and Regulations, policies, Bylaws and the Community Manual, as applicable, which are not in conflict with this Declaration, as it deems proper, covering any and all aspects of the Property or the Common Area (including the operation, maintenance and preservation thereof) or the Association. Any Rules and Regulations, policies, the Bylaws and the Community Manual, and any modifications thereto proposed by the Board, must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

(b) Insurance. To obtain and maintain in effect, policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.

(c) Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(d) Assessments. To levy and collect Assessments, as provided in *Article 6* below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written

notice), without being liable to any Owner or Resident, upon any Lot and into any Dwelling thereon for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Restrictions. The expense incurred by the Association in connection with the entry upon any Lot and/or Dwelling, and the maintenance and repair work conducted thereon or therein, will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in *Article 6* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or its successors or assigns. The Association may not alter or demolish any Improvements on any Lot other than Common Area in enforcing these Restrictions before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) has been obtained. **EACH SUCH OWNER AND RESIDENT WILL RELEASE AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS *SECTION 5.05(e)* (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area for the purpose of constructing, erecting, operating or maintaining the following:

(i) Parks, parkways or other recreational facilities or structures;

(ii) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;

(iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;

(iv) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or

(v) Any similar Improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Restrictions or by Applicable Law. In addition, until expiration or termination of the Development Period, any grant or conveyance under this *Section 5.05(g)* must be approved in advance and in writing by the Declarant.

(h) Manager. To retain and pay for the services of a person or firm (the "**Manager**"), which may include Declarant or any affiliate of Declarant, to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by Applicable Law, the Board may delegate any other duties, powers and functions to the Manager. In addition, the Board may adopt transfer fees, resale certificate fees or any other fees associated with the provision of management services to the Association or its Members. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD AND COMMITTEE MEMBERS FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening and all other utilities, services, repair and maintenance for any portion of the Property, Common Area, private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property, services, permits or other governmental approvals, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to Applicable Law or under the terms of the Restrictions or as determined by the Board.

(k) Construction on Common Area. To construct new Improvements or additions to any property owned, leased, or licensed by the Association, subject to the approval of the Board and the Declarant until expiration or termination of the Development Period.

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain any Common Area, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members. During the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant.

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise. During the Development Period, all acquisitions and dispositions of the Association hereunder must be approved in advance and in writing by the Declarant.

(n) Allocation of Votes. To determine votes when permitted pursuant to *Section 5.04* above.

(o) Authority with Respect to the Restrictions. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce any of the Restrictions. Any decision by the Board to delay or defer the exercise of the power and authority granted by this *Section 5.05(o)* will not subsequently in any way limit, impair or affect ability of the Board to exercise such power and authority.

(p) Membership Privileges. To establish Rules and Regulations governing and limiting the use of the Common Area and any Improvements thereon.

5.06 Conveyance of Common Area to the Association. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant, and its assignees, reserves the right, from time to time and at any time, to designate by written and Recorded instrument portions of the Property being held by the Declarant for the benefit of the Association. Upon the Recording of such designation, the portion of the Property identified therein will be considered Common Area for the purpose of this Declaration. Declarant and its assignees may also assign, transfer or convey to the Association interests in real or personal property within or for the benefit of the Property, for the Property and the general public, or otherwise, as determined in the sole and absolute discretion of the Declarant. All or any real or personal property assigned, transferred and/or conveyed by the Declarant to the Association shall be deemed accepted by the Association upon Recordation, and without further action by the Association, and shall be considered Common Area without regard to whether such real or personal property is designated by the Declarant as Common

Area. If requested by the Declarant, the Association will execute a written instrument, in a form requested by the Declarant, evidencing acceptance of such real or personal property; provided, however, execution of a written consent by the Association shall in no event be a precondition to acceptance by the Association. The assignment, transfer, and/or conveyance of real or personal property to the Association may be by deed without warranty, may reserve easements in favor of the Declarant or a third party designated by Declarant over and across such property, and may include such other provisions, including restrictions on use, determined by the Declarant, in the Declarant's sole and absolute discretion. Property assigned, transferred, and/or conveyed to the Association may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment.

5.07 Indemnification. To the fullest extent permitted by Applicable Law but without duplication (and subject to) any rights or benefits arising under the Certificate or Bylaws of the Association, the Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a court of competent jurisdiction that he or she: (i) acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

5.08 Insurance. The Board may purchase and cause to be maintained, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against or incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against such liability or otherwise.

5.09 Bulk Rate Contracts. Without limitation on the generality of the Association powers set out in *Section 5.05* hereinabove (except that during the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant), the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The

Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election, add the charges payable by such Owner under such Bulk Rate Contract to the Assessments against such Owner's Lot. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Declaration with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot which is reserved under the terms and provisions of this Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12 day period), in addition to all other rights and remedies available pursuant to Applicable Law, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or the Resident of such Owner's Lot) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the Resident of such Owner's Lot) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

5.10 **Community Systems**. The Association is specifically authorized to provide, or to enter into contracts to provide Community Systems. Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Systems as the Board determines appropriate. Each Owner acknowledges that interruptions in Community Systems and services will occur from time to time. Declarant and the Association, or any of their respective successors or assigns shall not be liable for, and no Community System or service user shall be entitled to refund, rebate, discount, or offset in applicable fees for, any interruption in Community Systems and services, regardless of whether or not such interruption is caused by reasons within the service provider's control. In addition, until expiration or termination of the Development Period, any contracts entered pursuant to this *Section 5.10* must be approved in advance and in writing by the Declarant.

5.11 **Declarant's Right to Contribute to Revenues of the Association**. Declarant shall have the right, but not the obligation, in its sole discretion and from time to time, to contribute to the revenues of the Association. At the option of Declarant, such contribution may be reflected on the books and records of the Association as a loan, in which event it shall be

repaid by the Association to Declarant, at the discretion of Declarant. If treated as a loan, the contribution shall accrue interest, compounded monthly, from the date it is made until the date of its repayment, at the short term Applicable Federal Rate ("**AFR**"), as published by the Internal Revenue Service, and adjusted each month to reflect the AFR for such month.

5.12 Protection of Declarant's Interests. Despite any assumption of control of the Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Board is prohibited from taking any action which would discriminate against Declarant, or which would be detrimental to the sale of Lots owned by Declarant. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant. The Board will be required to continue the same level and quality of maintenance, operations and services as that provided immediately prior to assumption of control of the Board by Owners other than Declarant until the expiration or termination of the Development Period.

5.13 Administration of Common Area. The administration of the Common Area by the Association shall be in accordance with the provisions of Applicable Law and the Restrictions, and of any other agreements, documents, amendments or supplements to the foregoing which may be duly adopted or subsequently required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Common Area or by any title insurance company selected by Declarant to insure title to any portion of the Common Area. Declarant and/or its assignees may construct and maintain upon portions of the Common Area such facilities and may conduct such activities which, in Declarant's sole opinion, may be required, convenient, or incidental to the construction or sale of Improvements on the Property, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and its assignees shall have an easement over and across the Common Area for access and shall have the right to use such facilities and to conduct such activities at no charge.

5.14 Right of Action by Association. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings: (i) in the name of or on behalf of any Lot Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 15.01* below, relating to the design or construction of Improvements on a Lot. This *Section 5.14* may not be amended or modified without Declarant's written and acknowledged consent and Members entitled to cast at least one hundred percent (100%) of the total number of votes of the Association, which must be part of the Recorded amendment instrument.

ARTICLE 6
COVENANT FOR ASSESSMENTS

6.01 Assessments.

(a) Established by Board. Assessments established by the Board pursuant to the provisions of this *Article 6* will be levied against each Lot in amounts determined pursuant to *Section 6.07* below. The total amount of Assessments will be determined pursuant to *Sections 6.03, 6.04, 6.05*, and/or *6.06.*

(b) Personal Obligation; Lien. Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot against which the Assessment is levied and will be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

(c) Declarant Subsidy. Declarant may, but is not obligated to, reduce Assessments which would otherwise be levied against Lots for any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by Declarant may be treated as a contribution or a loan, in Declarant's sole and absolute discretion. The payment of a subsidy in any given year will not obligate Declarant to continue payment of a subsidy to the Association in future years.

6.02 Maintenance Fund. The Board will establish a maintenance fund into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under this Declaration. The funds of the Association may be used for any purpose authorized by the Restrictions and the Applicable Law.

6.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board will prepare a budget for the purpose of determining amounts sufficient to pay the estimated net expenses of the Association (the "**Regular Assessments**") which sets forth: (i) an estimate of the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under the Restrictions, including, but not limited to, the cost of all management, repair and maintenance, the cost of providing street and other lighting, the cost of administering and enforcing the Restrictions; and (ii) an estimate of the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, giving due consideration to any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any Assessment, the Association may at

any time, and from time to time, levy further Assessments in the same manner. All such Regular Assessments will be due and payable to the Association annually on or before the first day of the month, or in such other manner as the Board may designate in its sole and absolute discretion.

