POND HILL GARDEN VILLAS

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

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POND HILL GARDEN VILLAS
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS

This Pond Hill Garden Villas Declaration of Covenants, Conditions, Easements and Restrictions ("Declaration") is made to be effective as of the date of recordation hereof in the Official Records of Bexar County, Texas, by **Pond Hill Garden Villas, Ltd.**, a Texas limited partnership ("Declarant") and joined herein by **W. Steve Davis Custom Homes, Ltd.**, a Texas partnership ("Davis"), as the owner of Lots 2211, 2212 and 2213 in the Subdivision.

RECITALS

Declarant and Davis are the owners of the real property in Bexar County, Texas, described in **Exhibit A** attached hereto and incorporated herein and subjected to this Declaration, being herein collectively referred to as the "Subdivision" or "Properties". Declarant intends to develop the Subdivision as a single-family residential community generally known and marketed as *Pond Hill Garden Villas*. Davis is an Owner and Builder (as such terms are herein defined) and intends to construct Living Units (as herein defined) on the Lots owned by Davis within the Subdivision.

Declarant and Davis desire to provide a uniform plan of development and maintenance for the Subdivision and to subject the real property within the Subdivision, together with such additions as may hereafter be made to the Subdivision as herein provided, to the covenants, conditions, restrictions, easements, assessments, charges, and liens hereinafter set forth.

Declarant has deemed it desirable to create one or more associations with the power to maintain and administer the Common Areas (as herein defined) within the Subdivision and with the authority to administer and to enforce the covenants and restrictions and to collect and disburse the assessments and charges created or referenced in this Declaration or in other Governing Documents (as herein defined). The Pond Hill Garden Villas Homeowners Association, Inc. ("Association") has or will be incorporated under the laws of the State of Texas as a non-profit corporation for the purposes of exercising the foregoing functions. The Board of Directors of the Association have adopted or will adopt Bylaws by which the Association shall be governed through its Board of Directors for the purpose of exercising the foregoing functions and any other duties as set out in the Governing Documents (as herein defined) or required by Applicable Law (as herein defined).

The Properties adjoin certain real property being developed for commercial uses and marketed as *Pond Hill Commercial Center*. The Properties and Owners hereunder have heretofore been subjected to certain covenants, restrictions, easements, charges, liens and assessments set forth in the Pond Hill Commercial Declaration (as herein defined) and are under the jurisdiction of the PH COA (as herein defined). In view of the development of the Properties for single family residential use and the imposition of this Declaration and the establishment of the Association hereunder, by amendment to the Pond Hill Commercial Declaration recorded in the Real Property Records of Bexar County, Texas contemporaneously herewith, the Properties have been withdrawn from the jurisdiction of the PH COA and the covenants, restrictions, easements, charges, liens and assessments created under the Pond Hill Commercial Declaration, **EXCEPT** with respect to the Pond Hill Road Assessment and Basin No. 2 Assessment (as such terms are herein defined) payable by the Association to the PH COA for certain services benefitting the Owners and Properties in accordance with the terms of this Declaration.

NOW, THEREFORE, Declarant, joined herein by Davis, declare that the Properties are and shall be held, transferred, sold, conveyed, occupied, and enjoyed subject to the covenants, conditions, restrictions, easements, assessments, charges, and liens hereinafter set forth and shall hereafter be subject to the jurisdiction and assessments of the Association, upon and subject to the terms and provisions herein stated; it being expressly agreed and acknowledged that the covenants, conditions, restrictions, easements, assessments, charges and liens herein set forth shall run with the land and be binding on all parties having any right, title or interest in the Properties described or referred to herein, and their respective heirs, successors and assigns.

1. **Definitions**. The capitalized terms used in this Declaration shall have the meaning subscribed to such term as set forth below:

"Applicable Law" means all statutes, public laws, rules, codes, ordinances, regulations, permits, licenses and other requirements of any Governmental Authority 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.

"Architectural Review Committee" and "ARC" means the architectural review committee established pursuant to **Section 3** herein.

"Assessments" means the assessments levied in accordance with **Section 6** herein and any other amount due to the Association by an Owner or levied against an Owner by the Association under this Declaration or the other Governing Documents.

"Association" means Pond Hill Garden Villas Homeowners Association, Inc., a Texas non-profit corporation, its successors and assigns.

"Basin No. 2" means the regional drainage filtration basin servicing the Tract I Properties (including the Subdivision) as defined in the Pond Hill Commercial Declaration, and located on the 0.252 acre tract out of Lot 2228 ("Basin No. 2 Tract"), as further described and depicted on the Subdivision Plat, and designated as part of the Common Maintenance Area maintained by the PH COA in accordance with the terms of the Pond Hill Commercial Declaration. The Basin No. 2 Tract and Basin No. 2 may be conveyed by Declarant to the PH COA at any time without further notice to or consent by any Owner or other party.

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

"Builder" means an individual or entity approved by Declarant for construction of Living Units within the Subdivision and who purchased and owns one or more Lots from Declarant for the purpose of construction of a Living Unit thereon and resale to others.

"Bylaws" means the Bylaws adopted by the Board of the Association, as amended from time to time.

"City" means the City of Shavano Park, Texas and/or City of San Antonio, Texas, as applicable, and their respective applicable agencies, departments, boards, and commissions.

"Common Areas" means all property leased, owned, and/or maintained by the Association (or other entity or property owners association) for the use and benefit of the Members of the Association, including, without limitation, the initial Common Areas designated on the Subdivision Plat, and the Pond Hill Road Improvements and Basin No. 2, both of which are maintained by the PH COA. Declarant and/or the Association may, but shall not be obligated to, designate additional Common Areas from time to time, which may include a recreation center and/or recreational facilities.

"Covenants" means the covenants, conditions, restrictions and other terms and provisions set forth in this Declaration and in the Governing Documents for the Association.

"Declarant" means Pond Hill Garden Villas, Ltd., a Texas limited partnership, and its successors or assigns, as same may be evidenced by written instrument recorded in the Real Property Records of Bexar County, Texas.

"Declarant Control Period" means that 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 **Section 12** herein and otherwise in this Declaration, to the full extent and for the maximum duration permitted by Applicable Law.

