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**DECLARATION**

**OF**

**COVENANTS, CONDITIONS,  
RESTRICTIONS and EASEMENTS**

**ON AND FOR**

**LOTS 1 THROUGH 90 AND  
TRACTS "A" THROUGH "F",  
FRENSHIP ESTATES, an Addition to the  
City of Lubbock, Lubbock County, Texas**

*NOTICE: THIS DOCUMENT CONTAINS PROVISIONS WAIVING AND RELEASING DECLARANT AND THE ASSOCIATION FROM LIABILITY FOR NEGLIGENCE IN SPECIFIED CIRCUMSTANCES.*

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Exhibit "A"    Legal Description of Frenship Estates

Exhibit "B"    Legal Description of Common Properties

This **DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS** is made and effective as of the 3<sup>rd</sup> day of November, 2023, by DSE DEVELOPMENT, LTD., a Texas limited partnership, (sometimes referred to herein as the Declarant):

PREAMBLE

Declarant is the owner and developer of certain residential Lots within a tract of land now commonly known and described as Frenship Estates (which lots are more particularly described on Exhibit “A” attached hereto). Declarant proposes to establish and implement plans for residential living, recreation, aesthetic and quality-of-life considerations. The purposes of this Declaration are to: protect the Declarant and the Owners against inappropriate development and use of Lots within the Properties; assure compatibility of design of improvements within the subdivision; secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; provide for landscaping and the maintenance thereof; and in general to encourage construction of attractive, quality, permanent improvements that will promote the general welfare of the Declarant and the Owners. Declarant desires to impose these restrictions on Frenship Estates now and yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the quality and distinction of the Property. Declarant intends for this instrument to be a “dedicatory instrument” within the meaning of Chapter 202 of the Texas Property Code and the Texas Residential Property Owners Protection Act, as said statutes are now enacted or hereafter amended.

The FRENSHIP ESTATES POA (Property Owners Association) has been or will be chartered as a non-profit Texas corporation to assist in the ownership, management, use and care of the common areas within Frenship Estates and to assist in the administration and enforcement of the covenants, conditions, restrictions, easements, charges and liens described in this Declaration.

DECLARATION

The Declarant hereby declares that the Frenship Estates residential lots described on Exhibit “A” attached hereto, and such phases or additions thereto as may hereafter be made pursuant to this Declaration is and shall be owned, held, mortgaged, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes collectively referred to hereinafter as “the Covenants”) hereinafter set forth.

Prior to this Declaration, Declarant previously conveyed certain residential lots described on Exhibit “A” to the following Homebuilders: WOODED FOREST LAND COMPANY, LLC, a Texas limited liability company, DAVIS JORDAN HOMES LLC, a Texas limited liability company, SOUTHERN HOMES, INC., a Texas corporation, and COAST AND COTTON HOMES LLC, a Texas limited liability company. Said Homebuilders join Declarant in the execution of this Declaration for the sole purpose of evidencing their consent to the imposition of the covenants, conditions, restrictions and easements set forth herein, and specifically disclaim any and all of the powers, responsibilities or obligations reserved or assumed by Declarant herein.

ARTICLE I.  
CONCEPTS AND DEFINITIONS

The following words, when used in this Declaration or in any amended or supplementary Declaration (unless the context shall otherwise clearly indicate or prohibit), shall have the following respective concepts and meanings:

“Additional Property” means real property which may be added to the Property and subjected to this Declaration by Declarant, as described in this Declaration, including Article II, Section 2.

“Amended Declaration” shall mean and refer to each and every instrument recorded in the Official Public Records of Lubbock County, Texas which amends, supplements, modifies, clarifies or restates some or all of the terms and provisions of this Declaration.

“Applicable Law” means the statutes and public laws, codes, ordinances, and regulations in effect at the time a provision of the Governing Documents is applied, and pertaining to the subject matter of the Governing Document provision. Statutes and ordinances specifically referenced in the Governing Documents are “Applicable Law” on the date of the Governing Document, 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.

“Assessment” means any charge levied against a Lot or Owner by the Association, pursuant to the Governing Documents or public law, including but not limited to Annual Assessments, Special Assessments and Individual Assessments, as defined in Article V, Section 2 of this Declaration.

“Architectural Review Committee” (sometimes referred to herein as the “ARC”) shall mean and refer to that particular committee (or the Declarant, when acting as the ARC) which is described and explained within Article VII below.

“Association” means the association of owners of Lots in Frenship Estates, and serving as the “property owners association” as defined in Section 202.001(2) of the Texas Property Code. The initial name of the Association is the FRENSHIP ESTATES POA.

“Board” means the Board of Directors of the Association.

“Bylaws” means and refers to the Bylaws of the Association, as adopted and amended from time to time.

“Central Appraisal District” or “CAD” shall mean and refer to the governmental and/or quasi-governmental agency(ies) (including without limitation the Lubbock Central Appraisal District) established in accordance with Texas Property Tax Code Section 6.01 et seq. (and its successor and assigns as such law may be amended from time to time) or other similar statute which has, as one of its purposes and functions, the establishment of an assessed valuation and/or fair market value for various lots, parcels and tracts of land in Lubbock County, Texas.

“Common Properties” shall mean and refer to any and all areas of land within Frenship Estates, or adjacent thereto, which are described in Exhibit “B” attached hereto, including those shown on any recorded subdivision plat of portions of Frenship Estates and those not shown on a recorded subdivision plat but which are intended for or devoted to the common use of the Owners, together with any and all improvements that are now or that may hereafter be constructed thereon. It is anticipated that the Common Properties will be owned and maintained by the Association. The Declarant reserves the right to use, during the Development Period, portions of the Common Properties for business matters directly and indirectly related to the sale of Lots within Frenship Estates. The Declarant further reserves the right to utilize the Common Properties for such purposes as set forth in this Declaration. Declarant shall convey record title to some or all of the Common Properties to the Association if when deemed appropriate by Declarant or as may be required by governmental officials.

“Covenants” shall mean and refer to all covenants, conditions, restrictions, easements, charges and liens set forth within this Declaration.

“Declarant” shall mean and refer to **DSE DEVELOPMENT, LTD., a Texas limited partnership** and any or a successor(s) and assign(s) of DSE Development, Ltd., a Texas limited partnership with respect to the

voluntary disposition of all (or substantially all) of the assets and/or stock of DSE Development, Ltd., a Texas limited partnership, and/or the voluntary disposition of all (or substantially all) of the right, title and interest of DSE Development, Ltd., a Texas limited partnership in and to Frenship Estates. However, no person or entity merely purchasing one or more Lots from DSE Development, Ltd., a Texas limited partnership in the ordinary course of business shall be considered a “Declarant”.

“Declarant Control Period” means the period of time during which Declarant controls the operation and management of the Association by appointing at least a majority of the directors of the Association, pursuant to the rights and reservations contained in this Declaration, to the full extent and the for the maximum duration permitted by Applicable Law. Unless Applicable Law requires a different Declarant Control Period, the Declarant Control Period shall run continuously from the date this Declaration is recorded until 120 days after Seventy-five percent (75%) of the Lots that may be created on the Property and on the Additional Property have been conveyed to Owners other than Declarant, and have been improved with Dwelling Units, to the extent permitted by Applicable Law. In no event may the Declarant Control Period last longer than ten (10) years after the date on which this Declaration is publicly recorded, subject to the right of Declarant to unilaterally amend this definition of “Declarant Control Period” for any purpose, including to increase or decrease the maximum length of the Declarant Control Period. No act, statement, or omission by the Association may cause termination of the Declarant Control Period earlier than the term stated in this paragraph. Declarant, however, may terminate the Declarant Control Period at any earlier time by publicly recording a notice of termination. The Declarant Control Period is for a term of years or until the stated status is attained, and does not require that Declarant own a Lot or any other land in the Property.

“Declaration” shall mean and refer to this particular instrument entitled “Declaration of Covenants, Conditions, Restrictions, and Easements on and for Frenship Estates,” together with any and all amendments or supplements hereto.

“Deed” shall mean and refer to any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

“Design Guidelines” shall mean and refer to those particular standards, restrictions, guidelines, recommendations and specifications applicable to most of the aspects of construction, placement, location, alteration, maintenance and design of any improvements to or within the Properties, and all amendments, bulletins, modifications, supplements and interpretations thereof.

“Development Period” means the period during which the 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, pursuant to the rights and reservations contained in this Declaration, to the full extent permitted by Applicable Law. The Development Period shall mean a period commencing on the date of the recording of this Declaration in the Official Public Records of Lubbock County, Texas and continuing thereafter until the earliest of the following events: (1) ten (10) years after the date on which this Declaration is publicly recorded, or (2) the date on which Declarant no longer owns any Lots within the Property. No act, statement, or omission by the Association may cause termination of the Development Period earlier than the term stated in this paragraph. Declarant, however, may terminate the Development Period at any earlier time by publicly recording a notice of termination.

“Dwelling Unit” shall mean and refer to any building or portion of a building situated upon the Properties which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a group of persons authorized by Applicable Law to reside in one single family detached unit.

**“Easement Area”** shall mean and refer to those areas which may be covered by an easement specified in Article IV and in Article IX below.

**“Fiscal Year”** shall mean each twelve (12) month period commencing on January 1 and ending on the following December 31, unless the Board shall otherwise select an alternative twelve-month period.

**“Governing Documents”** means, singly or collectively as the case may be, the Plat, this Declaration, the Bylaws of the Association, the Association’s Articles of Association, and (if any) the Rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Governing Document is a part of that Governing Document.

**“Homebuilder”** shall mean and refer to each entity and/or individual which is regularly engaged in the ordinary business of constructing residential dwellings on subdivision lots for sale to third-party homeowners as their intended primary residence.

**“Improvement”** or **“Improvements”** shall mean any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or properties of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

**“Lot”** shall mean and refer to each separately identifiable portion of the Property which is platted, filed and recorded in the office of the County Clerk of Lubbock County, Texas and which is assessed by any one or more of the Taxing Authorities and which is not intended to be an “open space” or a portion of the Common Properties. As used in this Declaration, the term “Lot” shall apply generally to all lots intended for residential use. When used in this Declaration, the following defined terms shall apply more specifically as follows:

**“Lot Type A”** shall refer specifically to Lots 1 - 28, inclusive, and Lots 78 - 90, inclusive, Frenship Estates, which, among other design guidelines set forth herein, are to include street or front facing garages; and

**“Lot Type B”** shall refer specifically to Lots 29 - 77, inclusive, Frenship Estates, which, among other design guidelines set forth herein, are to include alley or rear facing garages.

**“Frenship Estates”** shall mean and refer to Frenship Estates, a subdivision phase of certain land as described within Exhibit “A” attached hereto, in accordance with the map and plat thereof filed of record in the Map/Plat and/or Dedication Records of Lubbock County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto. “Frenship Estates” will also include any additional land which is added or annexed hereto by Declarant in accordance with Article II, Section 2 of this Declaration.

**“Owner”** shall mean and refer to the holder(s) of record title to the fee simple interest of any Lot whether or not such holder(s) actually reside(s) on any part of the Lot.

**“Member”** shall mean and refer to each Resident who is in good standing with the Association and who has complied with all directives and requirements of the Association. Each and every Owner shall and must take such affirmative steps as are necessary to become and remain a Member of, and in good standing in, the Association. Each and every Resident (who is not otherwise an Owner) may, but is not required to be a Member of the Association.

**“Payment and Performance Lien”** shall have the meaning and refer to the lien described within Article V, Sections 5 and 6 of this Declaration.

**“Property” or “Properties”** shall mean and refer to: (I) the land described within Exhibit “A” attached hereto; and (ii) other land within Frenship Estates, either now or in the future, including the Additional Property.

**“Resident”** shall mean and refer to:

- (a) each Owner of the fee simple title to any Lot within the Properties;
- (b) each person residing on any part of the Property who is a bona-fide lessee pursuant to a written lease agreement with an Owner; and
- © each individual lawfully domiciled in a Dwelling Unit other than an Owner or bona-fide lessee.

**“Structure”** shall mean and refer to: (I) any thing or device, other than trees, shrubbery (less than two feet high if in the form of a hedge) and landscaping (the placement of which upon any Lot shall not adversely affect the appearance of such Lot) including but not limited to any building, garage, porch, shed, greenhouse or bathhouse, cabana, covered or uncovered patio, swimming pool, play apparatus, fence, curbing, paving, wall or hedge more than two feet in height, signboard or other temporary or permanent living quarters or any temporary or permanent Improvement to any Lot; (ii) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; (iii) any enclosure or receptacle for the concealment, collection and/or disposition of refuse; and (iv) any change in the grade of any Lot of more than three (3) inches from that existing at the time of initial approval by the Architectural Review Committee.

**“Taxing Authorities”** shall mean and refer to the City of Lubbock, as applicable, Lubbock County and all other governmental entities or agencies which have, or may in the future have, the power and authority to impose and collect ad valorem taxes on real property estates, in accordance with the Texas Constitution and applicable statutes and codes.

## ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

**Section 1. Existing Property.** The residential Lots which are, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration within Frenship Estates are more particularly described on Exhibit “A” attached hereto and incorporated herein by reference for all purposes.

**Section 2. Additions to Existing Property.** Additional land(s) (the “Additional Property”) may become subject to this Declaration, or the general scheme envisioned by this Declaration, as follows:

(a) The Declarant may (without the joinder and consent of any person or entity) add or annex Additional Property to the scheme of this Declaration within the Development Period by filing of record an appropriate enabling declaration, generally similar to this Declaration or incorporating this Declaration, which may extend the scheme of the Covenants to such Additional Property. Provided further; however, such other declaration(s) may contain such complementary additions and modifications of these Covenants as may be necessary to reflect the different character, if any, of the Additional Property as are not materially inconsistent with the concept and purpose of this Declaration.

(b) In the event any person or entity other than Declarant desires to add or annex Additional Property and/or Common Property to the scheme of this Declaration, such annexation proposal must have the express approval of the Board.