6.04 Special Assessments. In addition to the Regular Assessments provided for above, the Board may levy special assessments (the "**Special Assessment**") whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under the Restrictions. The amount of any Special Assessments will be at the reasonable discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, levy a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area. Any Special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area will be levied against all Owners based on Assessment Units.

6.05 Individual Assessments. In addition to any other Assessments, the Board may levy an individual assessment (the "**Individual Assessment**") against an Owner and the Owner's Lot. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or the Owner's Lot into compliance with the Declaration; fines for violations of the Restrictions; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; insurance deductibles; reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Residents of the Owner's Lot; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to the benefit received.

6.06 Working Capital Assessment. Each Owner (other than Declarant) of a Lot will pay a one-time working capital assessment (the "**Working Capital Assessment**") to the Association in such amount as may be determined by the Declarant, until expiration or termination of the Development Period, and the Board thereafter. Such Working Capital Assessment need not be uniform among all Lots, and the Declarant or the Board, as applicable, is expressly authorized to levy Working Capital Assessments of varying amounts depending on the size, use and general character of the Lots then being made subject to such levy. The levy of any Working Capital Assessment will be effective only upon the Recordation of a written notice, signed by Declarant or a duly authorized officer of the Association, setting forth the amount of the Working Capital Assessment and the Lots to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the Working Capital Assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent. Additionally, an Owner who (a) is a Homebuilder; or (b) acquires a Lot for the purpose of resale to a Homebuilder (a "**Development Owner**") will not be subject to the Working Capital Assessment; however, the Working Capital Assessment will be payable by any Owner who acquires a Lot from a Homebuilder or Development Owner for residential living purposes or by any Owner who: (I) acquires a Lot and is not in the business of constructing single-family residences for resale to a third party; or (II) who acquires the Lot for any purpose other than constructing a single-family residence thereon for resale to a third party. In the event of any dispute regarding the application of the Working Capital Assessment to a particular Owner, the Declarant's during the Development Period, and thereafter the Board's, determination regarding the application of the exception will be binding and conclusive without regard to any contrary interpretation of this *Section 6.06.* The Working Capital Assessment will be in addition to, not in lieu of, any other Assessments levied in accordance with this *Article 6* and will not be considered an advance payment of such Assessments. The Working Capital Assessment hereunder will be due and payable by the transferee to the Association immediately upon each transfer of title to the Lot, including upon transfer of title from one Owner of such Lot to any subsequent purchaser or transferee thereof. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any Working Capital Assessment attributable to a Lot (or all Lots) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

6.07 Amount of Assessment.

(a) Assessments to be Levied. The Board shall levy Assessments against each "Assessment Unit" (as defined in *Section 6.07(b)* below). Unless otherwise provided in this Declaration, Assessments levied pursuant to *Section 6.03* and *Section 6.04* shall be levied uniformly against each Assessment Unit allocated to a Lot.

(b) Assessment Unit. Each Lot shall constitute one "Assessment Unit" unless otherwise provided in *Section 6.07(c) and (d)*.

(c) Assessment Exemption. Notwithstanding anything in this Declaration to the contrary, no Assessments shall be levied upon Lots owned by Declarant without Dwellings. Homebuilders shall be required to pay Assessments at such time that the Declarant determines, in the Declarant's sole and absolute discretion, that the Association shall assume the maintenance responsibilities over the Structure, Dwelling or Lot.

(d) Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Property or any Lot from any

Assessments levied or charged pursuant to this *Article 6*; or (ii) delay the levy of Assessments against any un-platted, unimproved or improved portion of the Property. Declarant or the Board may also exempt any portion of the Property which is dedicated and accepted by public authority from Assessments.

6.08 Late Charges. If any Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be levied as an Individual Assessment against the Lot owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

6.09 Owner's Personal Obligation; Interest. Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date therefor (or if there is no such highest rate, then at the rate of one and one half percent (1 1/2%)per month), together with all costs and expenses of collection, including reasonable attorney's fees. Such amounts will be levied as an Individual Assessment against the Lot owned by such Owner.

6.10 Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this Article is, together with late charges as provided in *Section 6.08* and interest as provided in *Section 6.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 6.01(b)* above, and will bind each Lot in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot, except only for: (i) tax liens and governmental assessment liens; (ii) all sums secured by a Recorded first mortgage lien or Recorded first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot in question; and (iii) home equity loans or home equity lines of credit which are secured by a Recorded second mortgage lien or Recorded second deed of trust lien of record; provided that, in the case of subparagraphs (ii) and (iii) above, such Mortgage was Recorded before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an authorized officer, agent, or attorney of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name

of the Owner of the Lot covered by such lien and a description of the Lot. Such notice may be signed by one of the authorized officers, agents, or attorneys of the Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot subject to this Declaration, will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have by law and under this Declaration, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien. In any foreclosure proceeding, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than sixty (60) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot; except, however, that in the event of foreclosure of any lien superior to the Assessment lien, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 6.10*, the Association will upon the request of the Owner, and at such Owner's cost, execute a release of lien relating to any lien for which written notice has been Recorded as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an authorized officer, agent, or attorney of the Association. In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such twelve (12) day period) to such Owner, in addition to all other rights and remedies available pursuant to Applicable Law, terminate, in such manner as the Board deems appropriate, any utility or cable service provided through the Association and not paid for directly by an Owner or Resident to the utility or service provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Resident of the Owner's Lot can make arrangements for payment of the bill and for reconnection of service. Utility or cable service will not be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot will not relieve the Owner of such Lot or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien

associated therewith. If an Owner conveys its Lot and on the date of such conveyance Assessments against the Lot remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot, and such sums will be paid in preference to any other charges against the Lot other than liens superior to the Assessment lien and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot which are due and unpaid. The Owner conveying such Lot will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the expenses associated with updating the Association's records upon the transfer of a Lot to a third party; provided, however, that no transfer fee will be due upon the transfer of a Lot from Declarant to a third party.

Yes, the Association *can* foreclose on your Lot!
If you fail to pay assessments to the Association, you may lose title to your Lot if the Association forecloses its assessment lien.

6.11 Exempt Property. The following areas will be exempt from the Assessments provided for in this Article:

(a) All area dedicated and accepted by a public authority;

(b) The Common Area; and

(c) Any portion of the Property owned by Declarant.

6.12 Fines and Damages Assessment.

(a) Board Assessment. The Board may assess fines against an Owner for violations of the Restrictions which have been committed by an Owner, a Resident, or the Owner or Residents guests, agents or invitees pursuant to the Fine and Collection Policy adopted by the Board. Any fine and/or charge levied in accordance with this *Section 6.12* will be considered an Individual Assessment pursuant to this Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area or any facilities caused by the Owner, Resident, or their guests, agents, or invitees. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the Rules and Regulations and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

(b) Lien Created. The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest as provided in *Section 6.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 6.01(b)* of this Declaration. The fine and/or damage charge will be considered an Assessment for the purpose of this Article, and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this *Article 6*.

6.13 Collection of Master Association Assessments Levied Pursuant to Master Declaration. Unless the Master Association elects otherwise, the Association will collect from each Owner the allocated share attributable to such Owner's Lot of Master Association Assessments. The Master Association Assessments shall be paid by each Owner of a Lot together with the Regular Assessment levied hereunder by the Association. If, for any reason, the Association fails to collect the Master Association Assessments in conjunction with Regular Assessments, then the Association shall collect the Master Association Assessments from each Owner, and remit the Master Association Assessments to the Master Association in such manner as the Master Association may deem proper; provided, however, that, in any event, each Master Association Assessment will be remitted to the Master Association prior to the time when payment thereof is required by the terms and provisions of the Master Declaration.

ARTICLE 7
MAINTENANCE AND REPAIR OBLIGATIONS

7.01 Overview. Generally, the Association maintains the Common Area, and the Owner maintains his Lot and the Structure and Dwelling located thereon. If any Owner fails to maintain his Lot and the Structure and Dwelling located thereon, the Association may perform the work at the Owner's expense. This Declaration assigns portions of the Structures, Dwellings and Lots to the "**Area of Common Responsibility**", as defined and described below. The Area of Common Responsibility is maintained by the Association and not the Owner. On the date of this Declaration, the initial designation of components of Structures, Dwellings, and Lots included within the Area of Common Responsibility is attached hereto as Exhibit "A".