"Declarant Development Period" means the period during which Declarant reserves the right to facilitate the development, construction, and marketing of the Subdivision, and the right to direct the size, shape, and composition of the Subdivision, pursuant to the rights and reservations contained in **Section 12** herein and otherwise in this Declaration, to the full extent and for the maximum duration permitted by Applicable Law.

"Declaration" means this Pond Hill Garden Villas Declaration of Covenants, Conditions, Easements and Restrictions, and all amendments and supplements made in accordance with the terms herein.

"Easements" means easements within the Subdivision for access, utilities, drainage and other purposes as shown on the Subdivision Plat, established in this Declaration, or otherwise recorded in the Real Property Records of Bexar County, Texas.

"Governing Documents" means this Declaration; any supplemental declaration adopted pursuant to this Declaration; any ADGs or other rules adopted by the ARC; any policies, rules or regulations adopted by the Board; the Certificate of Formation and/or Bylaws of the Association; and the Pond Hill Commercial Declaration; all as amended from time to time.

"Governmental Authority" means the Federal government of the United States of America; the State of Texas, including the Texas Commission on Environmental Quality; Bexar County, City of Shavano Park, City of San Antonio, including the San Antonio Water System; or any other governmental body, subdivision, agency, authority or property or homeowners association, now or hereafter in existence that has jurisdiction over the Properties or any use or activity with respect to the Properties or over the Declarant, Owners or Members.

"Grading Plan" means the Lot Grading Plan for the Subdivision, as amended from time to time. A copy of the current Grading Plan is attached hereto as **Exhibit G** and incorporated herein.

"Guidelines" or "ADGs" means, collectively, the architectural design guidelines and/or other standards for the Subdivision promulgated by the ARC in accordance with **Section 3** herein, as amended from time to time.

"Improvements" means every structure on the Lots and all appurtenances thereto, including, but not limited to, residences, garages, buildings, outbuildings, storage sheds or buildings, guest quarters, gazebos, greenhouses, barns and basements; patios, driveways, walkways, paved areas, large barbecue units, and outdoor kitchens; fountains and large visible decorative items; swimming pools, spas, tennis courts, play structures, and recreational equipment; fences, screening walls, retaining walls, stairs, decks, landscaping, poles and signs; exterior air conditioning and water softener fixtures or equipment; and pumps, tanks, pipes, lines, meters, antennas, satellite dishes, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, fiber optic facilities, or other utilities.

"Living Unit" means a detached building designed for use as a dwelling by a Single Family and its attached or detached garage situated on a Lot. Any references herein to "home," "house," "residence" or "dwelling" shall have the same meaning as "Living Unit."

"Lot" means any tract of land within the Subdivision as described in the Subdivision Plat, except for the Common Areas.

"Member" means each Owner.

"Mortgage" means any mortgage or deed of trust covering any Lot or portion thereof given to secure the payment of a debt.

"Mortgagee" means the holder or holders of any Mortgage(s), or any other interest held as security for the performance of an obligation.

"Occupants" means, collectively, all residents, tenants, lessees, guests, invitees or other occupant of any Living Unit and/or Lot or other Improvements thereon.

"Owner" means the record owner(s), whether one or more persons or entities, of fee simple title to any Lot within the Subdivision, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

"PH COA" means Pond Hill Commercial Association, Inc., a Texas nonprofit corporation, its successors and assigns.

"Pond Hill Commercial Declaration" means, collectively, the Declaration of Protective Covenants for Pond Hill Commercial Center, recorded in Volume 12607, Page 1301, Real Property Records of Bexar County, Texas, as amended by the Amendment to Declaration of Protective Covenants for Pond Hill Commercial Center, recorded in Volume 18814, Page 1571, Real Property Records of Bexar County, Texas; the Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Pond Hill Commercial Center – Tract I Properties, recorded in Volume 17031, Page 424, Real Property Records of Bexar County, Texas, as amended by Amendment to Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Pond Hill Commercial Center – Tract 1 Properties, recorded in Volume 18814, Page 1628, Real Property Records of Bexar County, Texas; all as further amended or supplemented from time to time.

"Pond Hill Road Improvements" means all medians, landscape buffers, street lighting, signage, irrigation systems and other improvements constructed or installed for or along Pond Hill Road from time to time and designated as part of the Common Maintenance Area maintained by the PH COA in accordance with the terms of the Pond Hill Commercial Declaration.

"Required Plans" means plans or information deemed necessary by the ARC for the performance of its functions in accordance with **Section 3** herein and as further described in **Exhibit B** attached hereto and incorporated herein.

"Service Area Lot" means each Lot improved with a completed Living Unit and for which Yard Maintenance Services are provided.

"Single Family" means a group of individuals related by blood, adoption, or marriage, or a number of unrelated housemates equal to the number of bedrooms in a Living Unit.

"Subdivision" or "Properties" means the real property in Bexar County, Texas, marketed as *Pond Hill Garden Villas*, and further described in the Subdivision Plat, and subjected to this Declaration.

"Subdivision Plat" means the Subdivision Plat of POND HILL GARDEN VILLAS, in the City of Shavano Park, Bexar County, Texas, recorded in Volume 9705, Pages 86-87, Plat Records of Bexar County, Texas, and any replat of or amendments thereto upon filing of same for record in the Plat Records of Bexar County, Texas.

"Variance" means any variance or waiver relative to deviations from the requirements of this Declaration and/or the ADGs granted by the ARC in accordance with **Section 3** herein.

"Vehicle" means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

"Yard Maintenance Services" means the yard maintenance services provided by the Association to each Service Area Lot within the Subdivision in accordance with **Section 5(c)** herein and **Exhibit C** and **Exhibit C-1** attached hereto and incorporated herein.

2. **IMPOSITION OF COVENANTS**. Declarant, joined by Davis as an Owner of Lots within the Subdivision, imposes the Covenants on the Subdivision. All Owners and other Occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, Occupants, and any other person holding an interest in a Lot. Each Owner and Occupant of a Lot agrees to comply with the Governing Documents and agrees that failure to comply may subject such person to a fine, an action for amounts due to the Association, damages, or injunctive relief.