Any additions made pursuant to this Section 2, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the Additional Property and correspondingly subject the Additional Property to the covenants of the enabling declaration. Upon any merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law or by lawful articles or agreement of merger, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or by lawful articles or agreement of merger, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

**ARTICLE III.**  
**MEMBERSHIP AND VOTING; RIGHTS IN THE ASSOCIATION**

**Section 1. Membership.** Each and every Owner of each and every Lot which is subject to these, or substantially similar, Covenants shall automatically be, and must at all times remain, a Member of the Association in good standing. Membership is appurtenant to and may not be separated from ownership of a Lot. Each and every Resident (who is not otherwise an Owner) may, but is not required to, be a non-voting Member of the Association. During the Development Period, the Association shall have two (2) classes of Members: "Owner Class" and "Declarant Class." The Owner Class Members shall include: (a) all Owners (other than the Declarant during the Development Period); and (b) all Residents (not otherwise Owners) who have properly and timely fulfilled all registration and related requirements prescribed by the Association. The Declarant Class Member shall be the Declarant. Upon conclusion of the Development Period, the Declarant Class membership shall terminate and the Declarant shall become an Owner Class Member, entitled to one vote for each Lot then owned by Declarant, if any.

**Section 2. Voting Rights.** One indivisible vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. If Additional Property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional Lots. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Declarant Control Period (during which period Declarant's votes are weighted, as provided in more detail in Article X). As long as the Declarant Class exists, Declarant has the right to veto any decision made by the other Members of the Association. Further, during the Declarant Control Period, as described below in Article X, Declarant has reserved the right to act unilaterally in regard to many matters that may, in the future, be managed by the Board of Directors of the Association; and nothing within this Article III or within any other provision of the Declaration shall be construed as diminishing or restricting any rights that Declarant has reserved to itself during the Development Period or the Declarant Control Period. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

Any Owner, Resident or Member shall not be in "good standing" if such person or entity is: (a) in violation of any portion of the Governing Documents; or (b) delinquent in the full, complete and timely payment of any Assessment which is levied, payable or collectible pursuant to the provisions of any Governing Document.

**Section 3. Notice and Voting Procedures.** Quorum, notice and voting requirements of and pertaining to the Association may be set forth within the Governing Documents, as may be amended from time to time, and shall be in accordance with permitted Texas law.

**Section 4. Board of Directors.** The Association is governed by a Board of Directors (the "Board"). Unless the Governing Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise,

reference in the Governing Documents to the "Association" may be construed to mean "the Association acting through its Board of Directors." The affairs of the Association shall be managed during the Development Period by a Board of Three (3) individuals elected or appointed by the Declarant Class Member. At the conclusion of the Declarant Control Period the Board of Directors shall automatically be increased to Five (5) individuals, and, as required by Applicable Law, One of the Five individuals elected to the Board must be elected by the Owner Class Members. Declarant construes the Applicable Law in effect on the date of this Declaration as applying only to Lots improved with a Dwelling Unit that have been conveyed to Owners other than Homebuilders, and not applying to vacant Lots conveyed to Homebuilders or to affiliates of Declarant. However, during the Declarant Control Period and the Development Period, the Declarant has reserved certain rights, actions and decisions to itself, acting unilaterally, and without the joinder of the Board or any other person, and these rights, actions and decisions are set forth in more detail in the Governing Documents, including Article X of this Declaration.

The Directors need not be Members of the Association. Directors shall be elected for two-year terms of office and shall serve until their respective successors are elected and qualified. Any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise, may be filled at any meeting of the Board by the affirmative vote of a majority of the remaining Directors representing the same class of Members who elected the Director whose position has become vacant. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position he or she was elected to fill.

Section 5. Powers and Duties. The Board, for the benefit of the Association, the Properties and the Owners and the Members and Residents, may provide and may pay for, out of the Assessment fund(s) provided for in Article V below, one or more of the following (unless such funds are limited to a particular use as expressly provided in Article V):

(a) Care, preservation and maintenance of the Common Properties and the furnishing and upkeep of any desired personal property for use in or on the Common Properties;

(b) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Properties;

(c) The services of any person or firm (including the Declarant and any affiliates of the Declarant) to manage the Association or any separate portion, thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees;

(d) Legal and accounting services and all costs and expenses reasonably incurred by the Architectural Review Committee; and

(e) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board shall have the following additional rights, powers and duties:

(f) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;

(g) To enter into agreements or contracts with insurance companies, Taxing Authorities, the holders of first mortgage liens on the individual Lots and utility companies with respect to: (I) any taxes on the Common Properties; (ii) monthly escrow and impound payments by a mortgagee regarding the Assessment, collection and disbursement process envisioned by Article V below; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the Annual Assessment applicable to any Lot (or any other Assessment authorized in this Declaration);

(h) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(I) To protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(j) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time and to enter into concession agreements regarding food, beverage, vending and other products and services within the Common Properties; and

(k) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner, Resident or Member for violation of such provisions or rules. The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary fines system which may include component steps such as warning citations, ticketing, due process hearings and appeals and a flat rate or discretionary range or geometric progression of fine amounts, which, when pronounced, shall constitute a permitted individual Lot Owner Assessment secured by the continuing Payment and Performance Lien herein established.

The Association may: (I) borrow monies from the Declarant; (ii) lease equipment from the Declarant; (iii) contract with the Declarant concerning the provision of any personnel, labor, supplies, materials and services, provided such contract terms and conditions are: generally comparable (in terms of price, quality and timeliness) with those that might be otherwise obtained from unrelated third parties; and, as to professional management contracts, terminable by the Association at any time for any reason whatsoever and without penalty upon furnishing at least ninety (90) days advance notice thereof to Declarant. The Board shall not be required to solicit bids from unrelated third parties before entering into any contract with the Declarant and the reasonable judgment and resolution of the Board to enter into any such contract with the Declarant (absent fraud, gross negligence or willful misconduct) shall be final and conclusive and binding upon the Association and all of its Members.

**Section 6. Declarant Powers.** The Board shall have the right and obligation to perform the functions of the Board on behalf of the Association; however, in the event or if for any reason the Board is not deemed authorized to act for and on behalf of the Association and the Members, then the Declarant may exercise its power and authority under Article X, to act for and on behalf of the Association and the Members, and the Association shall reimburse the Declarant for any and all reasonable expenses incurred in so acting.

**Section 7. Maintenance Contracts.** The Board, on behalf of the Association, shall have full power and authority to contract with any Owner, Member or Resident (including, without limitation, the Declarant) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interests of the Association.

**Section 8. Liability Limitations.** Neither any Resident nor the directors and officers and managers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or

for any torts committed by or on behalf of the Association or for a tort of another Resident, whether such other Resident was acting on behalf of the Association or otherwise. Neither the Declarant, the Association, its directors, officers, managers, agents or employees shall be liable for any actual, incidental or consequential damages for failure to inspect any premises, improvements or portion thereof or for failure to repair or maintain the same. The Declarant, the Association or any other person, firm or corporation responsible for making such repairs or maintenance shall not be liable for any personal injury or other actual, incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portion thereof.

Section 9. Reserve Funds. The Board may establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts or any other recognized bookkeeping or tax procedures in order to better demonstrate that the amounts deposited therein are capital contributions and not net or taxable income to the Association.

Section 10. Record Production and Copying. Per Applicable Law, this Section constitutes the record production and copying policy of the Board. This Section of the Declaration is subject to amendment by the Board (or during the Development Period, by the Declarant), without the approval of the Owners or the Owner Class of Members. The record production and copying policy of the Board is as follows:

(a) Request for Records. The Owner, or the Owner's authorized representative, requesting Association records must submit a written request by certified mail to the mailing address of the Association, or authorized representative, as reflected on the most current filed management certificate. The request must contain (I) sufficient detail to describe the books and records requested, and (ii) an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records.

(b) Timeline for Record Production.

(1) If Inspection Requested. If an inspection is requested, the Association will respond within 10 business days by sending written notice by mail, fax, or email of the date(s) and times during normal business hours that the inspection may occur. Any inspection will take place at a mutually-agreed time during normal business hours, and the requesting party must identify any books and records the party desires the Association to copy.

(2) If Copies Are Requested. If copies are requested, the Association will produce the copies within 10 business days of the request. If the Association is unable to produce the copies within 10 business days of the request, the Association will send written notice of such delay to the Owner by mail, fax, or email, and state a date, within 15 business days of the date of the Association's notice, that the copies or inspection will be available.

(c) Format. The Association may produce documents in hard copy, electronic, or other format of its choosing.

(d) Charges. Per Applicable Law, the Association may charge for time spent compiling and producing all records, and may charge for copy costs if copies are requested. Those charges will be the maximum amount then-allowed by the Texas Administrative Code. The Association may require advance payment of actual or estimated costs.

(e) Private Information Exempted from Production; Attorney's Files. Per Applicable Law, the Association has no obligation to provide information of the following type: (I) Owner violation history; (ii)

Owner personal financial history; (iii) Owner contact information other than the Owner's address; (iv) information relating to an Association employee, including personnel files. Except as provided by Applicable Law, an attorney's files and records relating to the Association, are not records of the Association and are not subject to inspection by an Owner or production in a legal proceeding.

(f) Existing Records Only. The duty to provide documents on request applies only to existing books and records. The Association has no obligation to create a new document, prepare a summary of information, or compile and report data.

Section 11. Record Retention. Per Applicable Law, this Section constitutes the record retention policy of the Board. This Section of the Declaration is subject to amendment by the Board (or during the Development Period, by the Declarant), without the approval of the Owners or the Owner Class of Members. The record retention policy of the Board is as follows: The Association will keep the following records for at least the following time periods:

- (a) Contracts with terms of at least one year: 4 years after expiration of contract;
- (b) Account records of current Owners: 5 years;
- © Minutes of Owner meetings and Board meetings: 7 years;
- (d) Tax returns and audits: 7 years;
- (e) Financial books and records (other than account records of current Owners): 7 years;
- (f) Governing Documents: permanently.

Records not listed above may be maintained or discarded in the Association's sole discretion.

ARTICLE IV.  
RIGHTS OF ENJOYMENT  
IN THE COMMON PROPERTIES

Section 1. Easement. Subject to the provisions of Sections 2 through 4 of this Article IV, each and every Owner in good standing with the Association shall have a non-exclusive right and easement of enjoyment in and to all Common Properties, and such easement shall be appurtenant to and shall pass with every Lot, provided the conveyance and transfer is accomplished in accordance with this Declaration. All Residents in good standing with the Association shall have a non-transferable, non-exclusive privilege to use and enjoy all Common Properties for so long as they are Members in good standing with the Association.

Section 2. Extent of Members' Easements. The rights and easements of use, recreation and enjoyment created hereby shall be subject to the following:

(a) The right of the Declarant or Association to prescribe reasonable regulations and policies governing, and to charge reasonable expense reimbursements and/or deposits related to the use, operation and maintenance of the Common Properties;

(b) Liens or mortgages placed against all or any portion of the Common Properties with respect to monies borrowed by the Declarant to develop and improve the Properties or Common Properties or by the Association to improve or maintain the Common Properties;

© The right of the Association to enter into and execute contracts with any party (including, without limitation, the Declarant or its corporate affiliates) for the purpose of providing management, maintenance or such other materials or services consistent with the purposes of the Association and/or this Declaration;

Section 3. Damage to the Common Properties. Each Member shall be liable to the Association for any damage to any portion of the Common Properties caused by the negligence or willful misconduct of the Member or his family and guests.

Section 4. Rules of the Board. All Members shall abide by any rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and a Member determined to have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees.

Section 5. Use of Common Properties. The Board shall have the power and authority to prescribe rules and regulations as to the permitted uses of the Common Properties.

Section 6. Title to Common Properties. Declarant may convey ownership of the Common Properties to the Association at such point as is deemed reasonable and appropriate by the Declarant and, thereafter, the Association shall be responsible for the operation and maintenance of the Common Properties.

Section 7. Acceptance. By accepting an interest in or title to a Lot, each Owner is deemed (i) to accept the Common Properties, and any improvements thereon, in its then-existing "as is" condition; (ii) to acknowledge the authority of the Association for all decisions pertaining to the Common Properties; (iii) to acknowledge that transfer of title to all or any portion of the Common Properties by or through Declarant is a ministerial task that does not require acceptance by the Association; and (iv) to acknowledge the continuity of maintenance of the Common Properties, regardless of changes in the Association's Board of Directors or management.

#### ARTICLE V. COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot (but not including Declarant) by acceptance of a Deed therefore, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot so as to have affected the purchase price) to pay to the Association:

(a) Annual Assessments. Annual Assessments are based on the annual budget for operating the Association; however, until otherwise determined, the annual Assessment shall be the amount stated in Section 2 of this Article. Each Lot is liable for its equal share of the annual budget. The annual Assessments levied by the Association shall be used for the purposes of construction, improvement and maintenance of signage, drainage and other areas, services and facilities devoted and related to the use and enjoyment of the Properties, and operation of the Association. The annual Assessments must be fixed at a uniform rate for all Lots owned by Owner Class Members, unless otherwise approved by at least three-fourths of the individuals comprising the Board.

(b) Special Assessments. Special Assessments, if assessed, shall be for capital improvements or unusual or emergency matters, such Assessments to be fixed, established and collected from time to time in accordance with the Governing Documents. The Association may levy in any Fiscal Year a special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of a capital improvement upon the Common Properties; provided that any such Assessment shall have the affirmative approval of at least three-fourths of the individuals comprising the Board. The special Assessments must be fixed at a uniform rate for all Lots owned by Owner Class Members, unless otherwise approved by at least three-fourths of the individuals comprising the Board.

© Individual Assessments. Individual Assessments may be levied against individual Owners to reimburse the Association for extra or unusual costs incurred for items such as (but not limited to): maintenance and repairs to portions of the Properties caused by the willful or negligent acts of the individual Owner, Member or Resident; the remedy, cure or minimizing of problems caused by, or as a result of, violations of these Covenants by an Owner, Member or Resident; and individual Assessments and fines levied against an individual Owner, Member or Resident for violations of rules and regulations pertaining to the Association and/or the Common Properties.

The annual Assessments, special Assessments, and individual Assessments, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such Assessment is made and shall also be the continuing personal obligation of the then-existing Owner, Member and Resident of such Lot at the time when the Assessment fell due. Each Owner of each Lot shall be directly liable and responsible to the Association for the acts, conduct and omission of each and every Member and Resident associated with the Dwelling Unit(s) on such Owner's Lot.