7.02 Association Maintains. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. Unless otherwise provided in this Declaration, the Association maintains, repairs and replaces, as a common expense, the portions of the Property or the Common Area listed below, regardless of whether the portions are on an Owner's Lot:

(i) the Common Area;

(ii) the Area of Common Responsibility;

(iii) any real and personal property owned by the Association not otherwise designated as a Common Area;

(iv) any property adjacent to the Property or the Common Area if maintenance of same is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property; and

(v) any area, item, easement or service the maintenance of which is assigned to the Association by Applicable Law, this Declaration or in accordance with any recorded plat of the Property.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that: (i) such maintenance responsibility is assigned to an Owner under this Declaration; (ii) such maintenance responsibility is otherwise assumed by or assigned to an Owner; or (iii) such property is dedicated to and accepted by any local, state or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area or the Area of Common Responsibility by an Owner or Resident that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Resident and the Owner and Resident shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner or Resident of any Lot or any other person or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Area or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Resident of a Lot has put the Association on written notice of a specific leak or flow from any portion of the Common Area and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner or Resident of any Lot for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Area or any Lot. The Association shall not be liable to any Owner or Resident, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or for

inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or from any action taken by the Association to comply with any law ordinance or with any order or directive of any municipal or other governmental authority.

7.03 Area of Common Responsibility. The Association, acting through its members only, has the right but not the duty to designate, from time to time, portions of a Structure, Dwelling, and Lot as an Area of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association as a common expense. A designation applies to every Lot having the identified feature. The cost of maintaining the Area of Common Responsibility is added to the annual budget and assessed uniformly against all Lots as a Regular Assessment, unless, after expiration of the Development Period, the Owners of at least a Majority of the Lots decide to assess the costs as Individual Assessments.

(a) Easement. The Association is hereby granted an easement over and across each Structure, Lot and Dwelling to the extent reasonably necessary or convenient for the Association or its designee to maintain, repair and/or replace the Area of Common Responsibility. Unless otherwise agreed to by the Owner of the Lot to be accessed, access to the Area of Common Responsibility is limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in conjunction with actual maintenance activities. If the Association damages any Improvements located within a Structure, Lot or Dwelling in exercising the easement granted hereunder, the Association will be required to restore such Improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements.

(b) Change in Designation. The Association may, from time to time, include additional components of Structures, Lots and Dwellings within the Area of Common Responsibility; however, unless otherwise approved by the Declarant during the Development Period, in no event may the Association at any time remove from the Area of Common Responsibility components of Structures, Lots or Dwellings previously designated as an Area of Common Responsibility under this Declaration. During the Development Period, any addition to the Area of Common Responsibility must also be approved by the Declarant. After expiration or termination of the Development Period, any modification must be approved by a majority of the Owners. During the Development Period, the Area of Common Responsibility may be modified or amended by the Declarant, acting alone. Any modification or amendment to the Area of Common Responsibility must be recorded in the Official Public Records of Denton County, Texas.

7.04 Inspection Obligations.

(a) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed individuals or entities to provide the Association with inspection services for the Area of Common Responsibility.

(b) Schedule of Inspections. Such inspections shall take place at least once every three (3) years. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board shall report the contents of such written reports to the Members of the Association at the next meeting of the Members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(c) Notice to Declarant. During the Development Period, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

7.05 Owner Responsibility. This Declaration contemplates that the Association will maintain some significant components of the Structures, Dwellings and Lots. Every Owner is responsible for the maintenance, repair and replacement of all Improvements located on such Owner's Lot, unless such Improvements are maintained by the Association as an Area of Common Responsibility. Every Owner has the following responsibilities and obligations for the maintenance, repair and replacement of their Lot:

(i) to maintain, repair, and replace the Structure and Dwelling located on the Owner's Lot and any Improvements which exclusively serve such Owner's Lot, except for the Area of Common Responsibility;

(ii) to not do any work or fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value thereof, or impair any easement or real property right thereto;

(iii) to be responsible for his own willful or negligent acts and those of his or the Resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of Common Area or the property of another Owner, or any component of the Property for which the Association has maintenance and/or insurance responsibility;

(iv) to perform his or her responsibilities in such a manner so as not to unreasonably disturb other Owners and Residents;

(v) to promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible;

(vi) to pay for the cost of repairing, replacing or cleaning up any item that is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants or guests, with the cost thereof to be added to and to become part of the Owner's next chargeable Assessment.

SEE EXHIBIT "A"
IF IT'S NOT AN AREA OF COMMON RESPONSIBILITY, THEN IT'S THE OWNER'S INDIVIDUAL RESPONSIBILITY.

7.06 Yard Maintenance. As set forth on the Designation of Area of Common Responsibility and Maintenance Chart, attached as Exhibit "A", the Association is obligated to maintain, as an Area of Common Responsibility, all yard areas within a Lot. Shrubs and trees may not be planted, and no modifications may be made to a yard, without the prior written approval of the ACC. Specifically, the Association must:

(i) mow the lawns and grounds at regular intervals; and

(ii) prevent lawn weeds or grass from exceeding 6 inches in height; and

7.07 Disputes. If a dispute arises regarding the allocation of maintenance responsibilities by this Declaration, the dispute will be resolved by the Board, who shall delegate such maintenance responsibility to either the Association or the individual Owner(s), as determined by the Board in its sole and absolute discretion.

ARTICLE 8
INSURANCE

8.01 Property Insurance-Association. The Association shall comply with the following insurance requirements.

(a) The Association will insure the Common Area and property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies. The Association will maintain a commercial general liability insurance policy covering the Common Area for bodily injury and property damage.

(b) The Association shall obtain property insurance on the Dwellings insuring against all risks of physical loss commonly insured against, including fire and extended coverage, in a total amount of at least 100% of the replacement costs. Such coverage will include any wall coverings, floor coverings, appliances, or fixtures originally installed by the Declarant, but will not include any Improvements or upgrades (including wall coverings and fixtures) installed by an Owner (other than Declarant). Such coverage will also exclude furnishings and other personal property within the Dwelling.

(c) The Association shall keep a policy or policies of (i) liability insurance insuring the Board of Directors, Officers and employees of the Association against any claims, losses, liabilities, damages or causes of action arising out of, or in connection with, or resulting from any act done or omission to act by any such person or entities, including but not limited to directors and officer's liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable, (ii) workmen's compensation as required by Applicable Law, and (iii) such other insurance as deemed necessary by the Board of Directors. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services.

(d) Insurance policies carried pursuant to this Section, and to the extent available, must also provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of the person's membership in the Association;

(ii) The insurer waives its right to subrogation under the policy against an Owner;

(iii) No action or omission of an Owner, unless within the scope of the Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;

(iv) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same property covered by the policy, the Association's policy provides primary insurance.

(e) A claim for any loss covered by the insurance required by this *Section 8.01* must be submitted by and adjusted with the Association. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. The Association shall hold insurance proceeds in trust for the Owners and lienholders as their interests may appear. Subject to *Section 8.01(h)*, the proceeds paid under a policy must be disbursed first for the repair or restoration of the damaged Dwellings or Structures, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored.

(f) An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for the Owner's own benefit.

(g) The insurer issuing the policy may not cancel or refuse to renew it less than thirty (30) days after written notice of the proposed cancellation or nonrenewal has been mailed to the Association.

(h) Except as provided by this section, any portion of a Dwelling or Structure for which insurance is required that is damaged or destroyed shall be promptly repaired or replaced by the Association unless replacement would be illegal under any Applicable Law. The cost of repair or replacement in excess of the insurance proceeds shall be a common expense of the Association, and the Board may levy an Assessment to pay the excess costs or expenses in accordance with *Article 6*. Any insurance proceeds attributable to a damaged Dwelling or Structure shall be used to restore the damaged Dwelling or Structure to a condition compatible with the remainder of the Dwellings or Structures. If a Dwelling or Structure is not repaired or replaced, the insurance proceeds attributable to Dwelling or Structure that are not rebuilt shall be distributed to the Owners of that Dwelling or Structure, or to their mortgagees, as their interests may appear.

(i) The decision to repair or replace damaged Common Area shall be made by the Board, in its sole and absolute discretion, subject to the approval of the Declarant until expiration or termination of the Development Period.

(j) Even if the Association and the Owners have adequate amounts of recommended and required coverage, the Property may experience a loss that is not covered by insurance. In such event, the Association is responsible for restoring the

Common Area as a common expense of the Association, and the Owner is responsible for restoring the Owner's Dwelling or Structure.

(k) The Association, the Board, and the Association's officers and managers, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at demonstrably unreasonable cost.

8.02 Owner's Responsibility for Insurance.

(a) Insurance by Owners. The Owner of a Dwelling is encouraged to procure insurance covering the interior of the Dwelling, including replacement of interior improvements and betterment coverage to insure improvements the Owner may make to the Dwelling, commonly referred to as HO-6 insurance or its equivalent. The Association does not insure improvements and betterments made by the Owner to a Dwelling. The Owner of a Dwelling is also encouraged to obtain Loss Assessment coverage, as well as general liability insurance covering the Owner's Lot for bodily injury and property damage. Notwithstanding the foregoing, the Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners.