3. **ARCHITECTURAL REVIEW.**

(a) **Creation and Composition**. There is hereby created the Architectural Review Committee, as a committee of the Association, initially composed of three (3) members designated by Declarant. Each member of the ARC shall have one (1) vote. Each member of the ARC shall serve until their successors are named. A majority of the ARC may act for the ARC. A majority vote of the ARC shall mean a simple majority of the votes cast by the ARC members present at any meeting of the ARC, or if action is taken without a meeting as permitted herein, a simple majority of the total votes of the members of the ARC. ARC members shall not be entitled to compensation for their services rendered in such capacity.

(b) **Guidelines**. The ARC has the right but not the obligation to promulgate ADGs for the Subdivision that do not conflict with the other Governing Documents to carry out its purposes. The ADGs for the Subdivision and the other documents and information which may affect an Owner, prospective Owner, Builder, or contractor for Improvements to a Lot shall be maintained at the offices of the ARC. Each Owner and prospective Owner is advised to obtain these documents and carefully examine the ADGs in addition to this Declaration to determine its rights and obligations. At any time without notice to the Owners or any other party, the ARC may modify, amend or otherwise change the ADGs, including revisions to remove requirements previously imposed or otherwise make the ADGs less restrictive.

(c) **Function**. No Improvement shall be erected, constructed, placed, altered (either by addition or deletion), maintained or permitted to remain on any portion of the Lots until the Required Plans, in such form and detail as the ARC may deem necessary, shall have been submitted to and approved in writing by the ARC. The ARC may employ professional consultants or agents to assist it in discharging its duties, and impose reasonable fees for processing of submissions hereunder.

(d) **Goals**. The goal of the ARC is to encourage the construction of Living Units and other Improvements of good architectural design, quality and proper size compatible with Declarant's conceptual plan for the Subdivision. Improvements should be planned and designed with particular attention to the design and aesthetic appearance of the exterior and the use of such materials as will, in the judgment of the ARC, create an attractive and harmonious blend with existing Improvements and the natural surroundings. The ARC may consider, among other factors, the conformity and harmony of exterior design with existing structures in the Subdivision, the location with respect to topography, existing trees, and finished elevation, and apparent conformity with the requirements of this Declaration. The ARC may disapprove the construction or design of an Improvement on purely aesthetic grounds where, in its judgment, such disapproval is required to protect the continuity of design or values of the Subdivision and of other Owners, or to preserve the natural beauty of any surroundings, by preventing unusual, radical, uncommon, curious, odd, extraordinary, bizarre, peculiar or irregular external designs or appearances from being constructed in the Subdivision. Prior judgments regarding such matters of design or aesthetics shall not be deemed binding upon the ARC if the ARC feels that the repetition of such matters will have an adverse effect on the Subdivision.

(e) **Powers**. The ARC shall have the express authority to perform fact-finding functions hereunder and shall have the power to construe and interpret any covenant herein that may be vague, indefinite, uncertain or capable of more than one interpretation. The ARC's evaluation of Required Plans is solely to determine compliance with the terms of this Declaration and the aesthetics of the proposed Improvements. The ARC expressly disclaims any responsibility to determine compliance with any Applicable Laws, building code or other standard for construction. The ARC shall not be responsible for

reviewing any plans or specifications for structural safety, engineering soundness, or conformance with building or other codes, or other Applicable Laws, nor shall the ARC's approval be deemed a verification of the structural safety, engineering soundness, or conformance of the Improvements to building or other codes, or other Applicable Laws.

(f) **Procedures**. The Owner of a Lot shall submit all Required Plans to the ARC for approval in accordance with the requirements set forth in **Exhibit B** hereto. If plans submitted by any Owner are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance, or may notify the Owner that additional documents or information is required. If the submitted plans are deemed to be inadequate or incomplete, the review period specified in **Exhibit B** hereto shall not commence until the ARC has received a complete set of the Required Plans.

(g) **Required Plans**. The initial Required Plans submittals are set forth in **Exhibit B** attached hereto and incorporated herein. Builders may submit their design plans as master design plans, which plans shall include all specifications, including exterior materials and colors that may be used when building each design. The Required Plans submittals are subject to review and revision by the ARC from time to time without further notice to any Owner or other person.

(h) **Variances**. The ARC shall have the right, but not the obligation, to grant Variances relative to deviations and infractions of this Declaration and/or the ADGs. Upon submission of a written request for a Variance, the ARC may, from time to time, in its sole discretion, permit an Owner to construct, erect or install an Improvement which is in variance from the covenants, restrictions or architectural standards which are provided in this Declaration or the ADGs. In any case, however, the Improvement with such Variance must, in the ARC's sole discretion, blend effectively with the general architectural style and design of the Subdivision and must not detrimentally affect the integrity of the Subdivision. All requests for Variances shall be in writing, shall be specifically indicated to be a request for Variance, and shall indicate with specificity the particular standard sought to be varied and the nature of the Variance requested. All requests for Variances shall be deemed to be disapproved if the ARC has not expressly approved such request in writing within thirty (30) days of the submission of such request. No member of the ARC shall be liable to any Owner or any other person for any claims, causes of action or damages arising out of the grant of any Variance to an Owner. Each request for a Variance submitted hereunder shall be reviewed independently, and the grant of a Variance to any one Owner shall not constitute a waiver of the ARC's right to deny a Variance to another Owner. The decisions of the ARC with respect to Variances shall be final and binding upon the applicant. All Variances, to be effective, must be in writing. Owners are advised that certain Variances may require the separate approval of the City or other applicable Governmental Authority.

(i) **Approval**. Upon approval of the Required Plans, an Approval Letter will be issued by the ARC, which shall set time constraints for both the commencement and completion of construction, which constraints shall be no more than ninety (90) days to commence construction and nine (9) months to complete construction after commencement. If construction fails to start before the designated commencement date or is not completed before the designated completion date, the approval of the Required Plans shall be deemed withdrawn. Plan approval shall be effective for twelve (12) months after issuance of the Approval Letter by the ARC. If no construction has been commenced within such twelve (12) month period, the plan approval shall expire, and Required Plans must be re-submitted to and approved by the ARC in accordance herewith prior to commencement of construction.

(j) **Failure to Act**. If the ARC fails to provide Owner with written notice of its decision within the applicable period specified in **Exhibit B** hereto, after submission by Owner of the Required Plans (subject to the ARC's rejection thereof and/or request for additional documents or information), it shall be conclusively presumed that the ARC has approved such plans; provided, however, that a deemed approval of any plan submittal shall not permit a violation of any of the terms of this Declaration, nor extend to any deviation from or alteration to the plans actually submitted or any Improvements or other plan details not included in the submitted plans, nor to any matter requiring a Variance.