Section 2. Basis and Amount of Annual Assessments. Commencing on January 1, 2023, and until and unless otherwise determined by the Board of Directors of the Association, the maximum annual Assessment will be TWO HUNDRED and no/100 Dollars (\$200.00) per Lot per year. If the Board of Directors of the Association determines that the initial annual Assessment is insufficient to meet the needs of the Association during the remainder of the Association's initial fiscal year, the Board of Directors may, by majority vote, increase the initial annual Assessment by not more than fifteen percent (15%) above the amount initially determined; and, the Board of Directors may increase the initial annual Assessment by more than fifteen percent (15%) above the amount initially determined, but only by a majority vote of a quorum of the Members present at an Annual or Special Meeting of the Members of the Association called for, among other scheduled matters, that purpose. Notwithstanding any provision to the contrary in this Declaration, the Declarant reserves the right during the Declarant Control Period to unilaterally increase Assessments, as further provided in Article X, Section 4 of this Declaration.

Any Lot which is owned by Declarant, as unimproved property, is exempt from the annual Assessment, and from all other Assessments which are authorized in this Article V. Any Lot which is owned by a Homebuilder (whether improved with a Dwelling Unit or unimproved) shall be assessed as provided in Article V, Section 3 at the rate of one-half of the annual Assessment, for the first year that the Homebuilder owns the Lot; however, the Homebuilder shall receive no discount as to a Lot owned more than one year. The rate of Assessment for any Lot, within a calendar year, may change as the character of ownership and the status of occupancy by a resident changes. The applicable Assessment for any Lot will be prorated according to the rate specified in these covenants for each type of ownership.

Section 3. Date of Commencement of Assessments; Due Dates. The annual Assessment shall be due and payable in full in advance on the first day of each Fiscal Year and shall, if not automatically paid within thirty (30) consecutive calendar days thereafter, automatically become delinquent. The Board shall use reasonable efforts to provide each Owner with an invoice statement of the appropriate amount due, but any failure to provide such a notice shall not relieve any Owner of the obligation established by the preceding sentence. The Board may prescribe: (a) procedures for collecting advance annual Assessments from new Owners, Members or Residents out of "closing transactions"; and (b) different procedures for collecting Assessments from Owners who have had a recent history of being untimely in the payment(s) of Assessments.

Section 4. Duties of the Board of Directors with Respect to Assessments.

(a) In the event of a revision to the amount or rate of the Annual Assessment, or establishment of

a special Assessment, the Board shall fix the amount of the Assessment against each Lot, and the applicable due date(s) for each Assessment, at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association;

(b) Written notice of the applicable Assessment shall be actually or constructively furnished to every Owner subject thereto in accordance with the procedures then determined by the Board as being reasonable and economical; and

© The Board shall, upon reasonable demand, furnish to any Owner originally liable for said Assessment, a certificate in writing signed by an officer of the Association, setting forth whether said Assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificate.

Section 5. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; and Remedies of Association.

(a) Effective as of, and from and after the filing and recordation of this Declaration, there shall exist a self-executing and continuing contract Payment and Performance Lien and equitable charge on each Lot to secure the full and timely payment of each and all Assessments and all other charges and monetary amounts and performance obligations due hereunder. Such lien shall be at all times superior to any claim of homestead by or in any Owner. If any Assessment, charge or fine or any part thereof is not paid on the date(s) when due, then the unpaid amount of such Assessment, charge or fine shall (after the passage of any stated grace period) be considered delinquent and shall, together with any late charge and interest thereon at the highest lawful rate of interest per annum and costs of collection thereof, become a continuing debt secured by the self-executing Payment and Performance Lien on the Lot of the non-paying Owner/Member/Resident which shall bind such Lot in the hands of the Owner and Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. Except as expressly provided below in Article V, Section 6, the Association shall have the right to reject partial payments of an unpaid Assessment or other monetary obligation and demand the full payment thereof. The personal obligation of the then-existing Owner to pay such Assessment, however, shall remain the Owner's personal obligation and shall not pass to Owner's successors in title unless expressly assumed by them. However, the lien for unpaid Assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any Assessment provided herein by non-use of the Common Properties or abandonment of the Lot. 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 to perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of improvements or repairs 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, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner;

(b) The Association may also give written notification to the holder(s) of any mortgage on the Lot of the non-paying Owner of such Owner's default in paying any Assessment, charge or fine;

© If any Assessment, charge or fine or part thereof is not paid when due, the Association shall have the right and option to impose a late charge (but not to exceed 5% of the Assessment, charge or fine claimed due) to cover the additional administrative costs involved in handling the account and/or to reflect any time-price differential assessment schedule adopted by the Association. The unpaid amount of any such delinquent Assessment, charge or fine shall bear interest from and after the date when due at the rate of ten percent (10.00%) per annum until fully paid. If applicable state law provides or requires an alternate ceiling, then that ceiling shall

be the indicated rate ceiling. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid Assessments, charges, fines and delinquent accounts, and there shall also be added to the amount of any unpaid Assessment, charge, fine or any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association;

(d) The Association may, at its discretion but subject to all applicable debt collection statutes: (I) prepare and file a lien affidavit in the public records of Lubbock County, Texas which specifically identifies the unpaid Assessments, charges or fines. Each Owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association;

(e) All agreements between any Owner and the Association and/or Declarant, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Association and/or Declarant or for the payment or performance of any covenant or obligation contained herein or in any other document exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association and/or Declarant should ever receive an amount deemed interest by applicable law which shall exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the actual base Assessment amount or principal amount owing hereunder and other indebtedness of the Owner to the Association and/or Declarant and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of the actual Annual Assessment hereof and such other indebtedness, the excess shall be refunded to Owner. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association and/or Declarant shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the interest charged, collected or received on account of such indebtedness is never more than the maximum amount permitted by applicable law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between any Owner and the Association and/or Declarant.

Section 6. Alternative Payment Plans. Section 209.0062 of the Texas Property Code requires the Association to adopt reasonable guidelines to establish an alternative payment schedule by which an Owner may make partial payments to the Association for delinquent annual or special Assessments or any other amount owed to the Association, without accruing additional monetary penalties (which penalties do not include reasonable costs associated with administering the payment plan or interest). The initial alternative payment rules are set forth in this Article V, Section 6; however, the Board (or the Declarant during the Development Period) may, without the approval of the Owners or the Members, amend these rules at any time by filing in the Official Public Records of Lubbock County, Texas a revised alternative payment schedule, containing the revised rules, duly adopted at any meeting of the Board. This Article V, Section 6 controls over any provision in any other Governing Document to the contrary. The initial alternative payment plan rules of the Association are as follows:

(a) Eligibility for Payment Plan.

(1) Standard payment plans. An Owner is eligible for a "Standard Payment Plan" [see, Section 6(b) below] only if:

(I) The Owner has not defaulted under a prior payment plan with the Association in the prior 24-month period;

(ii) The Owner requests a payment plan no later than 30 days after the Association sends notice to the Owner via certified mail, return receipt requested under Texas

Property Code Section 209.0064 (notifying the Owner of the amount due, providing 30 days for payment, and describing the options for curing the delinquency). Owner is responsible for confirming that the Association has received the Owner's request for a payment plan within this 30-day period. It is recommended that requests be in writing; and

(iii) The Association receives the executed Standard Payment Plan and the first payment within 15 days of the Standard Payment Plan being sent via email, fax, mail, or hand-delivered to the Owner.

(2) Other payment plans. An Owner who is not eligible for a Standard Payment Plan may still request that the Association's Board grant the Owner an alternate payment plan. Any such request must be directed to the person or entity currently handling the collection of the debt (i.e., the Association's Board, manager or Association's attorney). The decision to grant or deny an alternate payment plan, and the terms and conditions for any such plan, will be at the sole discretion of the Board.

(b) Standard Payment Plans. The terms and conditions for a "Standard Payment Plan" are:

(1) Term. Standard Payment Plans are for a term of 6 months [see Section 6(e) for Board discretion involving term lengths].

(2) Payments. Payments will be made at least monthly and will be roughly equal in amounts or have a larger initial payment (small initial payments with a large balloon payment at the end of the term are not allowed). Payments must be received by the Association at the designated address by the required dates and may not be rejected, returned or denied by the Owner's bank for any reason (i.e., check returned NSF).

(3) Assessments and other amounts coming due during the plan. The Owner will keep current on all additional Assessments and other charges posted to the Owner's account during the term of the payment plan, which amounts may but not be included in calculating the payments due under the plan.

(4) Additional charges. The Owner is responsible for reasonable charges related to negotiating, preparing and administering the payment plan, and for interest at the rate of five percent (5.00%) per annum, all of which shall be included in calculating the total amount due under the plan and the amount of the related payments. The Owner will not be charged late fees or other charges related to the delinquency during the time the Owner is complying with all terms of a payment plan.

(5) Contact information. The Owner will provide relevant contact information and keep same updated.

(6) Additional conditions. The Owner will comply with such additional conditions under the plan as the Board may establish.

(7) Default. The Owner will be in default under the plan if the Owner fails to comply with any requirements of these rules or the payment plan agreement.

© Account Sent to an Attorney/Agent for Formal Collection. An Owner does not have the right

to a Standard Payment Plan after the 30-day timeframe referenced in Section 6(a)(1)(ii). Once an account is sent to an attorney or agent for collection, the delinquent Owner must communicate with that attorney or agent to arrange for payment of the debt. The decision to grant or deny the Owner an alternate payment plan, and the terms and conditions of any such plan, is solely at the discretion of the Board.

(d) Default. If the Owner defaults under any payment plan, the Association may proceed with any collection activity authorized under the Governing Documents or state law without further notice. If the Association elects to provide notice of default, the Owner will be responsible for all fees and costs associated with the drafting and sending of such notice. All late fees and other charges that otherwise would have been posted to the Owner's account may also be assessed to the Owner's account in the event of default. Any payments received during a time an Owner is in default under any payment plan may be applied to any out-of-pocket costs (including attorneys fees for administering the plan), administrative and late fees, Assessments, and fines (if any) in any order determined by the Association, except that fines will not be given priority over any other amount owed but may be satisfied proportionately (e.g. a \$100 payment may be applied proportionately to all amounts owed, in proportion to the amount owed relative to other amounts owed).

(e) Board Discretion. The Board may vary the obligations imposed on Owners under these rules on a case-by-case basis, including curtailing or lengthening the payment plan terms (so long as the plan is between 3 and 18 months), as it may deem appropriate and reasonable. The term length set forth in Article V, Section 6(b) shall be the default term length absent Board action setting a different term length. No such action shall be construed as a general abandonment or waiver of these rules, nor vest rights in any other Owner to receive a payment plan at variance with the requirements set forth in these rules.

(f) Legal Compliance. These payment plan rules are intended to comply with the relevant requirements established under Texas Property Code Section 209. In case of ambiguity, uncertainty, or conflict, these rules shall be interpreted in a manner consistent with all such legal requirements.

Section 7. Power of Sale. The lien described within Article V of this Declaration is and shall be a contract Payment and Performance Lien. Each Owner, for the purpose of better securing each and all monetary obligations described within these Covenants, and in consideration of the benefits received and to be received by virtue of the ownership of real estate within Frenship Estates, has granted, sold and conveyed and by these covenants does grant, sell and convey unto the Trustee, such Owner's Lot, to have and to hold such Lot, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to its substitutes or successors, forever. The initial Trustee is Hayden Olson, whose address is 1408-A Buddy Holly Ave., Lubbock, Lubbock County, Texas, 79401. And each Owner does hereby bind himself and/or herself, their heirs, executors, administrators and assigns to warrant and forever defend the Lot unto the said Trustee, its substitutes or successors and assigns, forever, against the claim, or claims of all persons claiming or to claim the same or any part thereof.

This conveyance is made in trust to secure payment of each and all Assessments and other obligations prescribed by these Covenants to and for the benefit of the Association as the Beneficiary. In the event of default in the payment of any obligation hereby secured, in accordance with the terms thereof, then and in such event, Beneficiary may elect to declare the entire indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured due and payable (subject, however, to the notice and cure provisions set forth in Sections 209.0091 and 51.002 of the Texas Property Code; and subject to the requirements set forth in Section 209.0092 of the Texas Property Code), and in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or its successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the Lot then subject to the lien hereof, and mailing and filing notices as required by Section 51.002, Texas Property Code, or Applicable Law,

and otherwise complying with that statute and Applicable Law, the Trustee shall sell the Lot, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Lot as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the purchaser or purchasers, with general warranty binding upon the Owner, his heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, including a reasonable commission to itself, which commission shall be due and owing in addition to the attorney's fees provided for, and then to Beneficiary the full amount of principal, interest, attorney's fees and other charges due and unpaid on said indebtedness secured hereby, rendering the balance of the sales price, if any, to the Owner, his heirs or assigns and/or to any other lienholders (if so required by applicable law); and the recitals in the conveyance to the purchaser or purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner, his heirs and assigns.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or its substitute or successor, Beneficiary may at any time before the sale of said property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said indebtedness, and for the foreclosure of this contract Payment and Performance Lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this contract lien, that it may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, its substitute or successor to sell the Lot in accordance with the provisions of this section. Beneficiary, if it is the highest bidder, shall have the right to purchase at any sale of the Lot, and to have the amount for which such Lot is sold credited on the debt then owing. Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Lot is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein. In the event any sale is made of the Lot, or any portion thereof, under the terms of this section, the Owner, his heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the purchaser at such sale, and in the event of his failure to do so he shall thereupon from and after the making of such sale be and continue as tenants at will of such purchaser, and in the event of his failure to surrender possession of said property upon demand, the purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such property, or any part thereof, is situated. The foreclosure of the continuing contract Payment and Performance Lien on any one or more occasions shall not remove, replace, impair or extinguish the same continuing lien from securing all obligations arising from and after the date of foreclosure.

Section 8. Subordination of the Lien to Mortgages. The lien securing the payment of the Assessments and other obligations provided for herein shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Lot whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

- (a) bona-fide first mortgage or deed of trust liens for purchase money and/or home improvement purposes placed upon a Lot, in which event the Association's lien shall automatically become subordinate and inferior to such first lien;
- (b) liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and

© such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien; provided however, such subordination shall apply only to: (I) the Assessments which have been due and payable prior to the foreclosure sale (whether public or private) of such Lot pursuant to the terms and conditions of any such first mortgage or deed of trust or tax lien; or (ii) the permitted lien on the Lot alone and not on or to any easement appurtenant for use and enjoyment of the Common Properties or for such other uses as are provided in this Declaration. Such sale shall not relieve such Lot from liability for the amount of any Assessment thereafter becoming due nor from the lien of any such subsequent Assessment. Such subordination shall not apply where the first mortgage or deed of trust or tax lien is used as a device, scheme or artifice to evade the obligation to pay Assessments and/or to hinder the Association in performing its functions hereunder.