(b) Association Does Not Insure. The Association does not insure an Owner or Resident's furnishings or personal property. Each Owner and Resident is solely responsible for insuring his personal property in his Dwelling and on the Property, including furnishings, vehicles, and stored items. THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND RESIDENT PURCHASE AND MAINTAIN INSURANCE ON HIS FURNISHINGS OR PERSONAL BELONGINGS.

8.03 Owner's Liability For Insurance Deductible. If repair or restoration of a Dwelling, a Structure, Common Area or any Improvement thereon is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance. Notwithstanding the foregoing, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner, then the Board may levy an Individual Assessment against the Owner and his Lot for the amount of the deductible that is attributable to the act or omission.

ARTICLE 9
ARCHITECTURAL CONTROL COMMITTEE

Declarant has a substantial interest in ensuring that Improvements within the Property maintain and enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market and sell all or any portion of the Property. Until Declarant has delegated its right to appoint and remove all members of the ACC to the Board as provided in *Section 9.02(a)* below, the ACC will be acting solely in Declarant's interest and will owe no duty to any other Owner or the Association. Notwithstanding any provision in this Declaration to the contrary, Declarant may appoint a single person to exercise the rights of the ACC.

9.01 Construction of Improvements. No Improvement may be erected, placed, constructed, painted, altered, modified or remodeled on any Lot, and no Lot may be re-subdivided or consolidated with other Lots or Property, by anyone other than Declarant without the prior written approval of the ACC.

9.02 Architectural Control Committee.

(a) Composition. The ACC will be composed of not more than three (3) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant may assign its right to appoint all members of the ACC to the Association by Recorded written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the ACC. Any assignment by Declarant of the right to appoint and remove all members of the ACC may be withdrawn until expiration of twenty-four (24) months after the expiration of the Development Period. If Declarant withdraws its assignment of the right to appoint and remove all members of the ACC, then on the date of such withdrawal, Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant's right to appoint all members of the ACC will automatically be assigned to the Association upon the expiration of twenty-four (24) months after the expiration of the Development Period. Declarant, at its option, may create and assign specific duties and responsibilities to one or more sub-committees consisting of members and/or nonmembers of the ACC. In the event responsibilities and duties are assigned to a sub-committee, those responsibilities and duties will no longer be discharged by the ACC unless the sub-committee exercising such duties and responsibilities is dissolved by Declarant. The right to create, dissolve, and appoint members of such sub-committees will reside exclusively with Declarant until such time as Declarant has assigned its right to appoint members of the ACC to the Association. The ACC will have the right to employ consultants and advisors as it deems necessary or appropriate.

(b) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines, if any, or any additional rules adopted by the ACC together with any review fee which is imposed by the ACC in accordance with *Section 9.02(c)* to the ACC at the offices of Declarant or at such address as may hereafter be designated in writing from time to time. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot, until the plans and specifications and the builder which the Owner intends to use to construct the proposed structure or Improvement have been approved in writing by a Majority of the members of the ACC. The ACC may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the ACC or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The ACC may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the ACC, in its sole discretion, may require. Site plans must be approved by the ACC prior to the clearing of any Lot, or the construction of any Improvements. The ACC may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot on any grounds that, in the sole and absolute discretion of the ACC, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(c) Design Guidelines. Declarant may adopt the initial Design Guidelines and, during the Development Period, will have the power from time to time, to adopt (unless previously adopted by Declarant), amend, modify, or supplement the Design Guidelines, if any. Upon expiration or termination of the Development Period, the ACC, or any sub-committee thereof created pursuant to *Section 9.02(a)*, will have the power, from time to time, to amend, modify, or supplement the Design Guidelines, if any; provided, however, that any amendment to the Design Guidelines made by a sub-committee will only apply to the Improvements under the jurisdiction of such sub-committee, and during the Development Period, any such amendment, modification or supplement must be approved in advance and in writing by the Declarant. In the event of any conflict between the terms and provisions of the Design Guidelines, if any, and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the ACC will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Declaration. Such charges will be held by the ACC and used to defray the administrative expenses incurred by the ACC in performing its duties hereunder; provided, however, that any excess funds held by the ACC will be distributed to the Association at the end of each calendar year. The ACC will not be required to review any plans until a complete submittal package, as required by this

Declaration and the Design Guidelines, is assembled and submitted to the ACC. The ACC will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for certificates of compliance or completion relating to any Improvement and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(d) Actions of the Architectural Control Committee. The ACC may, by resolution unanimously adopted in writing, designate one or more of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the vote of a Majority of all of the members of the ACC taken at a duly constituted meeting will constitute an act of the ACC.

(e) Failure to Act. In the event that any plans and specifications are submitted to the ACC as provided herein, and the ACC fails either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, rejection of such plans and specifications by the ACC will be presumed. In furtherance, and not in limitation, of the foregoing, any failure of the ACC to act upon a request for a variance will not be deemed a consent to such variance, and the ACC's written approval of all requests for variances will be expressly required.

(f) Variances. The ACC may grant variances from compliance with any of the provisions of the Design Guidelines, if any, or this Declaration, when, in the opinion of the ACC, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and must be signed by at least a Majority of the members of the ACC. Each variance must also be Recorded; provided however, that failure to record a variance will not affect the validity thereof or give rise to any claim or cause of action against the ACC, including the Declarant or its designee, the Association, or the Board. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or the Design Guidelines, if any, will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration or the Design Guidelines, if any, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration or the Design Guidelines, if any.

(g) Duration of Approval. The approval of the ACC of any plans and specifications, and any variances granted by the ACC, will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and

specifications or variance is not commenced within such one hundred and twenty (120) day period and diligently prosecuted to completion within either: (i) one year after issuance of approval of such plans and specifications; or (ii) such other period thereafter as determined by the ACC, in its sole and absolute discretion, the Owner will be required to resubmit such plans and specifications or request for a variance to the ACC, and the ACC will have the authority to re-evaluate such plans and specifications in accordance with this *Section 9.02(g)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(h) No Waiver of Future Approvals. The approval of the ACC to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the ACC will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the ACC.

(i) Non-Liability of Committee Members. NEITHER DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION.

ARTICLE 10
MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots within the Property. The provisions of this Article apply to the Declaration and the Bylaws of the Association.

10.01 Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates (thereby becoming an "**Eligible Mortgage Holder**"), will be entitled to timely written notice of:

(i) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is an eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(ii) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

10.02 Examination of Books. The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

10.03 Taxes, Assessments and Charges. All taxes, assessments and charges that may become liens prior to first lien mortgages under Applicable Law will relate only to the individual Lots and not to any other portion of the Property.

ARTICLE 11
GENERAL PROVISIONS

11.01 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the Property, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is Recorded, and continuing through and including January 1, 2064, after which time this Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the Recording of a certified copy of such resolution. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. Notwithstanding any provision in this *Section 11.01* to the contrary, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living, as of the date of the Recording of this document, descendants of Elizabeth II, Queen of England.

11.02 Eminent Domain. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area for any public purpose during the period this Declaration is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of Mortgages or deeds of trust on the respective Lot.

11.03 Amendment. This Declaration may be amended or terminated by the Recording, of an instrument executed and acknowledged by: (a) Declarant acting alone and unilaterally; or (b) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the number of votes entitled to be cast by members of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. No amendment will be effective without the written consent of Declarant, its successors or assigns during the Development Period. Specifically, and not by way of limitation, Declarant may unilaterally amend this Declaration: (i) to bring any provision into compliance with Applicable Law; (ii) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (iv) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

11.04 Enforcement. Except as otherwise provided herein, any Owner of Lot, at such Owner's own expense, Declarant and the Association will have the right to enforce, by a proceeding at law or in equity, all of the provisions of this Declaration. The Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Property or the Common Area is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein. The Association and the Declarant will have the right to enforce, by a proceeding at law or in equity, the Restrictions. Failure to enforce any right, provision, covenant, or condition set forth in the Restrictions will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future. Failure of the Declarant or the Association to enforce the terms and provisions of the Restrictions shall in no event give rise to any claim or liability against the Declarant, the Association, or any of their partners, directors, officers, or agents. EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE PROPERTY, HEREBY RELEASES AND SHALL HOLD HARMLESS EACH OF THE DECLARANT, THE ASSOCIATION, AND THEIR PARTNERS, DIRECTORS, OFFICERS, OR AGENTS FROM AND AGAINST ANY DAMAGES, CLAIMS, OR LIABILITY ASSOCIATED WITH THE FAILURE OF THE DECLARANT OR THE ASSOCIATION TO ENFORCE THE TERMS AND PROVISIONS OF THE RESTRICTIONS.