(k) **Decisions Final**. All decisions of the ARC shall be final and binding, and there shall be no revisions of any action of the ARC except by procedure for injunctive relief when such action is patently arbitrary and capricious. In the event of construction of Improvements or threatened construction of Improvements in violation of this Declaration, any Owner, the Association, or Declarant may seek to enjoin such construction or seek other relief against the Owner or builder responsible therefore, provided that Owner shall first be given written notice of the perceived violation and the opportunity to remedy the violation prior to the filing of suit as provided herein.

(l) **Compliance Inspection**. The ARC, its agents, and/or professional consultants may, but are not required, to enter any Lot or the Improvements thereon to determine compliance with the requirements of this Declaration, the ADGs, or any other documents or approvals by the ARC. The ARC's agent may inspect those items reviewed by the ARC, including inspection for conformance to the site plan (grading and drainage), building plan, landscaping plan, and exterior design, colors and materials. Neither the ARC, Association nor their members or agents shall be subject to any liability for trespass, other tort or damages, or claims in connection with or arising from such entry. If the ARC determines that significant field discrepancies exist, the ARC may notify the Owner of the nature and extent of the discrepancy. Written clarification must be supplied by Owner to the ARC within ten (10) working days of receipt of such notification. If clarification by the Owner is not forthcoming or is determined to be inadequate by the ARC, the ARC may at its sole discretion retain a private consultant for the purpose of obtaining an outside opinion. All reasonable professional fees and expenses associated with this procedure may be assessed by the ARC against and collected from the Owner.

(m) **Limitation of Liability**. Neither the Declarant, the Association, the ARC, nor any of the members, partners, officers, directors or agents thereof, shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications or requests for Variance or for any damage or injury to property or other damage or loss arising out of the acts or omissions of the ARC, Declarant or Association.

(n) **Appointment of ARC Members**. The ARC shall be duly constituted and shall continue to function for the entire duration of this Declaration, including any extensions. Subject to the terms set forth in **Section 12(a)** herein, during the Declarant Development Period, Declarant shall have the exclusive right to appoint the members of the ARC and to remove or add members and fill vacancies, which members need not be Owners or Members of the Association. Upon termination of the Declarant Development Period or such prior time as Declarant may elect in writing, the Association, acting through its Board of Directors, shall succeed to the powers of Declarant with respect to the ARC and shall thereafter have the right and obligation to appoint the members of the ARC. Upon such turnover of the ARC to the Association by the Declarant: (i) the Board of Directors of the Association shall appoint three (3) or more members to the ARC to replace the then existing members of the ARC, and from and after such turnover, each member of the ARC must also be an Owner and Member of the Association, and the ARC shall be under the jurisdiction of the Board of Directors and shall function as any other committee that may be formed by the Board.

(o) **Governmental Permits**. In addition to compliance with the covenants, conditions and restrictions and the requirement for ARC approval of all Required Plans as set forth in this Declaration, each prospective purchaser and Lot Owner is advised that each Lot Owner shall be responsible for obtaining all required permits prior to the commencement of construction or alteration of any Improvements on any Lot, including, without limitation, applicable permits issued by the City for construction work; demolition; roofing; curb cuts, driveway approaches and street cuts; gas, electric and plumbing facilities; installation of satellite dishes and similar appurtenances; tree trimming; fences and walls; sprinkler systems; and heating and air conditioning systems. All Improvements located, erected, constructed and installed upon any Lot shall conform to and be continuously maintained in accordance with all Applicable Laws.

4. **USE AND OTHER RESTRICTIONS; AND CONSTRUCTION AND DEVELOPMENT STANDARDS**. The Lots and all Improvements, and the use and development thereof are subject to the general use and other restrictions set forth in **Exhibit D** attached hereto and incorporated herein, and to the construction and development standards set forth in **Exhibit E** attached hereto and incorporated herein.

5. **ASSOCIATION**.

(a) **Establishment and Governance**. The Association is established by filing its Certificate of Formation and is governed by the Certificate of Formation, its Bylaws, and this Declaration.

(b) **Membership and Voting**. Every person or entity who is a record Owner of a fee or undivided interest in any Lot which is subject to the jurisdiction of and to assessment by the Association shall be a Member of the Association; provided, however, that any person or entity holding an interest in any such Lot or Lots merely as security for the performance of an obligation, shall not be a Member. Membership is appurtenant to and runs with the land. All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligation. Members shall have one (1) vote per Lot. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. **NOTWITHSTANDING THE FOREGOING, DURING THE DECLARANT CONTROL PERIOD, DECLARANT AND EACH BUILDER MEMBER SHALL HAVE FIVE (5) VOTES PER LOT OWNED BY THEM**.

The Association may retain and pay for the services of a person or firm ("Manager") to manage and operate the Association, including its Properties, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Board may delegate any other duties, powers and functions to the Manager. **THE OWNERS AND MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(c) **Powers**. The Association shall have all the powers of a Texas nonprofit corporation and a property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code and the Governing Documents. It shall further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by applicable law or this Declaration. The Board may adopt, and in its discretion, amend from time to time, or repeal and re-enact, such rules, regulations, and Bylaws not in conflict with this Declaration or the other Governing Documents or Applicable Law, as it deems proper, covering any and all aspects of the Subdivision, including the operation, maintenance and preservation thereof, or the Association.

Notwithstanding anything herein to the contrary, and without in any way limiting the generality of the foregoing, the Association shall have the express power and authority to do the following:

(1) Perform the Yard Maintenance Services on each Service Area Lot in accordance with **Exhibit C** and **Exhibit C-1** attached hereto and to assess the Service Area Lots and Owners thereof for such Yard Maintenance Services in accordance with **Section 6(d)(6)** herein;

(2) Enter into a contract or agreement with any other entity or property owners association for the purpose of sharing the costs to operate, maintain, repair, and replace any Common Area, or any real and personal property which benefits the Association;

(3) Assess the Lots and Owners thereof for, and pay to the PH COA (or other entity or property owners association responsible for such maintenance), the Pond Hill Road Assessment in accordance with **Section 6(d)(3)** herein; and

(4) Assess the Lots and Owners thereof for, and pay to the PH COA (or other entity or property owners association responsible for such maintenance), the Basin No. 2 Assessment in accordance with **Section 6(d)(4)** herein.