Section 9. Exempt Property. The following property otherwise subject to this Declaration shall be exempted from any Assessments, charge and lien created herein:

- (a) All properties dedicated to and accepted by a local public or governmental authority;
- (b) Common Properties; and
- © Unimproved Lots owned by Declarant.

ARTICLE VI.  
INSURANCE; REPAIR; RESTORATION

Section 1. Right to Purchase Insurance. The Association shall have the right to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, any improvements thereon or appurtenant thereto, for the interest of the Association, its Board of Directors, officers, managers, agents and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as shall be deemed appropriate by the Board.

Section 2. Insurance and Condemnation Proceeds. The Association shall be the exclusive representative of the Members in any proceedings, negotiations, settlements or agreements concerning insurance or condemnation. The Association and the Members may use the net insurance or condemnation proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the Association, remaining after satisfactory completion of repair and replacement or after the Board has elected to waive the repair, restoration or replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Properties. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special Assessment as provided for in Article V of this Declaration to cover the deficiency.

Section 3. Owner's Insurance. Neither the Association nor Declarant will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners, Residents, Members, Homebuilders (and their respective family members and guests). **NEITHER THE ASSOCIATION NOR THE DECLARANT IS INSURING THE REAL OR PERSONAL PROPERTY OF THE OWNERS, RESIDENTS, MEMBERS, OR HOMEBUILDERS, AND NO SECURITY SERVICES ARE BEING PROVIDED.**

Each Owner, Resident, Member and Homebuilder expressly understands, covenants and agrees with the Declarant and the Association that:

(a) Neither Declarant nor the Association has any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner, Resident, Member and Homebuilder; and

(b) **EACH OWNER, RESIDENT, MEMBER AND HOMEBUILDER SHALL TAKE SUCH ACTION AS EACH OWNER, RESIDENT, MEMBER AND HOMEBUILDER DEEMS NECESSARY TO PROTECT AND SAFEGUARD PERSONS AND PROPERTY.**

ARTICLE VII.  
ARCHITECTURAL REVIEW

Section 1. Purpose, and Architectural Control during Specified Periods. This Declaration creates rights to regulate the design, use and appearance of the Lots in order to preserve and enhance the value of the Property. During the Development Period, the Declarant reserves the right of architectural control.

(a) Architectural Control During Development Period. During the Development Period, neither the Association, the Board, nor any committee appointed by the Board may involve itself with the approval of Dwelling Units or Improvements on Lots. During the Development Period, the Declarant shall be the sole member of the Architectural Review Committee (“ARC”); or, the Declarant may delegate such duties as provided below and in Article X. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that during the Development Period, no Improvements will be commenced on an Owner’s Lot without the prior written approval of the ARC, which approval may be granted or withheld at ARC’s sole discretion. The rights of Declarant as ARC shall be assignable during the Development Period to any person or entity, provided that such assignment will be in a written instrument to be filed in the Official Public Records of Lubbock County, Texas. Any delegation by Declarant of its rights under this Declaration is subject to the unilateral right of the Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated.

(b) Architectural Control by Association. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ARC, will assume jurisdiction over architectural control. The ARC will consist of at least Three (3) but not more than Five (5) persons appointed by the Board, pursuant to the Bylaws. Members of the ARC will serve at the pleasure of the Board and may be removed and replaced at the Board’s discretion. At the Board’s option, the Board may act as the ARC, in which case all references in the Governing Documents to the ARC are construed to mean the Board. Members of the ARC need not be Owners or Residents and may but need not be architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

Section 2. ARC Jurisdiction. No building, Structure, fence, wall, Dwelling Unit, or Improvement of any kind or nature shall be erected, placed or altered on any Lot until all plans and specifications (the “Plans”) have been submitted to and approved in writing by the ARC (or the Declarant during the Development Period), or a majority of its members, as to:

(a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and proper facing of main elevation with respect to nearby streets, all in accordance with this Declaration and/or the Design Guidelines and/or bulletins;

(b) minimum finished floor elevation and proposed footprint of the dwelling;

© conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping, and the treatment of all surfaces, walls and components which are shared with adjoining

Dwelling Units;

- (d) drainage solutions;
- (e) the observance of and compliance with applicable setback lines and easement areas;
- (f) the proposed Homebuilder, taking into account the proposed Homebuilder's willingness to building accordance with the plans and specifications, quality of past work, client satisfaction and financial history; and
- (g) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within the Design Guidelines, bulletins promulgated by the ARC, or matters in which the ARC has been vested with the authority to render a final interpretation and decision.

The Plans to be submitted to the ARC will include: (I) a site plan showing the location, description of materials and architectural treatment of all walks, driveways, fences, walls, the Dwelling Unit and any other Structures and Improvements; (ii) floor plan showing the exact window and door locations, exterior wall treatment and materials, the treatment of party walls and all other Shared Improvements, and the total square feet of air conditioned living area; (iii) exterior elevations of all sides of any Structure must be included, the type of roofing materials must be indicated, and the type, use and color of exterior wall materials must be clearly indicated throughout; (iv) front, rear, and side elevations must show all ornamental and decorative details; (v) specifications of materials may be attached separately to the plans or written on the plans themselves (plans will not be approved without specifications - specifications must include type, grade of all exterior materials, and color of all exposed materials); and (vi) landscaping plan.

The ARC is permitted to consider technological advances and changes in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the ARC.

The ARC may require as a condition precedent to any approval of the Plans, that the applicant obtain and produce an appropriate building permit from the City of Lubbock, Texas. The ARC is also authorized to coordinate with the City of Lubbock in connection with the applicant's observance and compliance of the construction standards set forth in this Declaration, the Design Guidelines, and any bulletins or lot information sheets promulgated thereunder. However, the mere fact that the City of Lubbock issues a building permit with respect to a proposed structure does not automatically mean that the ARC is obliged to unconditionally approve the Plans. Similarly, the ARC's approval of any Plans does not mean that all applicable building requirements of the City of Lubbock or County of Lubbock have been satisfied.

Section 3. Design Guidelines. The ARC may, from time to time, publish and promulgate additional or revised Design Guidelines, and such Design Guidelines shall be explanatory and illustrative of the general intent of the proposed development of the Properties and are intended as a guide to assist the ARC in reviewing plans and specifications.

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PRIOR TO ACQUIRING ANY INTEREST IN A LOT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE AND OWNER OF ANY LOT IN THE PROPERTY IS STRONGLY ENCOURAGED TO CONTACT THE DECLARANT OR ASSOCIATION OR THE ARC TO OBTAIN AND REVIEW THE MOST RECENT DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION AND USE OF THE LOT.

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**Section 4. Plan Submission and Approval.** Within ten (10) business days (“business days” being days other than Saturday, Sunday or legal holidays) following its receipt of the Plans, the ARC shall advise the submitting Owner whether or not the Plans are approved. If the ARC shall fail to approve or disapprove the Plans in writing within said ten-day period, it shall be presumed that the ARC has disapproved the Plans. Plans shall not be deemed to have been received by the ARC until the Plans are received and a written receipt is signed by the ARC (during the Development Period, when the Declarant is serving as the ARC, the written receipt must be signed by Declarant or its authorized representative or agent). If the Plans are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove certain portions of the same, whether conditionally or unconditionally. The ARC shall not approve any Plans unless it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding Lots, that the appearance of any structures affected thereby will be in harmony with surrounding Structures, and that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of Frenship Estates. The ARC may adopt rules or guidelines setting forth procedures for the submission of Plans and may require a reasonable fee to accompany each application for approval in order to defray the costs of having the Plans reviewed. In addition to the Plans described in Article VII, Section 2 of this Declaration, the ARC may require such details in Plans submitted for its review as it deems proper. Until receipt by the ARC of the Plans and any other information or materials requested by the ARC, the ARC shall not be deemed to have received such Plans or be obligated to review the same.

**Section 5. Liability.** Neither Declarant, nor the ARC nor the officers, directors, managers, members, employees and agents of any of them, shall be liable in damages to anyone submitting Plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans or specifications. No approval of Plans and specifications and no publication of any Design Guidelines, architectural bulletins or lot information sheets shall be construed as representing or implying that such Plans, specifications, guidelines, bulletins or sheets will, if followed, result in properly designed Improvements and/or Improvements built in a good and workmanlike manner. Every person or entity who submits Plans or specifications, and every Owner of each and every Lot, agrees that he or she will not bring any action or suit against Declarant, the ARC, or the officers, directors, managers, members, employees and agents of any of them, to recover any such damages and hereby releases, remises and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. **The Declarant and the ARC has sole discretion with respect to taste, design, and all standards specified by this Declaration and any Design Guidelines. The Declarant and the ARC (and each of its officers, directors, managers, members and employees) has no liability for decisions made in good faith, and which are not arbitrary and capricious.**

**Section 6. No Waiver.** No approval by the ARC of any Plans for any work done or proposed to be done shall be deemed to constitute a waiver of any rights on the part of the ARC to withhold approval or consent to any similar Plans which subsequently are submitted to the ARC for approval or consent.

**Section 7. Construction.** Upon approval of the Plans by the ARC, the Owner submitting such Plans for approval promptly shall commence construction of all Improvements and Structures described therein and shall cause the same to be completed in compliance in all material respects with the approved Plans, and in compliance with these Covenants. If an Owner shall vary materially from the approved Plans in the construction of any Improvements and Structures, the ARC shall have the right to order such Owner to cease construction and to correct such variance so that the Improvement will conform in all material respects to the Plan as approved. If an Owner shall refuse to abide by the ARC’s request, the ARC shall have the right to take appropriate action to restrain and enjoin any further construction on a Lot that is not in accordance with approved Plans. The ARC

shall have the right, but not the obligation, to inspect the Improvements during construction to insure compliance with the Plans and compliance with City of Lubbock code requirements. During the Development Period, the Declarant shall have all of the rights granted herein to the ARC.

Section 8. Variances. The ARC may authorize variances from compliance with any of the provisions of this Declaration relating to construction of Improvements and Structures on a Lot, including but not limited to restrictions upon height, size, floor area, exterior walls, roofing design and materials, replacement of Structures when deemed appropriate in the sole discretion of the ARC. Additional considerations of the ARC in deciding whether to grant a variance include circumstances such as governmental code changes, topography, natural obstructions, hardship, aesthetic or environmental considerations. Such variances must be evidenced in writing, and shall become effective upon their execution. Such variances may be recorded. The granting of a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Lot.

Section 9. Approved Homebuilders. Declarant intends for the Lots to be built out in accordance with the then-highest prevailing standards for residential construction. Pursuant to Declarant's purpose to preserve and enhance the value of the Lots, no Homebuilder other than those who are approved Homebuilders by the ARC shall be permitted to construct any new Dwelling Unit within the Lots. The ARC, in ARC's sole and absolute discretion, shall approve or disapprove any Homebuilder seeking to become an approved Homebuilder based upon a number of factors, including but not limited to the applying Homebuilder's willingness to build in accordance with approved plans and specifications, quality of past work, past client satisfaction and financial history. Homebuilders seeking to be approved to construct within the Lots shall submit an application to the ARC including information sufficient for ARC to determine whether to approve Homebuilder. The ARC shall advise the applying Homebuilder within ten (10) business days ("business days" being days other than Saturday, Sunday or legal holidays) following receipt of application whether or not the Homebuilder is approved to construct a Dwelling Unit within the Lots. If the ARC shall fail to approve or disapprove the applying Homebuilder within said 10-day period, it shall be presumed that the ARC has disapproved the Homebuilder. Unless a prior approval of a Homebuilder has been revoked by the ARC, any approved Homebuilder need not seek prior approval for construction of additional Dwelling Units within the Lots.

**While the ARC will approve Homebuilders based on past performance in construction and customer satisfaction, the ARC makes no warranty or guarantee, in any respect, to any work to be completed by any approved Homebuilder. All Owners are encouraged to perform their own evaluation of the qualifications of Homebuilders and select their Homebuilder based solely upon their own independent evaluation.**

#### ARTICLE VIII. USE OF LOTS IN THE PROPERTY; PROTECTIVE COVENANTS

The Property (and each Lot situated therein) shall be constructed, developed, occupied and used in accordance with the covenants, conditions and restrictions contained in this Article VIII.

As used in this Article VIII, the following words shall be deemed to have the following meanings:

(I) "rear yard" shall mean that portion of a Lot existing from the rear of the Dwelling Unit located thereon to the rear property line, and from side property line to side property line;

(ii) "front yard" shall mean that portion of a Lot existing from the front of the Dwelling Unit located thereon to the front property line, and from side property line to side property line; and

(iii) "side yard" shall mean that portion of a Lot existing between the front and rear of the Dwelling Unit located thereon, and from the side of such Dwelling Unit to the side property line.

**Section 1. Residential Use of Lots.** All Lots within the Property shall be used, known and described as residential Lots unless otherwise indicated on the plat. Lots shall not be further subdivided and except for the powers and privileges herein reserved by the Declarant, the boundaries between Lots shall not be relocated without the prior express written consent of the ARC. No building or Structures shall be erected, altered, placed or permitted to remain on any residential Lot other than one (1) single-family Dwelling Unit, subject to those buildings, structures or improvements specifically allowed hereinbelow. No Dwelling Unit, garage or other Structure appurtenant thereto, shall be moved upon any Lot from another location. No building or Structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on such premises, or any part thereof, save and except those related to development, construction and sales purposes of a Homebuilder or the Declarant. No Owner or Resident shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any Lot or within any Dwelling Unit or Accessory Building which would: (I) attract automobile, vehicular or pedestrian traffic to the Lot; (ii) involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Property. A Resident may use a Dwelling Unit for business uses, such as telecommuting, personal business, and professional pursuits, provided that: (I) the uses are incidental to the primary use of the Dwelling Unit as residence; (ii) the uses conform to Applicable Law; (iii) there is no visible evidence of the business; and (iv) the uses do not entail visits to the Lot by employees or the public in quantities that materially increase the number of vehicles parked on the street and the uses do not interfere with the residential use and enjoyment of neighboring Lots by other Owners and Residents. The restrictions on use herein contained shall be cumulative of, and in addition to, such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City of Lubbock, County of Lubbock, Texas or any other governmental authority having jurisdiction over the Property or any other Applicable Law. In addition to the residential use restriction described above, the Lots are subject to the following additional use restrictions:

(a) **Annoyance.** No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance, danger, or nuisance to the neighborhood. No Lot may be used in any way that (I) may reasonably be considered annoying to neighbors; (ii) may be calculated to reduce the desirability of Frenship Estates as a residential neighborhood; (iii) may damage the reputation of Frenship Estates; (iv) may endanger the health or safety of the Owners and Residents of other Lots; or (v) is unlawful.