11.05 **No Waiver**. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Restrictions. Failure by the Association or by any Owner to enforce a provision of the Restrictions is not a waiver of the right to do so thereafter.

11.06 **Recovery of Costs**. The costs of curing or abating a violation of the Restrictions are the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Restrictions, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Restrictions or the restraint of violations of the Restrictions, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

11.07 **Higher Authority.** The terms and provisions of this Declaration are subordinate to Applicable Law. Generally, the terms and provisions of this Declaration are enforceable to the extent they do not violate or conflict with Applicable Law. The Property is subject to all terms, conditions and restrictions set forth in the Master Plan Documents. The Master Plan Documents may be amended in accordance with the terms and provisions thereof, from time to time, and such amendments shall be binding and enforceable against all Owners.

11.08 **Severability.** If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Declaration, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

11.09 **Conflicts.** If there is any conflict between the provisions of this Declaration, the Certificate, the Bylaws, or any Rules and Regulations, the provisions of this Declaration, the Certificate, the Bylaws, and the Rules and Regulations, in such order, will govern.

11.10 **Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

11.11 **Notices.** Any notice permitted or required to be given to any person by this Declaration will be in writing and may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

11.12 **Acceptance by Owners**. Each Owner of a Lot or other real property interest in the Property, by the acceptance of a deed of conveyance, accepts the same subject to all terms,

restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Property, and will bind any person having at any time any interest or estate in the Property, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

11.13 No Partition. Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area or any part thereof will be permitted, nor will any person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the portion of the Property or the Common Area in question has been removed from the provisions of this Declaration pursuant to *Section 14.04* below. This *Section 11.13* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Declaration, nor will this provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Texas Uniform Condominium Act.

ARTICLE 12
EASEMENTS

12.01 Owner's Easement of Enjoyment. Every Owner is granted a right and easement of enjoyment over the Common Area and to use of Improvements thereon, subject to other rights and easements contained in the Restrictions. An Owner who does not occupy a Dwelling delegates this right of enjoyment to the Residents of his Dwelling, and is not entitled to use the Common Area.

12.02 Owner's Maintenance Easement. Each Owner is hereby granted an easement over and across any adjoining Dwelling and Lot and the Common Area to the extent reasonably necessary to maintain or reconstruct such Owner's Dwelling, subject to the consent of the Owner of the adjoining Lot and Dwelling and the consent of the Board as provided below, or the consent of the Board in the case of Common Area, and provided that the Owner's use of the easement granted hereunder does not damage or materially interfere with the use of the adjoining Lot and/or Dwelling or Common Area. Requests for entry into an adjoining Lot must be made to the Owner of such Lot in advance. The consent of the adjoining Lot Owner will not be unreasonably withheld; however, the adjoining Lot Owner may require that access to its Lot be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. Access to the Common Area for the purpose of maintaining or reconstructing any Dwelling must be made in advance to the Board. The consent of the Board will not be unreasonably withheld; however, the Board may

require that access to the Common Area be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. In addition, the Board may require that the Owner abide by additional reasonable rules with respect to use and protection of the Common Area during any such maintenance or reconstruction. If an Owner damages an adjoining Dwelling or Common Area in exercising the easement granted hereunder, the Owner will be required to restore the Dwelling or Common Area to the condition which existed prior to any such damage, at such Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Owner is notified in writing of the damage by the Association or the Owner of the damaged Dwelling.

Notwithstanding the foregoing, no Owner shall perform any work to any portion of his or her Dwelling or Lot if the work requires access to, over or through the Common Area or other Lots and/or Dwellings without the prior consent of the ACC except in case of an emergency. All such work may only be performed by a person who shall deliver to the ACC prior to commencement of such work, in form satisfactory to the Board:

(i) releases of the Board, the ACC, and the Association for all claims that such person may assert in connection with such work;

(ii) indemnities of the Board, the ACC, and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Area, or other Lots and Dwellings;

(iii) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board; and

(iv) all other information and assurances which the Board may reasonably require.

12.03 Owner's Ingress/Egress Easement. Each Owner is hereby granted a perpetual easement over the Property, including the Lots (but excluding any portion of the Lot enclosed by a private fence installed by the Declarant or approved by the ACC creating a private yard space for the Lot Owner), as may be reasonably required, for ingress to and egress from his Dwelling, but subject to any Rules and Regulations adopted from time to time by the Board.

12.04 Owner's Encroachment Easement. Every Owner is granted an easement for the existence and continuance of any encroachment by his Dwelling on any adjoining Lot, Dwelling or Common Area now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Dwelling, or as a

result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the Improvement stands.

12.05 Easement Of Cooperative Support. Each Owner is granted an easement of cooperative support over each adjoining Lot and Dwelling as needed for the common benefit of the Property, or for the benefit of Dwellings in a Structure, or Dwellings that share any aspect of the Property that requires cooperation. By accepting an interest in or title to a Lot, each Owner: (i) acknowledges the necessity for cooperation in a townhome; (ii) agrees to try to be responsive and civil in communications pertaining to the Property and to the Association; (iii) agrees to provide access to his Dwelling and Lot when needed by the Association to fulfill its duties; and (iv) agrees to try refraining from actions that interfere with the Association's maintenance and operation of the Property.

12.06 Association's Access, Maintenance and Landscape Easement. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access, maintenance and entry over, across, under, and through the Property, including without limitation, each Lot and each Dwelling and all Improvements thereon for the following purposes:

(i) to perform inspections and/or maintenance that is permitted or required of the Association by the Restrictions or by Applicable Law;

(ii) to perform maintenance that is permitted or required of the Owner by the Restrictions or by Applicable Law, if the Owner fails or refuses to perform such maintenance;

(iii) to enforce the Restrictions;

(iv) to exercise self-help remedies permitted by the Restrictions or by Applicable Law;

(v) to respond to emergencies;

(vi) to have the exclusive right to maintain landscaping and make, erect or install non-structural improvements (such as fences, irrigation systems, lighting systems, walking or biking paths, and the like) in or on those portions of each Owner's Lot;

(vii) to grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property; and

(viii) to perform any and all functions or duties of the Association as permitted or required by the Restrictions or by Applicable Law.

ARTICLE 13
DEVELOPMENT EASEMENTS

13.01 Right of Ingress and Egress. Declarant, its agents, employees, designees, successors and assigns, and Homebuilders and its licensees will have a right of ingress and egress over and the right of access to the Common Area to the extent necessary to use the Common Area (as determined by Declarant in its sole discretion) in connection with the construction and development of the Property.

13.02 Community Systems Easement. The Property shall be subject to a perpetual non-exclusive easement for the installation and maintenance of, including the right to read, meters, service or repair lines and equipment, and to do everything and anything necessary to properly maintain and furnish the Community Systems and the facilities pertinent and necessary to the same, which easement shall run in favor of Declarant. Declarant shall have the right, but not the obligation, to install and provide the Community Systems and to provide the services available through the Community Systems to any and all Lots within the Property. Neither the Association nor any Owner shall have any interest therein. Any or all of such services may be provided either directly through the Association and paid for as part of the Assessments or paid directly to Declarant, any affiliate of Declarant, or a third party, by the Owner who receives the services. The Community Systems shall be the property of Declarant unless transferred by Declarant, whereupon any proceeds of such transfer shall belong to Declarant. Declarant shall have the right but not the obligation to convey, transfer, sell or assign all or any portion of the Community Systems or all or any portion of the rights, duties or obligations with respect thereto, to the Association or to any Person. The rights of Declarant with respect to the Community Systems installed by Declarant and the services provided through such Community Systems are exclusive, and no other Person may provide such services through the Community Systems installed by Declarant without the prior written consent of Declarant.

13.03 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant or any third party prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Property.

13.04 Improvements, Roadway and Utility Easements. Declarant hereby reserves unto itself and its agents and employees, a perpetual non-exclusive easement over, under, and across the Property, for installation, operation, maintenance, repair, relocation, removal and/or modification of any Improvements, roadways, walkways, pathways, street lighting, sewer lines,

water lines, utility lines, drainage or storm water lines, and/or other pipelines, conduits, wires, and/or any public utility function on, beneath or above the surface of the ground that serve the Property, and any other property owned by Declarant, with the right of access to the same at any time. Declarant will be entitled to unilaterally assign the easements reserved hereunder, or grant or assign permits or licenses over, under, and across the easement areas reserved hereunder, to any third party who owns, operates or maintains the facilities and Improvements described in this *Section 13.04*. The exercise of the easement reserved herein will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or residence or Improvement constructed thereon. Notwithstanding the foregoing, the exercise of such easements reserved hereunder shall not unreasonably interfere with the use of any Dwelling for residential purposes.