(d) **Acceptance of Common Area**. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. The Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Subdivision, or the Subdivision and the general public, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Such property shall be accepted by the Association and thereafter will be maintained as Common Areas by the Association at its expense for the benefit of the Subdivision and Owners and/or the general public, subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association and on an AS IS, WHERE IS, WITH ALL FAULTS basis, without warranty, express or implied. Upon Declarant's written request, the Association will re-convey to Declarant any real property that the Declarant originally conveyed to the Association for no payment to the extent conveyed in error or needed to make minor adjustments in property lines.

(e) **Indemnification**. **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW BUT WITHOUT DUPLICATION (AND SUBJECT TO) ANY RIGHTS OR BENEFITS ARISING UNDER THE GOVERNING DOCUMENTS, THE ASSOCIATION WILL INDEMNIFY ANY PERSON WHO WAS, OR IS, A PARTY, OR IS THREATENED TO BE MADE A PARTY TO ANY THREATENED, PENDING OR COMPLETED ACTION, SUIT OR PROCEEDING, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE OR INVESTIGATIVE, BY REASON OF THE FACT THAT HE IS, OR WAS, A DIRECTOR, OFFICER, COMMITTEE MEMBER, EMPLOYEE, SERVANT OR AGENT OF THE ASSOCIATION, AGAINST EXPENSES, INCLUDING ATTORNEYS' FEES, COURT AND OTHER COSTS REASONABLY INCURRED BY HIM IN CONNECTION WITH SUCH ACTION, SUIT OR PROCEEDING, IF IT IS FOUND AND DETERMINED BY THE BOARD OR A COURT THAT HE (1) ACTED IN GOOD FAITH AND IN A MANNER HE REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF THE ASSOCIATION, OR (2) WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING, HAS NO REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL.**

THE BOARD MAY PURCHASE AND MAINTAIN, AT THE EXPENSE OF THE ASSOCIATION, INSURANCE ON BEHALF OF ANY PERSON WHO IS ACTING AS A DIRECTOR, OFFICER, COMMITTEE MEMBER, EMPLOYEE, SERVANT OR AGENT OF THE ASSOCIATION AGAINST ANY LIABILITY ASSERTED AGAINST HIM OR INCURRED BY HIM IN ANY SUCH CAPACITY, OR ARISING OUT OF HIS STATUS OF SUCH, WHETHER OR NOT THE ASSOCIATION WOULD HAVE THE POWER TO INDEMNIFY HIM AGAINST SUCH LIABILITY OR OTHERWISE.

(f) **Control of Association**. Upon termination of the Declarant Control Period or such prior time as Declarant may elect in writing in accordance with **Section 12** herein or as required by Applicable Law, Declarant shall remove one (1) appointed Director, and the Owners of the Subdivision shall at a meeting called for such purpose elect a successor to the removed Director for a term of three (3) years. After such turnover, any Board Members/Directors elected by the Owners must be Owners within the Subdivision, or, in the case of an entity Member, a person designated by such entity in writing to the Association. Notwithstanding anything to the contrary, until such turnover has taken place, the management of the Association shall be by Declarant and/or its agents and representatives, upon and subject to the terms and conditions set forth in **Section 12** herein and Applicable Law, and any expenses incurred in such management shall be reimbursed to Declarant by the Association, including, without limitation, the cost of Declarant and/or its agents and representatives for the time spent in the management of the Association. **FROM AND AFTER SUCH TURNOVER, THE ASSOCIATION SHALL INDEMNIFY AND HOLD DECLARANT HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS**

OR DAMAGES OF EVERY KIND ARISING OUT OF THE OPERATIONS OF THE ASSOCIATION AND THE DEVELOPMENT AND OPERATION OF THE COMMON AREAS.

(g) **Books and Records**. The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, pursuant to a Records Production and Copying Policy adopted by the Association.

(h) **Mergers**. Upon a merger or consolidation of the Association with another association, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any declarations of covenants, conditions and restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

6. **ASSESSMENTS.**

(a) **Assessments**.

(1) The Association may levy Assessments to promote the health, safety, welfare and recreation of the residents in the Subdivision; to fund operating expenses of the Association; to fund the costs of the Yard Maintenance Services; to fund the costs of improvement and maintenance of the Common Areas or any real and personal property which benefits the Association and Owners, including, without limitation, the Pond Hill Road Improvements and Basin No. 2; and for any other purpose permitted by Applicable Law. Assessments established by the Board of the Association will be levied against each Lot except for the Exempt Property in accordance with **Section 6(d)** herein, and in amounts determined by the Board pursuant to **Section 6(b)** and/or **Section 6(c)** herein.

The Assessments include, but are not limited to, the Annual Assessments and Special Assessments and the following:

(i) The costs incurred by the Association in providing the Yard Maintenance Services for the Service Area Lots in accordance with **Section 6(d)(5)** herein ("Yard Maintenance Assessment");

(ii) A portion of the costs of improvement and maintenance of the Pond Hill Road Improvements by PH COA allocated to the Properties as provided in **Section 6(d)(3)** herein ("Pond Hill Road Assessment"); and

(iii) A portion of the costs of improvement and maintenance of Basin No. 2 by PH COA allocated to the Properties as provided in **Section 6(d)(4)** herein ("Basin No. 2 Assessment").

(2) Each Assessment together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot against which the Assessment is levied and will be secured by a continuing vendor's lien on each Lot, which lien is reserved by Declarant and assigned to the Association. The Association may enforce payment of such Assessments in accordance with this Declaration. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Association to secure payment of the Assessments.

(3) Declarant may, but is not obligated, to reduce Assessments which would otherwise be levied against Lots for any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by the Declarant may be treated as a contribution or a loan, in the Declarant's sole and absolute discretion. Any subsidy and the characterization thereof will be disclosed as a line item in the annual budget prepared by the Board and attributable to such Assessments. The payment of a subsidy in any given year will not obligate the Declarant to continue payment of a subsidy to the Association in future years.