(b) **Temporary Structures.** Except as may be otherwise permitted herein, no Structure or Improvement of a temporary character, including, but not limited to, a trailer, recreational vehicle, mobile home, modular home, prefabricated home, manufactured home, tent, shack, barn or any other Structure or building (other than the Dwelling Unit to be built thereon) shall be placed on any Lot either temporarily or permanently. No Dwelling Unit, garage or other Structure appurtenant thereto, shall be moved upon any Lot from another location. However, the Declarant reserves the right to erect, place, maintain, and to permit Homebuilders to erect, place and maintain such facilities in and upon any Lot as in its discretion may be necessary or convenient during the period of or in connection with the improvement and/or sale of any Lots.

(c) **Animals.** No animals of any kind shall be raised, bred, or kept on any Lot except that not more than two (2) dogs, cats, or other similar domesticated household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No animals shall be permitted which are obnoxious, offensive, dangerous or vicious, including but not limited to pit bull terriers, American Bulldogs, Chow Chows, or crossbreeds thereof. In no event shall horses, chickens, pigs, cows, sheep or goats be kept on any portion of the Lots. Owners will take reasonable means to prevent animals from disturbing neighboring owners (e.g. dogs that remain outdoor must not be permitted to bark in a manner that disturbs the peace, and dogs and cats shall not be

allowed to roam outside of the Owner's Lot without a leash).

(d) Trash. No rubbish, trash, garbage, debris or other waste shall be dumped or allowed to remain on any Lot.

(e) Clotheslines. No clothesline may be maintained on any Lot, unless enclosed by a hedge or other type of screening enclosure.

(f) Antennas, Towers, Vertical Structures, and Flagpoles. No antenna, tower, wind generator or other similar vertical structure shall be erected on any Lot for any purpose; however, a flagpole will be permitted where approved in writing by the ARC. No antenna or tower shall be affixed to the outside of any Dwelling Unit on any Lot without the prior written consent of the ARC. No satellite reception device or equipment used in the reception of satellite signals shall be allowed on any Lot or Structure unless approved in writing by the ARC and approval will be granted only where the devices are reasonably concealed from view of any street, public areas and neighboring Lots, and Structures. No satellite dishes will be permitted which are larger than one meter in diameter. The Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996 (the "Act"), as may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the Act.

(I). Flagpoles and Flags. Nothing within this Declaration shall prohibit an Owner from displaying (a) the flag of the United States of America; (b) the flag of the State of Texas; or © an official or replica flag of any branch of the United States armed forces. The flag of the United States shall be displayed in accordance with 4 U.S.C., Sections 5 through 10, and the flag of Texas shall be displayed in accordance with Chapter 3100, Texas Government Code. The location and design of any proposed flagpole must be approved by the ARC, and no flagpole will be approved that is taller than twenty (20) feet above the ground. Further, no more than one (1) flagpole will be installed on a Lot at any one time; and, such flagpole, subject to applicable zoning ordinances, easements, and setbacks of record, must be located in the front yard on the Lot, or attached to the Dwelling Unit (but not any Shared Improvements), as approved by the ARC. All flags will be maintained in good condition, and any deteriorated flag or deteriorated or structurally unsafe flagpole will be promptly repaired, replaced or removed. The size of each flag must be in proportion to the height of the pole from which it is displayed, and no flag shall be larger than three feet by five feet for a twenty-foot pole. The flagpole shall have an appropriate devise to abate noise from any external halyard. If the flagpole is illuminated, the illumination must be of intensity, wattage or lumen count that does not cause an annoyance to adjacent Lots or other Owners, and the ARC must first approve all such illumination. Except for the flags herein permitted, no other types of flags, pennants, banners, kites or similar types of displays are permitted on a Lot, if the display is visible from the street or an adjacent Lot.

(ii). Wind Generators. Any wind generator or other devise designed to convert wind to usable wind energy may be installed and maintained on any Lot improved with a Dwelling Unit, only if such generator or devise is first approved by the ARC. The ARC will not approve any wind generator or similar devise unless the generator or devise: (a) is on a portion of a Lot, Dwelling Unit, or roof that is not street-facing; (b) is not clearly visible from a street or another Lot; © is not mounted on a pole; (d) is not taller than the highest point on the roof of the Dwelling Unit; and (e) is no larger in size than one yard (3 feet) in diameter.

(g) Signs. No sign of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than five (5) square feet advertising the property for sale, or a sign used by Declarant or a Homebuilder to advertise the building of Improvements on such property during the construction

and sales period. In accordance with Applicable Law, an Owner may display one ground-mounted sign for each political candidate or ballot item for an election, provided that the sign shall be installed no earlier than ninety (90) days before the election and removed not later than ten (10) days after the election: and, no sign will be allowed or permitted that: (I) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (ii) is attached in any way to plant material, a traffic control devise, a light, a trailer, a vehicle, or any other existing structure or object; (iii) includes the painting of architectural surfaces; (iv) threatens the public health or safety; (v) is larger than four feet by six feet; (vi) violates the law; (vii) contains language, graphics, or any display that would be offensive to the ordinary person; or (viii) is accompanied by music or sounds or by streamers or is otherwise distracting to motorists.

(h) Vehicles. All vehicles on the Properties, whether owned or operated by the Owners or Residents or their invitees, are subject to this Section.

(I). Compliance with Laws. Any ordinance of the City of Lubbock or County of Lubbock, Texas relating to vehicles and parking, and which may be applicable to the Properties, is incorporated herein by reference. Any vehicle on the Property that violates such an ordinance is deemed to also violate these use restrictions.

(ii). Repairs and Storage. A driveway, street or unfenced portion of a Lot may not be used for repair, maintenance, restoration, or storage of vehicles, except for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a repair facility.

(iii). Prohibited Vehicles. The following types of vehicles and vehicular equipment – mobile or otherwise – may not be kept, parked, or stored anywhere on a Lot or on the Property: travel trailer, camper trailer; pop-up or tent camper, house trailer, utility or cargo or stock trailer, mobile home, motor home, recreational vehicle, house car, boat, personal water craft, race car or car parts, snowmobile, dune buggy, inoperable passenger vehicle, vehicle that transports inflammatory or explosive cargo, junk vehicle, abandoned vehicle, and any vehicle which the ARC deems to be a nuisance, unsightly or inappropriate. This prohibition does not apply to (I) vehicles and equipment temporarily on the Property in connection with construction or maintenance of any Improvement on a Lot or on the Property, or (ii) recreational vehicles and boats that are temporarily parked on a driveway for the purpose or loading, unloading or cleaning, provided that under no circumstances may a recreational vehicle or boat be parked in driveway for more than 3 consecutive days. Prohibited Vehicles as described in this paragraph must be stored at a location other than the Lot or the Property.

It is expressly permitted that a recreational vehicles having a height of less than 7 feet, may be parked upon a concrete paved surface located in the rear yard of a Lot, subject to prior approval by the ARC.

(I) Solar Energy Devices. Solar Energy Devices shall be permitted on a Dwelling Unit only as approved by the ARC. During the Development Period, the Declarant reserves the right to prohibit all Solar Energy Devices. A “Solar Energy Device,” for purposes of the Governing Documents, is 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. All solar devices not meeting this definition are prohibited. The ARC will not approve, and an Owner may not install Solar Energy Devices that: (I) threaten the public health or safety; (ii) violate a law; (iii) are located in an area on the Owner’s Lot other than on the roof of the Dwelling Unit or in a fenced rear yard or patio in the rear yard

owned and maintained by Owner on the Owner’s Lot; (iv) are installed in a manner that voids material warranties; (v) are installed without prior approval of the ARC; or (vi) substantially interfere with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities (the written approval of the proposed placement of the device by all Owners of property adjoining the Lot in question constitutes prima facie evidence that substantial interference does not exist). If a Solar Energy Device is mounted on the roof of a Dwelling Unit, it must: (i) extend no higher or beyond the roofline; (ii) be located only on the back of the Dwelling Unit – being the side of the roof opposite the street (the ARC may grant a variance in accordance with this Declaration if an alternate location is substantially more efficient and/or less visible); (iii) conform to the slope of the roof, and have all top edges parallel to the roofline; and (iv) not have a frame, a support bracket, or visible piping or wiring that is any color other than silver, bronze, or black tone, commonly available in the marketplace. If the Solar Energy Device is located in a fenced rear yard or patio, it may not be taller than the fence line. Any solar shingles must be designed primarily to (i) be wind and hail resistant; (ii) provide heating/ cooling efficiencies greater than those provided by customary composite shingles; or provide solar generation capabilities. In addition, solar shingles, when installed, must (i) resemble the shingles used or otherwise authorized for use on Lots in the Property; (ii) be as durable and of equal or superior quality to the shingles used or otherwise authorized for use on Lots in the Property; and (iii) match the aesthetics of the Dwelling Units surrounding the Owner’s Dwelling Unit, and in particular, the roofs of adjoining Dwelling Units.

(j) Rain Barrel or Rainwater Harvesting Systems. Rain barrel or rainwater harvesting systems shall be located only in the rear yard of the Lot and shall be screened from view of all streets and other Lots, as approved by the ARC. Exceptions may be approved by the ARC only if the rain barrel or rainwater harvesting system is compatible in color, style and materials with the architecture of the Dwelling Unit and only if the rain barrel or rainwater harvesting system is not visible from the street or other Lots.

Section 2. Minimum Floor Space. Each Dwelling Unit constructed on any Lot shall contain not less the minimum square footages identified below of air-conditioned floor area (exclusive of all porches, garages or breezeways attached to the main dwelling). No Structure will be in excess of two (2) stories. If the Dwelling Unit consists of more than one story or level then not less than seventy-five percent (75%) of the minimum floor space shall be ground floor space (first story), unless the ARC approves a different percentage in order to accommodate a particular Lot configuration or a special circumstance related to a particular Dwelling Unit.

<i>Lot Type A:</i>	Single Family Home Lots	Lots 1 – 28 & 78 - 90	1,900 square feet
<i>Lot Type B:</i>	Single Family Home Lots	Lots 29 – 77	2,200 square feet

Section 3. Garages; Parking. Each single-family Dwelling Unit erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles, unless otherwise specifically approved by the ARC. Garages shall be directly attached to the Dwelling Unit. Each Owner and Resident shall use their respective best efforts to park and store their automobiles within the garage. All garage doors shall be closed at all times when not in use. Any and all proposed garage plans and specifications must be submitted to the ARC for review and approval. A garage will be situated on the Lot in such a manner that the garage door or entry will face the direction identified below. Declarant has established a setback requirement for the garages in Section 5, below, and may adjust the requirements as necessary to accommodate the particular dimensions of each Lot and the requirements of any Applicable Law. Under no circumstances or conditions shall any automobile, boat or other vehicle be parked on a non-paved portion of any Lot.

*Lot Type A:* A garage will be situated on the Lot in such a manner that the garage door or entry will face the street which abuts the front of the Lot upon which the Dwelling Unit is to be situated.

*Lot Type B:* A garage will be situated on the Lot in such a manner that the garage door or entry will face the alley which abuts the rear of the Lot upon which the Dwelling Unit is to be situated.

**Section 4. Outbuilding.** Each Lot shall be permitted to erect one outbuilding, subject to prior approval by the ARC. Said outbuilding shall not contain more than 25 percent of the square footage of the Dwelling Unit located thereupon. For purposes of calculating the permissible square footage of an outbuilding, the square footage of the Dwelling Unit shall be the air-conditioned floor area (exclusive of all porches, garages or breezeways attached to the main dwelling). Additionally, the exterior wall height of the outbuilding shall not exceed the exterior wall height of the first story of the Dwelling Unit. No outbuilding may be used as a dwelling and may not be leased to others for any purpose. The ARC may make additional requirements regarding the construction materials, design, colors and location of the outbuilding, in order to maintain and ensure the harmonious nature of the Property.

**Section 5. Setback Requirement.** Each Dwelling Unit will face the street which abuts the front of the Lot upon which the Dwelling Unit is to be situated. No structure may be placed with the following setback lines:

(a) **Single Family Home Lots.** Lots 1 - 90

*Front Setbacks.* For Lots 1 through 90, inclusive, the setback will be 20 feet from the front property line of the Lot, unless the Lot is on a cul-de-sac and in such case the setback shall be 5 feet from the front property line in accordance with Subsection 39.02.004.c of the City of Lubbock's Uniform Development Code.

*Rear Setbacks.* For Lots 301 through 371, inclusive, the setback will be 15 feet from the rear property line of the Lot, except that a 5 foot setback shall be allowed, as approved by the City of Lubbock.

*Side Setbacks.* For Lots 1 through 90, inclusive, the setback will be 5 feet from the side property lines of the Lot.

(b) The following Structures are expressly excluded from the setback restrictions:

(i) steps, walks, driveways and curbing;

(ii) landscaping;

(iii) planters, walls, fences or hedges, not to exceed 7 feet in height, and which comply with the restrictions set forth in this Declaration;

(iv) any other Structures exempted from the setback restrictions by the ARC on a case-by-case basis.

© In addition to the setback requirements stated above in this Section 5, and except as otherwise expressly provided in this Declaration, no Structure shall be placed within any setback requirement imposed by the City of Lubbock, Texas.

**Section 6. Fences.** Any fence to be constructed on a Lot must conform to the following requirements:

(a) Except as otherwise provided in this Declaration, a perimeter fence shall be constructed on each Lot. The required perimeter fence must be constructed (i) across the rear property line of each Lot and (ii) along the side of each Lot from the rear fence corner to a point which intersects either the rear building line of the Dwelling Unit on the Lot or the front building line of the Dwelling Unit. All fences shall be constructed of cedar pickets Seven (7) feet in height with a cedar top cap and treated in a natural stain, unless exempted by the ARC, and shall be built in a manner in which the finished or smooth side of the fence faces outwards towards the street in the front of the Lot or any street running along the side of a Lot, as to corner Lots. Under no circumstances will the ARC approve perimeter fences to be constructed of chain link, barbed wire, pipe, woven design or other material not expressly permitted and approved by the ARC. No fence, wall or hedge (which serves as a barrier) shall be erected, placed or altered on any Lot without the approval of the ARC. Perimeter fences constructed on common boundary lines between Lots will be maintained and repaired jointly by the Owners of the adjoining Lots, unless the adjoining Owners agree otherwise.