13.05 Subdivision Entry and Fencing Easement. Declarant reserves for itself and the Association, an easement over and across the Property and any Common Area for the installation, operation, maintenance, repair, relocation, removal and/or modification of certain subdivision entry facilities, walls, and/or fencing which serves the Property. Declarant will have the right, from time to time, to Record a written notice which identifies the subdivision entry facilities, walls, and/or fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities, walls, and/or fencing as Common Area by Recorded written notice. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Dwelling.

13.06 Landscape and Monument Sign Easement. Declarant hereby reserves for itself and the Association, an easement over and across the Property and the Common Area for the installation, maintenance, repair or replacement of landscaping, signs, and/or monument signs which serve the Property and the Common Area. Declarant will have the right, from time to time, to Record a written notice, which identifies those portions of the Property and the Common Area to which the easement reserved hereunder applies. Declarant may designate the easement areas reserved hereunder as Common Area. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Dwelling.

13.07 Easement to Inspect and Right To Correct. For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder, and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any Structure, Improvement, Dwelling, or condition that may exist on any portion of the Property or the Common Area, and a perpetual nonexclusive easement of access throughout the Property or the Common Area to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a retaining wall may be warranted by a change of circumstance,

imprecise siting of the original wall, or desire to comply more fully with Applicable Law. This Section may not be construed to create a duty for Declarant, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Lot, hereby grants to Declarant an easement of access and entry over, across, under, and through the Property or the Common Area, including without limitation, each Lot, Structure, and Dwelling, and all Improvements thereon for the purposes contained in this Section.

ARTICLE 14
DEVELOPMENT RIGHTS

14.01 Development by Declarant. It is contemplated that the Property will be developed pursuant to a coordinated plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to pursue the development, construction and marketing of the Property, the right to direct the size, shape, and composition of the Property, the right to create and/or designate additional Lots and Common Area and to subdivide any of the Property pursuant to the terms of this *Section 14.01*, subject to any limitations imposed on portions of the Property by any applicable Plat. Collectively, the rights reserved to the Declarant as set forth in this Declaration shall be known as the "Development Rights", and Declarant hereby reserves the right and privilege for itself, and/or its assigns, to exercise the Development Rights, and any other rights reserved on behalf of the Declarant as set forth in this Declaration until twenty-four (24) months after the expiration or termination of the Development Period, except the right to appoint and remove Board members and officers of the Association which shall be governed by the provisions set out in *Section 5.03*. These rights may be exercised with respect to any portions of the Property and the Common Area. As each area is developed or dedicated, Declarant may designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area.

14.02 Special Declarant Rights. Notwithstanding any provision of this Declaration to the contrary, at all times, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots in the Property; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Property and the Common Area. The construction, placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 14.02* until twenty-four (24) months after expiration or termination of the Development Period.

14.03 Addition of Land. Declarant may, at any time and from time to time, add additional lands to the Property. Upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Declaration, and such added lands will be considered part of the Property subject to this Declaration and the terms, covenants,

conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties, and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. To add lands to the Property, Declarant will be required only to Record a notice of addition of land containing the following provisions:

(i) A reference to this Declaration, which reference will state the document number or volume and initial page number where this Declaration is Recorded;

(ii) A statement that such land will be considered Property for purposes of this Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and

(iii) A legal description of the added land.

14.04 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw from the Property, and remove and exclude from the burden of this Declaration and the jurisdiction of the Association any portion of the Property. Upon any such withdrawal and removal this Declaration and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Property withdrawn. To withdraw lands from the Property hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

(i) A reference to this Declaration, which reference will state the document number or volume and initial page number wherein this Declaration is recorded;

(ii) A statement that the provisions of this Declaration will no longer apply to the withdrawn land; and

(iii) A legal description of the withdrawn land.

14.05 Assignment of Declarant's Rights. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

ARTICLE 15
DISPUTE RESOLUTION

This Article 15 is intended to encourage the resolution of disputes involving the Property. A dispute regarding the Lots, Common Area, and/or Improvements can create significant financial exposure for the Association and its Members, interfere with the resale and refinancing of Lots, and increase strife and tension among the Owners, the Board and the Association's management. Since disputes may have a direct effect on each Owner's use and enjoyment of their Lot and the Common Area, this Article 15 requires Owner transparency and participation in certain circumstances. Transparency means that the Owners are informed in advance about a dispute, the proposed arrangement between the Association and a law firm or attorney who will represent the Association in the dispute, and that each Owner will have an opportunity to participate in the decision-making process prior to initiating the dispute resolution process.

15.01 Introduction and Definitions. The Association, the Owners, Declarant, all persons subject to this Declaration, and each person not otherwise subject to this Declaration who agrees to submit to this *Article 15* by written instrument delivered to the Claimant, which may include, but is not limited to, a Homebuilder, a general contractor, sub-contractor, design professional, or other person who participated in the design or construction of Lots, Common Area or any Improvement within, serving or forming a part of the Property (individually, a "**Party**" and collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and the Common Area to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined. This *Article 15* may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association. As used in this Article only, the following words, when capitalized, have the following specified meanings:

(a) "**Claim**" means:

(i) Claims relating to the rights and/or duties of Declarant, the Association, or the ACC, under the Restrictions.

(ii) Claims relating to the acts or omissions of the Declarant, the Association or a Board member or officer of the Association during Declarant's control and administration of the Board, and any claim asserted against the ACC.

(iii) Claims relating to the design or construction of the Common Area or any Improvements located within or on the Property.

(b) "**Claimant**" means any Party having a Claim against any other Party.

(c) **"Respondent"** means any Party against which a Claim has been asserted by a Claimant.

15.02 Mandatory Procedures. Claimant may not initiate any proceeding before any judge, jury, arbitrator or any judicial or administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the procedures of this Article. As provided in *Section 15.08* below, a Claim will be resolved by binding arbitration.

15.03 Claim Affecting Common Areas. In accordance with *Section 5.14* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation, arbitration or other proceedings: (i) in the name of or on behalf of any Lot Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 15.01* above, relating to the design or construction of Improvements on a Lot (whether one or more). Additionally, no Lot Owner shall have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. Each Lot Owner, by accepting an interest in or title to a Lot, hereby grants to the Association the exclusive right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. In the event the Association asserts a Claim related to the Common Area, as a precondition to providing the Notice defined in *Section 15.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 15*, or taking any other action to prosecute a Claim related to the Common Area, the Association must:

(a) Obtain Owner Approval of Engagement.

The requirements related to Owner approval set forth in this Section 15.03(a) are intended to ensure that the Association and the Owners approve and are fully informed of the financial arrangements between the Association and a law firm or attorney engaged by the Association to prosecute a Claim relating to the design or construction of the Common Area. The engagement agreement between the Association and the law firm or attorney may include requirements that the Association pay costs, fees, and expenses to the law firm or attorney which will be paid through Assessments levied against Owners. The financial agreement between the Association and the law firm or attorney may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Association and the law firm or attorney is terminated or if the Association agrees to settle the Claim. In addition, the financial arrangement between the Association and the law firm or attorney may include additional costs, expenses, and interest charges. This financial obligation can be significant. The Board may not engage a law firm or attorney to prosecute a Claim relating to the design or construction of the Common Area or execute a written agreement between the Association and a law firm or attorney for the purpose of prosecuting a Claim relating to the design or construction of Common Area unless the law firm or attorney and the financial arrangements between the

Association and the law firm or attorney are approved by the Owners in accordance with this Section 15.03(a).

Unless otherwise approved by Members holding eighty percent (80%) of the votes in the Association, the Association, acting through its Board, shall in no event have the authority to engage a law firm or attorney to prosecute a Claim relating to the design or construction of the Common Area if the agreement between the Association and law firm or attorney includes any provision or requirement that would obligate the Association to pay any costs, expenses, fees, or other charges to the law firm or attorney, including but not limited to, costs, expenses, fees, or other charges payable by the Association: (i) if the Association terminates the engagement with the law firm or attorney or engages another firm or third-party to assist with the Claim; (ii) if the Association agrees to settle the Claim for a cash payment or in exchange for repairs or remediation performed by the Respondent or any other third-party; (iii) if the Association agrees to pay interest on any costs or expenses incurred by the law firm or attorney; and/or (iv) for consultants, expert witnesses, and/or general contractors hired by the law firm or attorney. For avoidance of doubt, it is intended that Members holding eighty percent (80%) of the votes in the Association must approve the law firm and attorney who will prosecute the Claim and the written agreement between the Association and the law firm and/or attorney.