(4) The Board will establish one or more maintenance funds into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

(b) **Annual Assessment.** Prior to the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Declaration, including, but not limited to, the following expenses: management, repair and maintenance of the Common Areas; the Yard Maintenance Assessment; the Pond Hill Road Assessment; the Basin No. 2 Assessment; all other assessments by any other owner's association to the Association as provided in **Section 5(c)** herein; street and other lighting; administering the affairs of the Association; and enforcing the covenants and restrictions contained in this Declaration.

In addition, the Board will estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Annual Assessments in the same manner. All such regular Annual Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal installments, or in such other manner as the Board may designate in its sole and absolute discretion. Except as otherwise set forth in **Subsection (d)** below with respect to the Pond Hill Road Assessment, Basin No. 2 Assessment and the Yard Maintenance Assessment, at the Board's sole and absolute discretion, the maximum regular Annual Assessments permitted hereunder may be increased by no more than ten percent (10%) per year (which may be cumulative – i.e., 10% for each year), unless approved by at least fifty percent (50%) of the Members who are voting in person or by proxy at a meeting duly called for such purpose in accordance with the Bylaws.

(c) **Special Assessments**. In addition to the regular Annual Assessments provided for herein, the Board may levy Special Assessments against the Lots (except for the Exempt Property) to enable the Board to carry out the mandatory functions of the Association under this Declaration, the construction, repair, replacement or improvement of the Common Areas and any capital improvement and/or thereon, including any special assessment by the PH COA for the Pond Hill Road Improvements and/or Basin No. 2, or by any other owners association for such improvements assessed to the Association as provided in **Section 5(c)** herein, or for any other purpose requiring funds exceeding those available from the Annual Assessments. The amount of any Special Assessments will be at the reasonable discretion of the Board. Except as otherwise set forth in **Subsection (d)** below with respect to the Pond Hill Road Assessment, Basin No. 2 Assessment and the Yard Maintenance Assessment, all Special Assessments levied hereunder shall require the approval of at least fifty percent (50%) of the Members at a meeting called for that purpose by written notice provided to each Member in accordance with the Bylaws of the Association.

(d) **Amount of Assessment.**

(1) Assessments levied pursuant to **Section 6(b)** and **Section 6(c)** will be levied uniformly against the Lots, except for the Exempt Property specified in **Subsection (j)** herein, and as expressly set forth in this **Subsection (d)**.

(2) Notwithstanding anything herein contained to the contrary, except for the Exempt Property specified in **Subsection (j)** herein, all Unimproved Lots (as herein defined) shall be assessed at the rate of twenty-five percent (25%) of the rate established for the Annual Assessments and Special Assessments hereunder from time to time, except as follows:

- Unimproved Lots shall **not** be assessed the Yard Maintenance Assessment for Yard Maintenance Services.

- All Lots, including the Unimproved Lots, shall be subject to and assessed at the rate of one hundred percent (100%) of the rate established for the Pond Hill Road Assessment and the Basin No. 2 Assessment.

For purposes hereof, "Unimproved Lot" means those portions of the Subdivision on which construction of a Living Unit has not been completed (and occupied for residential purposes, if the Owner of the Lot is Declarant or a Builder). From and after the date of completion of construction of a Living Unit on a Lot (and occupation of such Living Unit for residential purposes if the Owner of such Lot is Declarant or a Builder), the Lot shall be assessed at the full rate established for the Annual and Special Assessments hereunder. Any approval required of Owners pursuant to **Sections 6(b)** and **6(c)** herein with respect to the Assessments shall mean only those Owners of Property subject to the full rate for Assessments, and shall not include any Owners of Unimproved Lots.

(3) The Pond Hill Road Improvements are maintained by the PH COA for the benefit of the owners of the properties subject to the Pond Hill Commercial Declaration and this Declaration. In consideration of such services, the Association shall assess the Owners and Properties covered by this Declaration and pay to PH COA (or other owners association or other entity performing maintenance of the Pond Hill Road Improvements) the Pond Hill Road Assessment, in the annual amount equal to the product of $400.00 per Lot (except for Unimproved Lots which shall be assessed at the annual rate of $100.00 per Unimproved Lot). The Pond Hill Road Assessment shall be assessed quarterly and each such quarterly assessment shall be in the initial amount of $100.00 for each improved Lot, and $25.00 for each Unimproved Lot. Each Owner of a Lot by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association for payment to the PH COA, the Pond Hill Road Assessment for expenses incurred by the Ph COA in connection with the maintenance of the Pond Hill Road Improvements. The Pond Hill Road Assessment, together with interest thereon and costs of collection thereof shall be a charge on the Lots and shall be a continuing lien upon the Lots as provided for other Assessments in accordance with this Declaration. The Pond Hill Road Assessment together with interest thereon and cost of collection thereof as provided for other Assessments in accordance with the Declaration, shall also be the personal obligation of the person who was the Owner of such Lot at the time the obligation accrued. The lien securing the Pond Hill Road Assessment will have the same priority and be subject to the same terms and conditions regarding foreclosure as the lien securing other Assessments as set forth in this Declaration. The Pond Hill Road Assessment shall be fixed and assessed against the Lots and collected by the Association and paid to the PH COA, and the Association and the Owners of the Lots within the Subdivision will have all of the rights, powers, duties, and obligations with respect thereto as set forth in this Declaration for Annual Assessments and Special Assessments, except as follows:

(A) The Pond Hill Road Assessment shall be collected by the Association and paid to PH COA solely for the maintenance of the Pond Hill Road Improvements.

(B) The Pond Hill Road Assessment may be reduced at any time or from time to time by the Board of the PH COA in accordance with the terms of the Pond Hill Commercial Declaration, but will not be increased from the rate set forth in this **Section 6(d)(3)** without the approval of at least fifty percent (50%) of the Members at a meeting called for that purpose by written notice provided to each Member in accordance with the Bylaws of the Association.