(b) Excepted as required by law, fences and walls shall not be permitted within the front yard directly in front of any Dwelling Unit; provided, however, decorative fences and walls shall be allowed which do not exceed thirty inches in height and which are approved by the ARC. The area of each Lot between the boundary line of the Lot and the fence shall be landscaped as approved by the ARC and maintained by the Owner or Resident of the Lot.

© Fences not otherwise provided for in this Section 7 shall be constructed of such materials and design as approved by the ARC; however, the ARC shall not approve a fence constructed of chain link, barbed wire, r-panel metal fencing, or other material not expressly permitted and approved by the ARC.

(d) On selected Lots with perimeter fences abutting or facing a street, the Builder may, but shall not be required, to construct fences that incorporate brick columns or other features creating a uniform appearance from the street.

Section 7. Construction Standards for Lots. In addition to meeting all applicable building codes, all Improvements and Structures on each Lot shall meet with the following requirements:

(a) **EXTERIOR WALLS:** Unless waived by the ARC, the minimum wall plate height for exterior walls shall be no less than Ten (10) feet, except for garages which may be no less than Nine (9) feet. The exposed exterior wall area facing the street, exclusive of doors, windows and covered porch area, shall be at least 75 percent brick, masonry, stucco, EIFS, or other materials approved by the ARC, and up to 25 percent siding. All siding must be cementitious materials and not Masonite. The exposed exterior wall area facing the sides or rear of the Dwelling Unit, exclusive of doors, windows and covered porch area, shall be brick, masonry, stucco, EIFS, or other materials approved by the ARC. The ARC is specifically authorized to require a continuous uniform surface with respect to all Structures which directly face the street or another Lot.

(b) **ROOFING DESIGN AND MATERIAL:** Flat roofs, mansard roofs and other “exotic” roof forms shall not be permitted. All roofing materials utilized on any Structure on a Lot must be approved by the ARC. The ARC will not approve of a roof of crushed stone, marble or gravel. It being the intent of the ARC that each roof shall be constructed only of composition shingles rated for a minimum of 30 years, standing seam metal or other materials approved by the ARC taking into account harmony, conformity, color, appearance, quality and similar considerations. Functional roof-affixed appurtenances, such as exposed flashing, plumbing stacks, roof vents, and downspouts, must be painted to match, blend with or complement the color of adjacent materials. The same roof pitch must be used for the Dwelling Unit and attached garage portions of the house. The minimum roof pitch must be Eight feet (8') of rise for each Twelve feet (12') of run; however, other pitches or ratios may be approved by the ARC for an entire roof, or for portions of a roof, on a case-by-case basis.

© **GARAGES:** In addition to meeting the requirements stated in Article VIII, Section 3, all garages shall be given the same architectural treatment as the Dwelling Unit located on such Lot. The interior walls of all garages must be finished (taped, floated and painted as a minimum). No garage shall be enclosed for living area or utilized for any other purpose than storage of automobiles and related normal uses.

(d) **EXTERIOR LIGHTING:** No exterior light shall be installed or situated such that neighboring Lots are unreasonably lighted by the same. All freestanding exterior lights located between the property lines and the Dwelling Unit shall be architecturally compatible with the Dwelling Unit, and shall be approved by the ARC.

(e) **WINDOW UNITS:** No Structure shall utilize window mounted or wall-type air conditioners or heaters.

(f) **SKYLIGHTS:** Skylights shall be permitted on the roof of a Dwelling Unit, subject to approval by the ARC. No other equipment, including without limitation, heating or air conditioning units, solar panels, solar collection units, satellite dishes, and antennas, shall be located on the roof of any Dwelling Unit or Structure, unless the same are concealed from view from adjoining Lots and public streets, and do not materially alter the roof line of the Dwelling Unit or Structure; and further, plans and designs for such equipment to be located on a roof must be submitted with the Plans required pursuant to Article VII hereof, and the design, plans, and installation of skylights, and all equipment located on the roof, are subject to the approval of the ARC.

(g) **SWIMMING POOLS:** No above-ground swimming pools shall be permitted on any Lot. However, an above-ground spa or hot tub may be constructed on a Lot provided that the same is located on a porch or deck associated with the Dwelling Unit. Any in-ground swimming pool shall be located in the rear yard of the Lot, and shall be securely enclosed by a fence and gates designed to prevent children and animals from accidentally entering the pool enclosure. An enclosed in-ground pool may be constructed at the rear of the Dwelling Unit (either attached to the Dwelling Unit or as a separate Structure), provided that the enclosure for such pool shall be of the same materials used on, and in the same architectural style, as the Dwelling Unit. All swimming pools, and all swimming pool enclosures, must be approved by the ARC.

(h) **SEPTIC SYSTEMS:** No cesspool, outhouse or outside toilet shall be permitted on any Lot. Toilets located in any Structure, shall be connected to an approved public sewage disposal system.

(i) **WATER WELLS:** Water wells on a Lot must comply in all respects with all Applicable Laws. If water well is permitted by Applicable Law, Owners and Residents may utilize water from an authorized water well for domestic purposes only, and all water produced from a well shall be utilized solely on the Lot from which the water is removed. No Owner or Resident may remove or sell water from their Lot to the public, or to any person or entity.

(j) **MAILBOXES:** The Properties will receive mail service from the United States Postal Service using "cluster boxes". No individual pedestal mailboxes shall be permitted for any Lot. Each Owner shall be responsible for maintaining their assigned cluster mailbox in accordance with the standards established by the United States Postal Service. If a mail cluster station should ever have to be replaced, each Owner shall be responsible for any fees assessed against the users of the mail cluster station by the United States Postal Service.

(k) **APPROVED STRUCTURES OTHER THAN DWELLING UNIT:** No Structure or Improvement shall be permitted on any Lot other than the Dwelling Unit and such permanent Structures and Improvements as are approved in writing by the ARC, such as swimming pool equipment houses, cabanas, greenhouses, barns and storage sheds.

(I) **SPORTS EQUIPMENT; BASKETBALL GOALS:** No permanent basketball goals are permitted on the Lots. Portable sports equipment, including portable basketball goals, may be moved alongside the driveways in the front and side yards only when in use, and must otherwise be stored in a manner as to not be visible from the street. Under no circumstances shall portable sports equipment remain in a front or side yard overnight. Any proposed permanent sports equipment must be approved by the ARC prior to its installation, and the ARC reserves the right to condition its approval based upon the proposed location and materials of the sports equipment.

**Section 8. Landscaping and Sidewalks.** Construction of each and every Dwelling Unit within the Properties shall include the installation and placement of appropriate landscaping. Landscape requirements shall be met concurrent with the completion of the construction of the Dwelling Unit. Landscaping must (I) permit reasonable access to public and private utility lines and easements for installation and repair; (ii) provide an aesthetically pleasing variety of trees, shrubs, groundcover and plants; and (iii) provide for landscaping of all portion of the Lot not covered by Improvements. Landscaping shall include groundcover, trees, shrubs, vegetation and other plant life. On all Lots, the landscaping in the front yard shall include at least Two (2) trees having a trunk diameter of not less than 4-inch caliper, and shall be red oak, live oak, burr oak, lace bark elm, cedar elm, or such other variety as approved by the ARC (the ARC will not under any circumstances approve mulberry trees, pecan trees, silver leaf maple trees, weeping willow trees, or trees having root systems that could cause damage to Improvements located on adjacent Lots). Landscaping shall not include gravel, concrete, timber or rocks except where used as borders, walkways, accent pieces, or as part of a xeriscape landscape plan approved by the ARC. Damaged or dead trees and plant material must be replaced within 60 days, weather permitting, with trees or plant materials of a similar type. "Yard art," if visible from a street or if located in a front yard or side yard that is not fenced from view, is prohibited if not first approved by the ARC. "Yard art" shall include any ornamentation, decoration, sculpture, fountain or structure that is placed in a yard for decorative purposes. Except for typical garden hoses having a diameter of not more than one-inch, and common portable yard sprinklers that may be attached to such hoses, no pipes, hoses, sprinklers, or other parts of any irrigation system for watering of landscaping on a Lot shall be located above the ground. An under-ground irrigation system adequate to suitably water all landscaping located in the front yard of each Lot shall be installed at the time the Dwelling Unit is constructed. Owners are encouraged to use adaptive or native plant materials that are environmentally durable, consume less water and need less chemical treatments, and which are also appropriate for use in a residential neighborhood. An Owner who desires to xeriscape the unfenced portions of the Owner's Lot must submit a detailed landscape plan to the ARC for prior approval. By owning or occupying a Dwelling Unit in the Property, each Owner and Resident acknowledges that the appearance of yards in the neighborhood may not be uniform, and that Lots that adjoin or face one another may look different. Xeriscaping may not be construed as permission to let yards "go to weeds" under the pretext of "adapted native landscaping," nor as justification for turning a lawn into a cactus or rock garden - without the prior written approval of the ARC. During the Development Period, the Declarant reserves the right to unilaterally amend this paragraph to accommodate the requirements of Applicable Law related to xeriscaping and other landscaping issues. Landscaping each Lot requires underground sprinkler systems for lawn. If artificial turf or a xeriscape plan approved by the ARC is chosen for a Lot, an underground sprinkler system is not required for the lawn area. Every lot owner must have its Lot improved with a portion of the continuous concrete sidewalk for the Property. Each Lot shall be required to construct a "curb-back" sidewalk 4 feet in width across the front of the Lot, and along the length of any corner Lot abutting a roadway. The "curb-back" sidewalks will abut and run with the inside curb.

**Section 9. Screening.** All trash containers, utility meters, equipment, air conditioning compressors, swimming pool filters, heaters and pumps and any other similar exposed mechanical devices on any Lot must be screened so that the same are not visible from other Lots or any public street or county road on which the Lot borders. All Screens must be solid and constructed in the same architectural style and of the same material as the Dwelling Unit on a Lot. As used in this Section, "screened" does not pertain to the view from overhead or from a second-floor window.

**Section 10. Utilities.** All public or private utility and service connections including, but not limited to natural gas, water, electricity, telephone, cable television or security system, or any wires, cables, conduits or pipes used in connection therewith, located upon any Lot shall be underground; except that fire plugs, gas meters, supply pressure regulators, electric service pedestals, pad mount transformers, and street lights may be located above ground only when necessary to furnish the service required by the use of such utilities. In no event shall any poles be permitted, other than for street lights or as otherwise permitted herein, and no wires or transmission lines to or from such street lights shall exist above the ground. Natural gas connections will be available along the front property line of each Lot, and any natural gas meters shall be mounted to the side of the Dwelling Unit.

**Section 11. Trash Container.** All dumpsters and other trash containers shall be located in the alley at the rear of each Lot. Such containers shall be placed as close to the rear fence on the Lot as reasonably possible so that said container will not interfere with use of the alley. Each Owner, at Owner's expense, shall contract with a public or private trash service for the regular pickup of all trash and other debris (all of which shall be placed in the dumpsters or other trash containers, it being understood that at no time shall any Owner pile or stack trash or other debris in the alley or on a Lot).

**Section 12. General.**

(a) **CONSTRUCTION DEBRIS:** During the construction or installation of any Improvement or Structure on any Lot, construction debris shall be removed from the Lot on a regular basis and the Lot shall be kept as clean as possible and an appropriate trash container will be maintained on the Lot during all construction activities.

(b) **STOPPAGE OF CONSTRUCTION:** Once commenced, construction shall be diligently pursued to the end that it will be completed within 12 months from the date commenced. For purposes of this Declaration, construction shall be deemed to commence on the earlier of (i) the date on which any governmental authority shall issue any building permit or other permission, consent or authorization required in connection with such construction, or (ii) the date on which excavation or other work for the construction of the footings and/or foundation of any Improvements or Structures shall begin.

(c) **LIABILITY FOR CONSTRUCTION ACTIVITIES ON LOT.** Each Homebuilder and each Lot Owner (or the Owner's builder) is solely responsible and liable for all construction activities on the Lot, and construction activities on the Lot will comply with all federal, state and local laws, statutes, ordinances, regulations and rules, as well as all requirements set forth in this Declaration and all amendments and supplements thereto. Without limiting the generality of the preceding sentence, each Homebuilder and Lot Owner (or the Owner's builder) assumes all obligations and duties imposed by the Texas Commission on Environmental Quality ("TCEQ") related to discharges from construction activities. Each Homebuilder and Lot Owner (or Owner's builder) will be solely responsible for obtaining from TCEQ all required permits and any required Notice of Intent; and, each Homebuilder and Lot Owner (or Owner's builder) will be solely responsible for performing all construction activities and best management practices on the Lot in a manner that complies with federal, state and local laws, statutes, ordinances, regulations and rules, including those imposed by the TCEQ. By purchasing a Lot within the Property, each Homebuilder and Lot Owner accepts all responsibility and liability for compliance with federal, state, and local laws, statutes, ordinances, regulations and rules, including those imposed by the TCEQ, and each Homebuilder and Lot Owner agrees to indemnify and hold harmless Declarant from all claims, fines, suits, actions, liabilities and proceedings whatsoever and of every kind, known or unknown, fixed or contingent which may be brought or asserted against Declarant on account of or growing out of any and all injuries or damages relating to construction activities on the Lot being performed by each Homebuilder and Lot Owner (or Owner's builder), and all losses, liabilities, judgments, settlements, costs, penalties, damages, fines and expenses relating thereto, including, but not limited to, attorney's fees and other

costs of defending against, investigating and settling said claims.

**Section 13. Easements.** Easements for the installation and maintenance of utilities and drainage facilities are reserved in this Declaration and as shown on the recorded subdivision plat. Utility service may be installed along or near the front and/or side and/or rear Lot lines and each Lot Owner shall have the task and responsibility of determining the specific location of all such utilities. Except as may be otherwise permitted by the ARC (e.g. fencing, flatwork, landscaping, etc.), no Owner shall erect, construct or permit any obstructions or permanent Improvements or Structures of any type or kind to exist within any easement area, nor shall anything be done or permitted within an easement area which would restrict or adversely affect drainage. Electrical (and possibly other utility) easements are likely to be located at or near or along the rear Lot line(s), and each Lot Owner assumes full, complete and exclusive liability and responsibility for all cost and expense related to damage, repair, relocation and restoration of such improvements or fence. Except as to special street lighting or other aerial facilities which may be required by the City of Lubbock or County of Lubbock, Texas or which may be required by the franchise of any utility company or which may be installed by the Declarant pursuant to its development-plan, no aerial utility facilities of any-type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed on the Property whether upon individual Lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Property, and all utility service facilities (including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility. All utility meters, equipment, air conditioning compressors, water wells and similar items must be visually screened and located in areas designated by the ARC. The ARC shall have the right and privilege to designate the underground location of any CATV-related cable.