The approval of the Members required under this *Section 15.03(a)* must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of Member meeting will be provided pursuant to the Bylaws but the notice must also include: (a) the name of the law firm and attorney; (b) a copy of the proposed written agreement between the Association and the law firm or attorney; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Association; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Association; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Association if the conditions for payment occur, which estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the law firm and/or attorney will use to evaluate the Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Common Area or Improvements on the Property). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Lots or the Common Area will be affected by such testing, and if the destructive testing occurs the means or method the Association will use to repair the Common Area or Improvements affected by such testing and the estimated costs thereof. The notice required by this paragraph must be prepared and signed by a person other than the law firm or attorney who is a party to the proposed agreement being approved by the Members. In the event Members

holding eighty percent (80%) of the votes in the Association approve the law firm and/or attorney who will prosecute the Claim and the written agreement between the Association and the law firm and/or attorney, the Board shall have the authority to engage the law firm and/or attorney and enter into the written agreement approved by the Members.

(b) Provide Notice of the Inspection.

As provided in *Section 15.03(c)* below, a Common Area Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Common Area Report, the Association must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common Area Report, the specific Common Areas to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(c) Obtain a Common Area Report.

The requirements related to the Common Area Report set forth in this Section 15.03(c) are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Area Report and recommendations are not affected by influences that may compromise the professional judgement of the party preparing the Common Area Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Area Report is compromised.

Obtain a written independent third-party report for the Common Area (the "**Common Area Report**") from a professional engineer licensed by the Texas Board of Professional Engineers with an office located in Denton County, Texas (the "**Inspection Company**"). The Common Area Report must include: (i) a description with photographs of the Common Area subject to the Claim; (ii) a description of the present physical condition of the Common Area subject to the Claim; (iii) a detailed description of any modifications, maintenance, or repairs to the Common Area performed by the Association or a third-party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation and/or repair of the Common Area subject to the Claim. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Common Area Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Denton County, Texas, and each such contractor providing the estimate must

hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Common Area Report must be obtained by the Association. The Common Area Report will not satisfy the requirements of this Section and is not an "independent" report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Association or proposes to represent the Association; (b) the costs and expenses for preparation of the Common Area Report are not required to be paid directly by the Association to the Inspection Company at the time the Common Area Report is finalized and delivered to the Association; or (c) the law firm or attorney that presently represents the Association or proposes to represent the Association has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Association's agreement with the law firm or attorney) the Association for the costs and expenses for preparation of the Common Area Report. For avoidance of doubt, an "independent" report means that the Association has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Association will directly pay for the report at the time the Common Area Report is finalized and delivered to the Association.

(d) Provide a Copy of Common Area Report to all Respondents and Owners.

Upon completion of the Common Area Report, and in any event no later than three (3) days after the Association has been provided a copy of the Common Area Report, the Association will provide a full and complete copy of the Common Area Report to each Respondent and to each Owner. The Association shall maintain a written record of each Respondent and Owner who was provided a copy of the Common Area Report which will include the date the report was provided. The Common Area Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

(e) Provide a Right to Cure Defects and/or Deficiencies Noted on Common Area Report.

Commencing on the date the Common Area Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Common Area Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Area Report; and (iii) correct any condition identified in the Common Area Report. As provided in *Section 13.07* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, each Homebuilder, other builders, and general

contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Area Report.

(f) Hold Owner Meeting and Obtain Approval.

In addition to obtaining approval from Members for the terms of the attorney or law firm engagement agreement, the Association must obtain approval from Members holding eighty percent (80%) of the votes in the Association to provide the Notice described in *Section 15.05*, initiate the mandatory dispute resolution procedures set forth in this *Article 15*, or take any other action to prosecute a Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Claim; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which the Association may be liable as a result of prosecuting the Claim; (v) a summary of the steps previously taken by the Association to resolve the Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Claim may affect the market value, marketability, or refinancing of a Lot while the Claim is prosecuted; and (vii) a description of the manner in which the Association proposes to fund the cost of prosecuting the Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Association in the Claim; (b) a member of the law firm of the attorney who represents or will represent the Association in the Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in *Section 15.05*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

15.04 Claim by Lot Owners – Improvements on Lots. Notwithstanding anything contained herein to the contrary, in the event a warranty is provided to a Lot Owner by the Declarant or a Homebuilder relating to the design or construction of any Improvements located on a Lot, then this *Article 15* will only apply to the extent that this *Article 15* is more restrictive than such Lot Owner's warranty, as determined in the sole discretion of the party that provided such warranty (either the Declarant or the Homebuilder). If a warranty has not been provided to a Lot Owner relating to the design or construction of any Improvements located on a Lot, then this *Article 15* will apply. Class action proceedings are prohibited, and no Lot Owner shall be entitled to prosecute, participate, initiate, or join any litigation, arbitration or other

proceedings as a class member or class representative in any such proceedings under this Declaration. If a Lot Owner brings a Claim, as defined in *Section 15.01*, relating to the design or construction of any Improvements located on a Lot (whether one or more), as a precondition to providing the Notice defined in *Section 15.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 15*, or taking any other action to prosecute a Claim, the Lot Owner must:

(a) Provide Notice of the Inspection.

As provided in *Section 15.04(b)* below, an Owner Improvement Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Owner Improvement Report, the Owner must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Owner Improvement Report, the Improvements and areas of the Improvements to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(b) Obtain an Owner Improvement Report.

The requirements related to the Owner Improvement Report set forth in this Section 15.04(b) are intended to provide assurance to the Claimant and Respondent that the substance and conclusions of the Owner Improvement Report and recommendations are not affected by influences that may compromise the professional judgement of the party preparing the Owner Improvement Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Owner Improvement Report is compromised.

Obtain a written independent third-party report for the Improvements (the "**Owner Improvement Report**") from an Inspection Company. The Owner Improvement Report must include: (i) a description with photographs of the Improvements subject to the Claim; (ii) a description of the present physical condition of the Improvements; (iii) a detailed description of any modifications, maintenance, or repairs to the Improvements performed by the Owner or a third-party, including any Respondent; (iv) specific and detailed recommendations regarding remediation and/or repair of the Improvements. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Owner Improvement Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Denton County, Texas, and each such contractor

providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Owner Improvement Report must be obtained by the Owner. The Owner Improvement Report will not satisfy the requirements of this Section and is not an "independent" report if: (i) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Owner or proposes to represent the Owner; (ii) the costs and expenses for preparation of the Owner Improvement Report are not directly paid by the Owner to the Inspection Company no later than the date the Owner Improvement Report is finalized and delivered to the Owner; or (iii) the law firm or attorney that presently represents the Owner or proposes to represent the Owner has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Owner's agreement with the law firm or attorney) the Owner for the costs and expenses for preparation of the Owner Improvement Report. For avoidance of doubt, an "independent" report means that the Owner has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Owner will directly pay for the report no later than the date the Owner Improvement Report is finalized and delivered to the Owner.

(c) Provide a Copy of Owner Improvement Report to all Respondents.

Upon completion of the Owner Improvement Report, and in any event no later than three (3) days after the Owner has been provided a copy of the Owner Improvement Report, the Owner will provide a full and complete copy of the Owner Improvement Report to each Respondent. The Owner shall maintain a written record of each Respondent who was provided a copy of the Owner Improvement Report which will include the date the report was provided. The Owner Improvement Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

(d) Right to Cure Defects and/or Deficiencies Noted on Owner Improvement Report.

Commencing on the date the Owner Improvement Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Owner Improvement Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Owner Improvement Report; and (iii) correct any condition identified in the Owner Improvement Report. As provided in *Section 13.07* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, each Homebuilder,

other builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Owner Improvement Report.

(e) Claims Pertaining to the Common Area.

Pursuant to *Section 15.03* above, an Owner does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. In the event that a court of competent jurisdiction or arbitrator determines that an Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area, such Owner shall be required, since a Claim affecting the Common Area could affect all Owners, as a precondition to providing the Notice defined in *Section 15.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 15*, or taking any other action to prosecute a Claim, to comply the requirements imposed by the Association in accordance with *Section 15.03(b)* (Provide Notice of Inspection), *Section 15.03(c)* (Obtain a Common Area Report), *Section 15.03(d)* (Provide a Copy of Common Area Report to all Respondents and Owners), *Section 15.03(e)* (Provide Right to Cure Defects and/or Deficiencies Noted on Common Area Report), *Section 15.03(f)* (Owner Meeting and Approval), and *Section 15.05* (Notice).

15.05 Notice. Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Restrictions or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 15.06* below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 15.06*, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. *Section 15.06* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in *Section 15.07* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 15.07* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association, the Notice will also include: (a) if the Claim relates to the design or construction of the Common Area, a true and correct copy of the Common Area

Report, and any and all other reports, studies, analyses, and recommendations obtained by the Association related to the Common Area; (b) a copy of any engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Claim; (c) if the Claim relates to the design or construction of the Common Area, reasonable and credible evidence confirming that Members holding eighty percent (80%) of the votes in the Association approved the law firm and attorney and the written agreement between the Association and the law firm and/or attorney in accordance with *Section 15.03(a)*; (d) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 15.03(f)* above; and (e) reasonable and credible evidence confirming that Members holding eighty percent (80%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and pertains to the Common Areas, the Notice will also include a true and correct copy of the Common Area Report. If the Claimant is not the Association and relates to the design or construction of Improvements on a Lot, the Notice will also include a true and correct copy of the Owner Improvement Report.