(4) Basin No. 2 is maintained by the PH COA for the benefit of the owners of the properties served by Basin No. 2 subject to the Pond Hill Commercial Declaration and this Declaration. In consideration of such services, the Association shall assess the Owners and Properties covered by this Declaration and pay to the PH COA (or such owners association or other entity performing maintenance of Basin No. 2) the Basin No. 2 Assessment, in the amount equal to 54.60% of the total maintenance and other costs for Basin No. 2. Each Owner of a Lot by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to

the Association for payment to the PH COA, the Basin No. 2 Assessment for expenses incurred by the PH COA in connection with the maintenance of Basin No. 2. The Basin No. 2 Assessment, together with interest thereon and costs of collection thereof shall be a charge on the Lots and shall be a continuing lien upon the Lots as provided for other Assessments in accordance with this Declaration. The Basin No. 2 Assessment together with interest thereon and cost of collection thereof as provided for other Assessments in accordance with the Declaration, shall also be the personal obligation of the person who was the Owner of such Lot at the time the obligation accrued. The lien securing the Basin No. 2 Assessment will have the same priority and be subject to the same terms and conditions regarding foreclosure as the lien securing other Assessments as set forth in this Declaration. The Basin No. 2 Assessment shall be fixed and assessed against the Lots and collected by the Association and paid to the PH COA, and the Association and the Owners of the Lots within the Subdivision will have all of the rights, powers, duties, and obligations with respect thereto as set forth in this Declaration for Annual Assessments and Special Assessments, except as follows:

(A) The Basin No. 2 Assessment shall be collected by the Association and paid to PH COA solely for the maintenance of Basin No. 2 .

(B) The Basin No. 2 Assessment is set by the PH COA and is subject to adjustment from time to time by the PH COA in accordance with the terms of the Pond Hill Commercial Declaration, without the consent or approval of the Association or any Owner of the Lots hereunder; provided, however, that the percentage of the total Basin No. 2 Assessment allocated and assessed to the Association and the Owners and the Lots hereunder will not be increased from the percentage set forth in this **Section 6(d)(4)** without the approval of at least fifty percent (50%) of the Members at a meeting called for that purpose by written notice provided to each Member in accordance with the Bylaws of the Association.

(5) Each Owner of any Service Area Lot by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association, the Yard Maintenance Assessment for expenses incurred by the Association in connection with the provision of the Yard Maintenance Services. The Yard Maintenance Assessment, together with interest thereon and costs of collection thereof shall be a charge on the Lots and shall be a continuing lien upon the Lots against which each Yard Maintenance Assessment is made as provided for other Assessments in accordance with this Declaration. The Yard Maintenance Assessment together with interest thereon and cost of collection thereof as provided for other Assessments in accordance with the Declaration, shall also be the personal obligation of the person who was the Owner of such Lot at the time the obligation accrued. Yard Maintenance Assessment shall be assessed quarterly and such quarterly assessments shall be in the initial amount of $450.00 for each Service Area Lot. The lien securing the Yard Maintenance Assessment will have the same priority and be subject to the same terms and conditions regarding foreclosure as the lien securing other Assessments as set forth in this Declaration. The Yard Maintenance Assessment shall be fixed and assessed against the Service Area Lots only within the Subdivision, and collected by the Association, and the Association and the Owners of the Service Area Lots within the Subdivision will have all of the rights, powers, duties, and obligations with respect thereto, as set forth in this Declaration for Annual Assessments and Special Assessments, except as follows:

(A) The Yard Maintenance Assessment shall be used solely for the Yard Maintenance Services described in **Exhibit C-1** hereto, and shall be assessed only against the Service Area Lots.

(B) The Yard Maintenance Assessment may be adjusted once per any twelve (12) month period by majority vote of the Board of the Association, but shall not be increased by more than ten percent (10%) above that of the previous twelve (12) month period without the approval of at least fifty percent (50%) of the Service Area Lot Members at a meeting called for that purpose by written notice provided to each Service Area Lot Member in accordance with the Bylaws of the Association.

(e) **Late Charges**. If any Assessment, whether Annual or Special, is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's

election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

(f) **Owner's Personal Obligation for Payment of Assessments**. To the fullest extent permitted by Applicable Law, Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot against which such Assessments are levied. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date therefore (or if there is no such highest rate, then at the rate of 1½% per month), together with all costs and expenses of collection, including reasonable attorneys' fees, court and other costs.

(g) **Assessment Lien and Foreclosure.** The payment of all sums assessed in the manner provided in this **Section 6** is, together with late charges as provided in **Section 6(e)** and interest as provided in **Section 6(f)** herein and all costs of collection, including attorney's fees, court and other costs as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to **Section 6(a)(2)** above, and will bind each Lot in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot, except only for tax liens and all sums secured by a lien granted by the Owner against the Lot not prohibited by the Texas Constitution and other Applicable Law, provided such Mortgage was recorded in the Real Property Records of Bexar County, Texas, before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice may be signed by one of the officers of the Association and will be recorded in the Real Property Records of Bexar County, Texas.

Each Owner, by accepting a deed or ownership interest to a Lot subject to this Declaration will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. Foreclosure of the Association's Assessment lien, and all prerequisite procedures, must comply with at least the minimum requirements of Applicable Law for foreclosures in general, and for foreclosures by property owners associations, in particular. To the extent permitted by Applicable Law, the Assessment lien may be foreclosed by judicial or nonjudicial methods. A nonjudicial foreclosure sale must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted or not prohibited by Applicable Law, and must comply with any prerequisites required by Applicable Law. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to any limitations of Applicable Law. The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies that the Association may have by Applicable Law and under this Declaration, including the right to institute suit against such Owner if and to the fullest extent permitted by Applicable Law. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any portion of any Lot; except, however, that in the event of foreclosure of any first-lien Mortgage securing indebtedness incurred to acquire such Lot, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent

Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this **Section**, the Association will upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an officer of the Association. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot will not relieve the Owner of such Lot or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot and on the date of such conveyance Assessments against the Lot remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot, and such sums will be paid in preference to any other charges against the Lot other than a first lien Mortgage or assessment liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot which are due and unpaid. To the fullest extent permitted by Applicable Law, the Owner conveying such Lot will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot to a third party; provided, however, that no administrative fee will be due upon the transfer of a lot from Declarant to a third party.

(h) **Fines and Damages Assessment**. The Board may assess fines against an Owner for violations of any Covenants set forth in this Declaration or any other violation of the Governing Documents, which have been committed by an Owner, an Occupant of the Owner's Lot, or the Owner or Occupant's family, guests, employees, contractors, agents or invitees, as permitted by Applicable Law. Any fine and/or charge for damage levied in accordance with this **Section** will be considered an Assessment pursuant to this Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of any Common Area or any facilities owned or maintained by the Association. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest as provided in **Section 6(f)** herein and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to **Section 6(a)(2)** of this Declaration. Unless otherwise provided in this **Section**, the fine and/or damage charge will be considered an Assessment for the purpose of this **Section 6**, and will be enforced in accordance with the terms and provisions governing the enforcement of Assessments pursuant to this **Section 6**.