Each Owner shall assume full and complete responsibility for all costs and expenses arising out of or related to the repair, replacement or restoration of any utility equipment damaged or destroyed as a result of the negligence or mischief of any Resident or Owner. Each Owner agrees to provide, at the sole cost and expense of each Owner, such land and equipment and apparatus as are necessary and appropriate to install and maintain additional lighting and security-related measures which becomes technologically provident in the future.

**Section 14. Duty of Maintenance.** Each Owner of any Lot shall have the responsibility, at their sole cost and expense, to keep such Lot, including any Improvements thereon, in a well maintained, safe, clean and attractive condition at all times. If Lot Owner neglects this responsibility in any way, the Developer, during the Development Period, may maintain the Lot at the cost of the Lot Owner and the Lot Owner will pay such fees as the Developer deems correct and appropriate. Developer hereby reserves the right to pursue all remedies in both equity and at law to enforce this provision.

- (a) Such maintenance by the Lot Owner shall include, but is not limited to, the following:
  - (i) Prompt removal of all litter, trash, refuse and waste, and regular cutting of weeds and grasses on the Lot prior to and during construction of any Improvements;
  - (ii) Regular mowing of grasses, maintaining it to a height of less than 10 inches;
  - (iii) Tree and shrub pruning;
  - (iv) Keeping landscaped areas alive, free of weeds, and attractive;
  - (v) Watering;

- (vi) Keeping parking areas and driveways in good repair;
- (vii) Complying with all government health and police requirements;
- (viii) Repainting of Structures and Improvements;
- (iv) Repair of exterior damages to Improvements;
- (x) Taking whatever action is necessary to assure proper water drainage across each Lot, and to prevent water from being impounded or dammed on Lot.

(b) Each Owner of any Lot shall have the responsibility, at his or her sole cost and expense, to keep all areas located between the boundaries of such Lot and the paved portion of any streets or roads on which such Lot borders in a well maintained, safe, clean and attractive condition.

The ARC shall have the right (after 5 days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this covenant and the action required to be taken, and if at the end of such time reasonable steps to accomplish such action have not been taken by the Owner), to enter on the subject premises (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) and to take the action(s) specified in the notice to remedy or abate said violation(s) or breach(es). The cost of such remedy or abatement will be paid to the ARC upon demand. The ARC, or its agent, shall further have the right (upon like notice and conditions), to trim or prune, at the expense of the Owner, any hedge, tree or any other planting that, in the written opinion of the ARC, by reason of its location on the Lot, or the height, or the manner in which it is permitted to grow, is detrimental to the adjoining Lots, is dangerous or is unattractive in appearance, and the costs incurred by the ARC shall be immediately reimbursed to the ARC by the Owner upon demand.

#### ARTICLE IX. EASEMENTS; UTILITY SERVICES

Section 1. Utility Easement. A Non-exclusive easement for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area five foot (5') wide along the front and rear boundary lines of each Lot is reserved by Declarant for itself and all utility and CATV companies and their respective successors and assigns, serving the Property and no Improvement or Structure shall be constructed or placed thereon without the express prior written consent of the ARC. Full rights of ingress and egress shall be had by Declarant and all utility and CATV companies serving the Property, and their respective successors and assigns, at all times over the Property for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility. As further provided in Article VIII, Section 13 of this Declaration, Declarant reserves the right during the Development Period to grant and utilize such utility easements as therein described. All Improvements constructed within the easement herein described, even if approved by the ARC, shall be subject to the easement and the rights herein reserved and/ or granted to Declarant and all utility companies. No Improvements will be constructed on, under or over the utility easement described within this paragraph, unless approved by the ARC, other than driveways, sidewalks, patios, brick walls and fences. Neither Declarant, nor any utility company using such utility easements shall be liable for any damage done by either of them or their assigns, their agents, employees or servants, to shrubbery, trees, flowers or other Improvements (including crossing driveways, sidewalks, patios, brick walls or fences) of any Owner located on the land covered by said easements as a result of maintenance, repair, installation, removal, reinstallation, upkeep, inspection or rearrangement or replacement of any underground utility lines, facilities or improvements installed by any such utility provider in such

easements.

Section 2. Ingress, Egress and Maintenance by ARC. Full rights of ingress and egress shall be had by the ARC at all times over and upon the front, rear and side setback areas applicable to each Lot for the carrying out by the ARC of its functions, duties and obligations hereunder; provided, however, that any such entry by the ARC upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the ARC at the expense of the ARC.

## ARTICLE X DECLARANT RIGHTS AND RESERVATIONS

Section 1. General Reservation of Rights During Development Period and Declarant Control Period. Declarant hereby reserves for itself the Development Period and Declarant Control Period (as "Development Period" and "Declarant Control Period" are defined in Article I of this Declaration), with each and every right, reservation, privilege, and exception available or permissible under Applicable Law for declarants and developers of residential subdivisions, if and to the full extent that such right, reservation, privilege, or exception is beneficial to or protective of Declarant.

Section 2. General Provisions During the Development Period and the Declarant Control Period. The Declarant hereby reserves certain rights to (i) ensure a complete and orderly build out and sell out of the Property, (ii) to facilitate the development, construction, and marketing of the Properties, and (iii) to direct the size, shape, and composition of the Properties, all of which is ultimately for the benefit and protection of Owners and Mortgagees. Notwithstanding other provisions of the Governing Documents to the contrary, nothing contained therein may be construed to, nor may any Mortgagee, other Owner, or the Association prevent or interfere with the rights contained in this Article X which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between the provisions of this Article X and any other Governing Document, the provisions of this Article X control. This Article X may not be amended without the prior written consent of the Declarant. The terms and provisions of this Article X must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

Section 3. Declarant Control Period Reservations: Governance. Declarant reserves the following powers, rights and duties during the Declarant Control Period:

(a) Incorporation of Association. Declarant will incorporate the Association as a Texas non-profit corporation before the end of the Declarant Control Period.

(b) Association Formality. Before the Association is incorporated, the Declarant may delay the initiation of annual meetings, the keeping of minutes of meetings and other corporation-type requirements of the By-laws until such time is Declarant in its sole discretion deems appropriate.

(c) Officers and Directors. During the Declarant Control Period, the Board may consist of Three (3) persons. During the Declarant Control Period, Declarant may unilaterally appoint, remove, and replace any officer or director of the Association, none of whom need be Members or Owners.

(d) Weighted Votes. During the Declarant Control Period, the vote appurtenant to each Lot owned by Declarant is weighted Five (5) times that of the vote appurtenant to the Lot owned by another Owner. In other words, during the Declarant Control Period, Declarant may cast the equivalent of 5 votes for each Lot owned by Declarant on any issue before the Association. On termination of the Declarant Control Period and thereafter the vote appurtenant to Declarant's Lots is weighted uniformly with all other votes.

(e) Association Meetings. During the Declarant Control Period, meetings of the Association may be held at a location, date and time that is convenient to Declarant, whether or not it is mutually convenient for the Owners.

(f) Transition Meeting. Within sixty (60) days after the end of the Declarant Control Period or sooner at the Declarant's option, Declarant will call a transition meeting of the Members of the Association for the purpose of electing by vote of the Owners, directors to the Board. Written notice of the transition meeting must be given to an Owner of each Lot at least 10 days before the meeting. For the transition meeting, Owners of 10 percent of the Lots, constitute a quorum. The directors elected at the transition meeting will serve until the next annual meeting of the Association or special meeting of the Association called for the purpose of electing directors at which time the staggering of terms will begin.

Section 4. Declarant Control Period Reservations: Financial. Declarant reserves the following additional powers, rights and duties during the Declarant Control Period:

(a) Association Budget. During the Declarant Control Period, the Declarant-appointed Board will establish a projected Budget for the Properties of fully developed, fully phased, fully constructed, and fully occupied residential community, using cost estimates that are current for the period in which the budget is prepared. During the Declarant Control Period, the budget is not a warranty or representation by Declarant or by the Association that the Association will annually incur or fund every category of expense that is shown on the budget, or that the relative size of an expense category will be achieved. Neither the Association nor any Owner has a right or expectation of being reimbursed by the Declarant or by the Association for a budgeted line item that was not realized, or that was not realized at the budgeted level. Notwithstanding the foregoing, and to the extent not prohibited by Applicable Law, during the Declarant Control Period the Declarant reserves the right to unilaterally increase the annual Assessment or make any special Assessment without approval of the Board, the Owners or any other person, if Declarant determines that such increases are necessary to address the costs and expenses of maintaining the Common Properties and operating the Association. During the Declarant Control Period, any right of Owners to veto Assessment increases or special Assessments is not effective and may not be exercised.

(b) Declarant Assessments. During the Declarant Control Period, any real property owned by Declarant is not subject to Assessment by the Association. Any voluntary election by Declarant to fund shortfalls in the Association operating expenses shall not be construed as an obligation to fund future shortfalls or provide financing to the Association or to pay expenses of maintenance in regard to the Common Properties or the expenses of the Association.

(c) Commencement of Assessments. During the initial development of the Property, Declarant may elect to postpone the Association's initial levy of Assessments until a certain number of Lots are sold. During the Declarant Control Period, Declarant will determine when the Association first levies regular Assessments against the Lots. Prior to the first levy, Declarant will be responsible for operating expenses of the Association.

(d) Expenses of Declarant. Expenses related to completion and marketing of the Property will be paid by Declarant or by Homebuilders and are not expenses of the Association.

Section 5. Development Period Reservations. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion at anytime during the Development Period:

(a) Platting. If the Property includes unplatted parcels, they may be platted in whole or in part and in phases. The right to plat belongs to the owner of the unplatted parcel, provided, however, that a plat creates common areas or obligations for the Association must also be approved by Declarant.

(b) Expansion. As described in Article II, the Property is subject to expansion. During the Development Period, Declarant may unilaterally add Additional Property.

(c) Architectural Control. During the Development Period, Declarant has, under Article VII of this Declaration, reserved the absolute right to serve as the sole member of the Architectural Review Committee (ARC). Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under Article VII and this Article X to an Architectural Control Committee appointed by Declarant or the Board, and Declarant may revoke such delegation at any time and reassume jurisdiction over the matters previously delegated or may veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

(d) Amendment. During the Development Period, Declarant may amend and/or restate this Declaration and other Governing Documents, unilaterally, for any purpose including without limitation the following purposes:

- (1) To add real property to the Property;
- (2) To withdraw real property from the Property;
- (3) To create lots, easements, and common areas within the Property;
- (4) To subdivide, combine, or reconfigure lots;
- (5) To convert lots into common areas;
- (6) To allocate the use of certain common areas to specified lots as limited common areas;
- (7) To modify - even to increase - Declarant's rights and reservations;
- (8) To change or modify any aspect of the building specifications stated in Article VIII of this Declaration and to add provisions to Article VIII to address changes, improvements and innovations in building and construction materials and designs;
- (9) To merge the Association with another property owners association;
- (10) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Governing Documents;
- (11) To qualify the Property or the Association for mortgage underwriting, tax exemption, insurance coverage, and any public or quasi-public program or benefit;
- (12) For any other purpose not prohibited by Applicable Law.

(e) Completion. During the Development Period, Declarant has (1) the right to complete or make improvements indicated on the plat; (2) the right to sell or lease any Lot or unplatted tract of land owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in the common area and Lots and unplatted tracts of land owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

(f) Utility Easements. During the Development Period, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in addition to the easements on any Lot, as shown on the plat, and as provided in Article IX of this Declaration, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a common area of the Property or not owned by Declarant, Declarant must have the prior written consent of the Owner of the Lot.

ARTICLE XI.  
GENERAL PROVISIONS

Section 1. Further Development. During the Development Period, each and every Owner and Resident waives, relinquishes and shall not directly or indirectly exercise any and all rights, powers or abilities regarding the following: to contest, object, challenge, dispute, obstruct, hinder or in any manner disagree with the proposed or actual development (including, without limitation, zoning or rezoning efforts or processes) pertaining to residential uses of any real property owned by the Declarant or by the affiliates, assignees or successors of the Declarant within a one-mile radius of the Property.

Section 2. Duration. The Covenants of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Declarant, the Association and by any Owner and Resident of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original forty (40) year term expiring on the fortieth (40th) anniversary of the date of recordation of this Declaration, after which time these Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least two-thirds (2/3rds) of all Lots within the Property and all Lots of any additions added or annexed to the scheme of this Declaration as provided in Article II of this Declaration, which instrument is recorded in the Official Public Records of Lubbock County, Texas, and which contains and sets forth an agreement to abolish these Covenants.

Section 3. Amendments. The covenants, conditions and restrictions of this Declaration may be amended or terminated only as follows:

(a) AMENDMENT BY DECLARANT. Declarant has the exclusive right to unilaterally amend this Declaration during the Development Period, for the purposes stated in Article X of this Declaration. An amendment that may be made by Declarant acting in accordance with Article X is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Article XI, Section 3, may not be amended without Declarant's written and acknowledged consent.

(b) AMENDMENT BY MEMBERS. Except for amendments to this Declaration that can only be made by Declarant alone, amendments to this Declaration must be approved by Owners of at least two-thirds (2/3rds) of the Lots. Any such amendment by the Owners shall be by an instrument in writing duly executed, acknowledged and filed for record in the Official Public Records of Lubbock County, Texas.

(c) AMENDMENT BY BOARD. Certain provisions of this Declaration may be amended by the Board (or during the Development Period, by the Declarant), without the approval of the Owners or Members; and such provisions include Article III, Sections 10 (entitled "Record Production and Copying") and 11 (entitled "Record Retention"), and Article V, Section 6 (entitled "Alternative Payment Plans"). Any such amendment by the Board (or the Declarant during the Development Period) shall be by an instrument in writing duly executed, acknowledged and filed for record in the Official Public Records of Lubbock County, Texas.