15.06 **Negotiation**. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property.

15.07 **Mediation**. If the parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Respondent may submit the Claim to mediation in accordance with this *Section 15.07*. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with *Section 15.08*.

15.08 **Binding Arbitration-Claims**. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 15.08*.

(a) Governing Rules. If a Claim has not been resolved after mediation in accordance with *Section 15.07*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 15.08* and the American Arbitration Association

(the "**AAA**") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by the AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "**AAA Rules**"). In the event of any inconsistency between the AAA Rules and this *Section 15.08*, this *Section 15.08* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment or enforced in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

(i) One arbitrator shall be selected by Respondent, in its sole and absolute discretion;

(ii) One arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and

(iii) One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

(b) Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 15.08* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

(c) Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 15.08*.

(d) Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with Applicable Law. The arbitrator may grant any

remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 15.08* and subject to *Section 15.09* below; **provided, however, attorney's fees and costs may not be awarded by the arbitrator to either Claimant or Respondent**. In addition, for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, except that the arbitrator may not award attorney's fees and/or costs to either Claimant or Respondent. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of Applicable Law; or (iv) a cause of action or remedy not expressly provided under Applicable Law. **In no event may an arbitrator award speculative, special, exemplary, treble, or punitive damages for any Claim.**

(e) Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in Denton County, Texas. Unless otherwise provided by this *Section 15.08*, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

15.09 Allocation Of Costs. Notwithstanding any provision in this Declaration to the contrary, each party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

15.10 General Provisions. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

15.11 Period of Limitation.

(a) For Actions by an Owner or Resident. The exclusive period of limitation for any of the Parties to bring any Claim, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In the event that a court of competent jurisdiction determines that an Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area, the exclusive period of limitation for a Claim of construction defect or defective design of the Common Areas, shall be the earliest of: (a) two (2) years and one (1) day from the date that the Owner or the Association discovered or reasonably should have discovered evidence of the Claim; or (b) the applicable statute of limitations for such Claim. In no event shall this *Section 15.11(a)* be interpreted to extend any period of limitations.

(b) For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of the Common Areas, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Association or its manager, board members, officers or agents discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design of the Common Areas, four (4) years and one (1) day from the date that the Association or its manager, board members, officers or agents discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In no event shall this *Section 15.11(b)* be interpreted to extend any period of limitations.

15.12 Funding the Resolution of Claims. The Association must levy a Special Assessment to fund the estimated costs to resolve a Claim pursuant to this *Article 15*. The Association may not use its annual operating income or reserve funds to fund the costs to resolve a Claim unless the Association has previously established and funded a dispute resolution fund.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective on the date this instrument is recorded in the Official Public Records of Denton County, Texas.

DECLARANT:

TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company

By: _____
Printed Name: _____
Title: _____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me this ____ day of _____, 20___ by _____, _____ of TOWNHOMES AT HARVEST PHASE 1, LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)

_____
Notary Public Signature

APPROVAL OF MASTER DECLARANT

HARVEST PHASE I, LLC, a Texas limited liability company, executes this Sub-Declaration for the sole and limited purpose of evidencing its consent to Recordation of the Sub-Declaration under Article 1 of the Master Declaration. **HARVEST PHASE I, LLC**, does not, by giving this consent, make any statement or representation whatsoever regarding the form, content and/or completeness of this Sub-Declaration and hereby expressly disclaims all such statements and representations.

MASTER DECLARANT:

HARVEST PHASE I, LLC,
a Texas limited liability company

By: _____
Printed Name: Angela Mastrocola
Title: Senior Vice President

THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

This instrument was acknowledged before me this ____ day of _____, 20____, by Angela Mastrocola, Senior Vice President of HARVEST PHASE I, LLC, a Texas limited liability company, behalf of said limited liability company.

(SEAL)

_____
Notary Public Signature

CONSENT OF MORTGAGEE

[REMOVE IF NONE]

The undersigned, being the sole owner and holder of the lien created by that certain Deed of Trust and Security Agreement recorded as Document No. _____ in the Official Public Records of Denton County, Texas (the "**Lien**"), securing a note of even date therewith, executes this Declaration solely for the purposes of (a) evidencing its consent to this Declaration, and (b) subordinating the Lien to this Declaration, both on the condition that the Liens shall remain superior to the Assessment Lien in all events.

_____

By:_____
Printed Name:_____
Title:_____

THE STATE OF TEXAS §
§
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 20___, by _____, _____ of _____, on behalf of said entity.

_____
Notary Public, State of Texas

(seal)

EXHIBIT "A"
DESIGNATION OF AREA OF
COMMON RESPONSIBILITY AND
MAINTENANCE RESPONSIBILITY CHART

"All aspects" includes maintenance, repair, and replacement, as needed.

COMPONENT OF PROPERTY	ASSOCIATIONS AREA OF COMMON RESPONSIBILITY	OWNER RESPONSIBILITY (SUBJECT TO APPROVAL BY ACC)
Roofs.	Deckings, felt, shingles, and metal flashing, only	All other aspects, including roof trusses.
Roof mounted attachments.	None.	All aspects.
Exterior vertical walls of Dwellings, other exterior features of Dwellings not specifically listed in chart.	Outermost materials only, such as siding, stucco, and brick, and any coatings or surface treatments on the material, such as paint or sealant.	All other aspects, including wall cavities and insulation.
Dwelling foundations, patio slabs, and A/C slabs.	Slab failure.	All other aspects including repair for minor cracks that result from the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of the Dwelling.
Concrete driveways and sidewalks.	All structural aspects.	Routine cleaning & including repair of minor cracks that result from the natural expansion & contraction of soil, shrinkage during the curing of the concrete and settling of the Dwelling.
Retaining walls.	All aspects.	None.
Displays of street numbers on exterior doors or Dwelling surfaces.	All aspects.	None.
Gutters and downspouts.	All aspects.	None.
Fences and gates, if any, around private Dwelling yards.	All aspects.	None.
Yard irrigation system (sprinkler)	All aspects.	None.

Yard Maintenance	All aspects, as long as the front yard gate, if any, is not locked at time of maintenance, no animals are present, and no debris is found in the yard. This includes animal waste, toys, chairs, etc. If any gate is locked or debris is found, the maintenance company will not return until the next scheduled maintenance.	None.
Exterior light fixtures on Dwelling.	None.	All aspects.
Exterior doors of Dwellings.	Determining styles and materials of front doors, rear doors and garage doors. Periodic paint or stain on garage doors, only.	All other aspects of the garage door, and all aspects of other doors, including paint, door frame, door, glass panes, hardware, locks, peepholes, thresholds, weatherstripping, and doorbells.
Garages.	Roofs and exterior vertical walls, as described above.	All aspects, except those noted for Association. Includes, routine interior cleaning, interior wall and ceiling materials, pedestrian door, automatic garage door opener, remote controls, interior light fixture, interior electrical outlets.
Skylights.	None.	All aspects.
Attics.	None.	All aspects.
Insulation & weatherstripping.	None.	All aspects.
Dwelling interiors, including improvements, fixtures, partition walls & floors within Dwelling.	None.	All aspects.
Sheetrock in Dwellings (walls and ceilings) & treatments on walls.	None.	All aspects.
Surface water drainage systems.	All aspects, including collection drains and drain systems.	None. Prohibited from changing the drainage system.
Windows.	Periodic exterior caulking in connection with exterior painting.	All other aspects, including window frames, window sill flashings, window seals and sealants, screens, window locks, glass panes, glazing, interior caulking.

Water, sewer, electrical lines & systems.	All other aspects unless maintained by a utility company or other regulatory authority.	All aspects for lines and systems located on and serving the Lots.
Heating and cooling systems & water heaters.	None.	All aspects.
Intrusion alarms on doors/windows, smoke/heat detectors, monitoring equipment.	None.	All aspects.
Cable for television or internet.	Standards for location and appearance of cable and/or conduit.	All other aspects.
Television antennas & satellite dishes.	Standards for location and appearance of exterior mounted devices.	All other aspects.

NOTE 1: The components listed in the first column are applicable only if they exist, and may not be construed to create a requirement to have such a component.

NOTE 2: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner. The expense incurred by the Association in connection with the entry upon any Lot and/or Dwelling, and the maintenance and repair work conducted thereon or therein, will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in *Article 6* of the Declaration for Assessments.