Section 4. Enforcement. The Association, and each Owner of a Lot in the Property, including the Declarant, shall have the right to enforce observance or performance of the provisions of this Declaration. If any person violates or attempts to violate any term or provision of this Declaration, it shall be lawful for any Owner, the Declarant, or the Association, to prosecute proceedings at law or in equity against the person violating or attempting to violate any term or provision of this Declaration, in order to accomplish one or more of the following: (i) to prevent the Owner, Resident or their tenants, invitees, guests or representatives from violating or attempting to violate any term or provision of this Declaration; (ii) to correct such violation; (iii) to recover

damages; or, (iv) to obtain such other relief for such violation as then may be legally available. Each Owner of each Lot shall be deemed, and held responsible and liable for the acts, conduct and omission of each and every Resident, guest and invitee affiliated with such Lot, and such liability and responsibility of each Owner shall be joint and several with their Resident(s), guests and invitees. Unless otherwise prohibited or modified by law, all parents shall be liable for any and all personal injuries and property damage proximately caused by the conduct of their children (under the age of 18 years) within the Properties. Failure by the Association, Declarant or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. The City of Lubbock and the County of Lubbock, Texas are specifically authorized (but not obligated) to enforce these Covenants. With respect to any litigation hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

Section 5. Validity. Violation of or failure to comply with these Covenants shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may then be existing on any Lot. Invalidation of any one or more of these Covenants, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these Covenants conflicts with mandatory provisions of any ordinance or regulation promulgated by the City of Lubbock, or County of Lubbock, Texas or other Applicable Law (including, without limitation, any zoning ordinances), then such municipal or county requirement or Applicable Law shall control, but only to the extent as necessary to bring these Covenants into compliance with said ordinance, regulation or Applicable Law.

Section 6. Additional Restrictions. Declarant may make additional restrictions applicable to any Lot by appropriate provision in the Deed conveying such Lot to the Owner, without otherwise modifying the general plan set forth herein, and any such other restrictions shall inure to the benefit of and be binding upon the parties to such Deed in the same manner as if set forth at length herein.

Section 7. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 8. Notices to Owners. Any notice required to be given to any Owner (or any Resident or other occupant of an Owner's Lot) under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States Mail, postage prepaid, addressed to the last known address of the Owner designated in the Deed conveying the Lot or Lots to that Owner, as recorded in the Lubbock County Clerk's Office in Lubbock County, Texas, or to the address of the Owner shown in the most recent records of the Taxing Authorities.

Section 9. Adjacent Property. Declarant intends to develop certain property adjacent to or in the vicinity of the Lots. Such adjacent property may be subject to restrictions materially varying in form from those contained in this instrument. Nothing contained in this instrument shall be deemed to impose upon Declarant any obligation with respect to such adjacent property, including, without limitation, any obligation to enforce any covenants or restrictions applicable thereto. Declarant may, in the future, develop certain property adjacent to or in the vicinity of the Lots as additional residential lots, or for commercial use, or for a recreational use, or any combination of such uses. However, nothing within this Declaration shall be construed as constituting an obligation, promise, covenant or duty on the part of Declarant to develop the adjacent property in a particular manner or for a particular use. Nothing contained in or inferable from this Declaration shall ever be deemed to impose upon any other land owned or to be owned by Declarant, or any related entity, any covenants, restrictions, easements or liens, or to create any servitudes, negative reciprocal easements, or other interests in any such land in favor of any person or entity other than Declarant.

**Section 10. ASSUMPTION OF RISK, DISCLAIMER, RELEASE AND INDEMNITY.**

(a) **Assumption of Risk.** Each Owner and any Homebuilder, by his purchase of each Lot within the Property, hereby expressly assumes the risk of personal injury, property damage, or other loss caused by use, maintenance, and operation of the Property, and any Lot, and including but not limited to the design, development and construction of the Property.

(b) **Disclaimer and Release.** Except as specifically stated in this Declaration or in any Deed, Declarant hereby specifically disclaims any warranty, guaranty, or representation, oral or written, expressed or implied, past, present or future, of, as to, or concerning:

(i) *the nature and condition of the Properties, and any Lot, including but not by way of limitation, the water (either quantity or quality), soil, subsurface, and geology, and the suitability thereof and of the Properties, and any Lot within the Property, for any and all activities and uses which Owner, Resident, or any Homebuilder may elect to conduct thereon;*

(ii) *the manner, construction, design, condition, and state of repair or lack of repair of any improvements located on the Properties and any Lot;*

(iii) *except for any warranties contained in the Deed delivered from Declarant to an Owner or any Homebuilder, the nature and extent of any right-of-way, possession, reservation, condition or otherwise that may affect the Properties and any Lot; and*

(iv) *the compliance of the Properties and any Lot with any laws, rules, ordinances or regulations of any governmental or quasi-governmental body (including without limitation, zoning, environmental and land use laws and regulations).*

**Declarant's sale of each Lot within the Property is on an "AS IS, WHERE IS, WITH ALL FAULTS" basis, and each Owner or any Homebuilder purchasing a Lot within the Property expressly acknowledges that, as part of the consideration for the purchase of the Lot, and except as expressly provided in this Declaration or in any Deed, Declarant makes NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTIES, OR ANY LOT WITHIN THE PROPERTY.**

*Each Owner, Homebuilder, and Resident hereby waives, releases, acquits and forever discharges Declarant, any successor or assign of Declarant, and the Declarant's directors, officers, shareholders, general partners, limited partners, members, agents, employees, representatives, attorneys and any other person or entity acting on behalf of Declarant (sometimes referred to in this Section 11 as the "Released Parties"), of and from, any claims, actions, causes of action, demands, rights, damages, liabilities, costs and expenses whatsoever (including court costs and attorney's fees), direct or indirect, known or unknown, foreseen or unforeseen, which Owner, Homebuilder, or Resident now has or which may arise in the future, on account of or in any way growing out of or in connection with the design or physical condition of the Properties, or any Lot, or any law, rule, order, statute, code, ordinance, or regulation applicable thereto.*

*Each Owner, Homebuilder, and Resident waives and releases the Released Parties from any liability to said Owner, Homebuilder, and Resident and to said Owner's, Homebuilder's, and Resident's respective heirs, successors and assigns, for the design and/or condition of the Properties, or any Lot, known or unknown, present and future, including liabilities, if any, due to the existence, now or hereafter, of any hazardous materials or*

*hazardous substances, on the Properties, or any Lot, and due to the existence, now or hereafter, of a violation, if any, of any environmental laws, rules, regulations or ordinances.*

**EACH OWNER, HOMEBUILDER, AND RESIDENT EXPRESSLY WAIVES THE RIGHT TO CLAIM AGAINST THE RELEASED PARTIES BY REASON OF, AND RELEASES THE RELEASED PARTIES FROM ANY LIABILITY WITH RESPECT TO, ANY INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY (INCLUDING CONSEQUENTIAL DAMAGES) RESULTING FROM ANY CAUSE WHATSOEVER (EXPRESSLY INCLUDING THE RELEASED PARTIES OWN NEGLIGENCE).**

(c) **Indemnity.** Each Owner, Homebuilder, and Resident agrees to indemnify and hold harmless the Released Parties from all claims, suits, actions, liabilities and proceedings whatsoever and of every kind, known or unknown, fixed or contingent (the "Claims") which may be brought or asserted against any Owner, Homebuilder, Resident, or Released Parties, on account of or growing out of any and all injuries or damages, including death, to persons or property relating to the use, occupancy, ownership, construction, operations, maintenance, design, repair or condition of the Properties, any Lot, or any improvements located thereon, prior to this date of this Declaration or after the date of this Declaration, **even if such Claims arise from or are caused in whole or in part by the sole or concurrent negligence (whether active or passive, gross negligence or strict liability) of the Released Parties**, and all losses, liabilities, judgments, settlements, costs, penalties, damages and expenses relating thereto, including, but not limited to, attorney's fees and other costs of defending against, investigating and settling the Claims. The indemnity agreement provided herein includes without limitation all Claims, whether from:

- (i) the design, maintenance, operation or supervision of the Properties, any Lot, or any improvement located thereon;
- (ii) the activities on the Properties, any Lot, or any improvement located thereon;
- (iii) the existence, now or hereafter of hazardous materials or substances on the Properties, or any Lot; or
- (iv) due to a violation, now or hereafter, of any environmental laws, rules, regulations or ordinances, or otherwise. Each Owner, Homebuilder, and Resident does assume on behalf of the Released Parties and will conduct with due diligence and in good faith the defense of all Claims against any of the Released Parties.

**Section 11. Joinder of Lender.** PEOPLES BANK, holder of a lien of record against the Properties, joins in this Declaration for the sole purpose of showing its assent thereto and that it has no objections to the filing of this Declaration. No violation of any covenant contained within this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Properties; providing however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale, as well as all other owners, shall be bound by and subject to this Declaration as fully as any other Owner of any portion of the Properties.

*[Signatures and acknowledgments to follow.]*

EXECUTED as of the day and year first above written.

DECLARANT:

DSE DEVELOPMENT, LTD., a Texas limited partnership

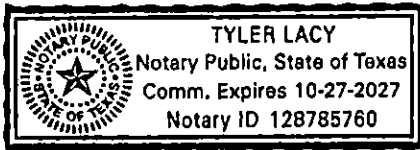
By: WJD ENTERPRISES, LLC, a Texas limited liability company, its General Partner

By: William Jewell Davis  
William Jewell Davis, Manager

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared WILLIAM JEWELL DAVIS, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of WJD ENTERPRISES, LLC, a Texas limited liability company and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated; said limited liability company acting as General Partner on behalf of DSE DEVELOPMENT, LTD., a Texas limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 29<sup>th</sup> day of November, 2023.



Tyler Lacy  
Notary Public, State of Texas

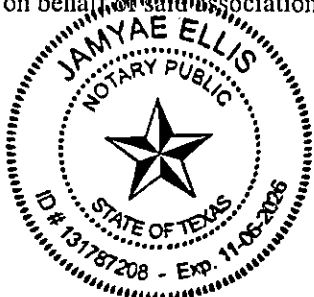
LIENHOLDER:

PEOPLES BANK

By: Mike Phelps  
Printed Name: MIKE PHELPS  
Title: EVP

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 15<sup>th</sup> day of November, 2023, by Mike Phelps, EVP of PEOPLES BANK, a state banking association, on behalf of said association.



Jamyae Ellis  
Notary Public, State of Texas

OWNER OF LOTS 65, 66, 67 AND 68, FRENSHIP  
ESTATES EVIDENCING ITS CONSENT ONLY

WOODED FOREST LAND COMPANY, LLC, a  
Texas limited liability company

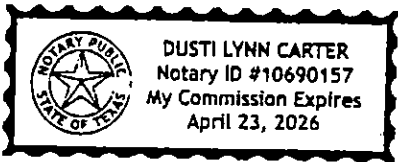
By: [Signature]  
Name: JACK STRONG  
Title: MANAGER

THE STATE OF TEXAS  
COUNTY OF LUBBOCK      JACK STRONG

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared 11/20/23, known to me, or proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of WOODED FOREST LAND COMPANY, LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

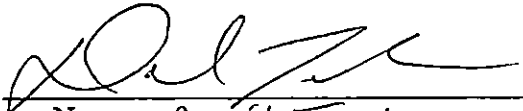
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 20<sup>th</sup> day of November, 2023.

[Signature]  
Notary Public, State of Texas



**OWNER OF LOTS 35, 36, 53 AND 54, FRENSHIP  
ESTATES EVIDENCING ITS CONSENT ONLY**

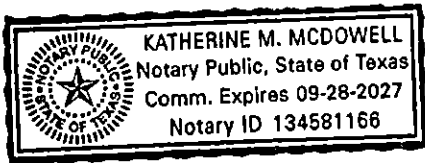
**DAVID JORDAN HOMES LLC, a Texas limited  
liability company**

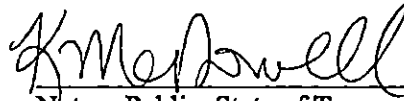
By:   
Name: David Jordan  
Title: Owner

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared Katherine McDowell, known to me, or proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of DAVID JORDAN HOMES LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 28<sup>th</sup> day of November, 2023.



  
Notary Public, State of Texas

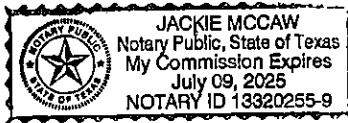
OWNER OF LOTS 2, 3, 4, 14, 15, 16, 17, 18, 19, 20,  
33, 34, 46, 47, 48, 49, 50, 51, 52, 55 AND 56  
FRENSHIP ESTATES EVIDENCING ITS  
CONSENT ONLY

SOUTHERN HOMES, INC., a Texas corporation

By: *[Signature]*  
Name: *Josh Bloodworth*  
Title: *vice president*

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 15<sup>th</sup> day of November, 2023,  
by \_\_\_\_\_,  
corporation, on behalf of said corporation.



*[Signature]*  
Notary Public, State of Texas

**OWNER OF LOT 76, FRENSHIP ESTATES  
EVIDENCING ITS CONSENT ONLY**

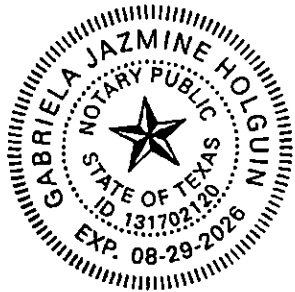
**COAST AND COTTON HOMES LLC, a Texas  
limited liability company**

By: *Joshua Sorrells*  
Name: *Joshua Sorrells*  
Title: *owner*

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared *Joshua Sorrells*, known to me, or proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of COAST AND COTTON HOMES LLC, a Texas limited liability company, and that he executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this *16* day of *November*, 2023.



*Gabriela Holguin*  
Notary Public, State of Texas

**EXHIBIT "A"**

**PROPERTY SUBJECT TO  
DECLARATION FRENSHIP ESTATES**

LOTS ONE (1) THROUGH NINETY (90) and TRACTS "A" THROUGH "F", FRENSHIP ESTATES, an Addition to the City of Lubbock, Lubbock County, Texas, according to the Map, Plat and/or Dedication Deed thereof recorded in Document No. 2023024988 of the Official Public Records of Lubbock County, Texas.

**EXHIBIT "B"**

**COMMON PROPERTIES**

TRACTS "A" THROUGH "F", FRENSHIP ESTATES, an Addition to the City of Lubbock, Lubbock County, Texas, according to the Map, Plat and/or Dedication Deed thereof recorded in Document No. 2023024988 of the Official Public Records of Lubbock County, Texas.

# FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



*Kelly Pinion*

Kelly Pinion, County Clerk  
Lubbock County, TEXAS  
11/29/2023 02:16 PM  
FEE: \$226.25  
2023045291