(i) **Working Capital Assessment**. In addition to the other Assessments provided herein, at closing of the conveyance of each Lot by Declarant or any Builder to an Owner other than Declarant or a Builder, or any affiliate of Declarant, the Owner shall pay to the Association a fee in the amount of $500.00 per Lot ("Working Capital Assessment") to be applied by the Association from time to time and in its discretion for any working capital requirements of the Association. The Working Capital Assessment shall not constitute any advance payment of any other Assessments payable hereunder or a measure of damages in case of default by an Owner and shall be non-refundable to Owner in all events. Declarant is not required to pay the Working Capital Assessment for any Lot owned by Declarant or any affiliate of Declarant, or with respect to any Lot for which the Working Capital Assessment was not paid by an Owner at closing of the conveyance of the Lot. The payment of the Working Capital Assessment is, together with interest as provided in **Section 6(f)** herein and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to **Section 6(f)(2)** of this Declaration. The Working Capital Assessment will be considered an Assessment for purposes of this **Section 6**, and will be enforced in accordance with the terms and provisions governing the enforcement of Assessments pursuant to this **Section 6**.

(j) **Exempt Property**. The following Property will be exempt from the Assessments, charges and liens created herein (collectively, the "Exempt Property"):

(1) All area dedicated and accepted by Governmental Authority, by recordation of an appropriate document in the Real Property Records of Bexar County, Texas;

(2) The Common Areas;

(3) Portions of the Subdivision designated for common use, greenbelts, common areas, recreation facilities, or otherwise designated as non-developable property by the Association and/or portions of the Property owned by the Association; and

(4) Any portion of the Subdivision owned by Declarant.

The Owners of the Exempt Property will not be liable for Assessments, charges or liens which would otherwise be attributable to such property.

7. **COMMON AREAS, STREETS, SECURITY AND OTHER MATTERS.**

(a) **Mortgage and Conveyance of Common Areas**. After the Declarant Control Period, Common Areas owned by the Association shall not be mortgaged or conveyed by the Association without the prior approval of fifty percent (50%) of the Owners. If ingress or egress to any Lot is through the Common Areas, any mortgage or conveyance of the Common Areas by the Association shall be subject to an easement of ingress and egress for the Owner of such Lot(s). Ownership of all or any portion of the Common Areas will be transferred to the Association, free of encumbrance other than as provided herein, at a time deemed appropriate by the Declarant. Nothing herein shall be construed as requiring Declarant to construct improvements upon the Common Areas.

(b) **Appearance of the Common Areas**. Areas of the Development are intended to retain a "natural" appearance, as compared to a "manicured" appearance. Accordingly, Common Areas may be seeded with vegetation which is indigenous to South and Central Texas, and are to be maintained in accordance with the natural cycle of such indigenous vegetation.

(c) **Members' Easements of Enjoyment**. In consideration for payment of Assessments, every Member shall have a common right and easement of enjoyment in and to the Common Areas and such right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the terms and conditions set forth herein and in the other Governing Documents.

(d) **Extent of Members' Easements**. The rights and easements of enjoyment created hereby shall be subject to the following:

(1) The rights and easements existing or hereafter created in favor of others as provided for in the Subdivision Plat and/or in this Declaration.

(2) The rights of the Association to do the following:

(i) Borrow money for the purpose of constructing or improving the Common Areas and, in aid thereof, to mortgage said Common Areas and facilities, in accordance with the Governing Documents;

(ii) Take such steps as are reasonably necessary to protect the Common Areas against foreclosure;

(iii) Enter into one or more contracts or agreements for the maintenance or improvement of the Common Areas;

(iv) Charge reasonable admission and other fees for the use of recreational facilities situated on the Common Areas, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;

(v) Suspend an Owner's rights under the Governing Documents;

(vi) Grant Easements approved by the Board over the Common Areas for utility, drainage, or other purposes; and

(vii) Dedicate or convey any of the Common Areas for public purposes, on approval by a vote of a majority of the aggregate votes of Members at a meeting in accordance with the Bylaws.

(3) An Owner's right to use and enjoy the Common Areas extends to the Owner's family, guests, agents, and invitees, subject to the Governing Documents.

(4) An Owner may not erect or alter any Improvements on, or clear, landscape, or disturb, any Common Areas except as approved by the Board.

(e) **Streets**. Streets within the Subdivision shall be private and shall be owned and maintained by the Association. Declarant and/or its contractor warrants the construction of the streets for a period of one (1) year from completion of the street as verified by the project engineer engaged by Declarant. Maintenance beyond the one (1) year warranty period is the responsibility of the Association. Each prospective Lot Owner should carefully note the width of the paved portion of the streets, the proximity of trees to the pavement, and the location of trees within various esplanades. In purchasing a Lot, the Owner specifically assumes the risk for himself, his family, employees, guests, contractors and all other invitees of driving in narrow streets bordered closely by trees and agrees to do so in a safe manner. Each prospective Lot Owner also is notified that the drainage ditches, culverts and other drainage facilities within the Subdivision are owned by the Association. Each prospective Lot Owner should carefully note the location of the facilities and avoid unsafe conduct in those areas.

The Board of Directors may make reasonable rules and regulations governing access to the Subdivision and the use of Subdivision streets, including parking, and may proscribe such penalties, as it determines reasonable and necessary to promote safety within the Subdivision. In the event an Owner or Occupant or Owner's or Occupant's family member or guest repeatedly violates such rules or fails to operate a motorized vehicle at or below the posted maximum rate of speed and in a safe, reasonable and prudent manner on the private streets within the Subdivision, such person may be subject to such penalties, including, but not limited to fines and/or the temporary suspension of such person's right to traverse the private streets within the Subdivision via motorized vehicle for a period not to exceed thirty (30) days.

The Board may make such other and further rules regarding notification of safety infractions, proof of safety infractions and/or enforcement of the penalties as may be reasonably necessary to give effect to this **Section**. In the event speed and traffic control in the Subdivision are assumed by the City or by some other public agency having the authority to issue penalties for infractions thereof, the penalties prescribed herein may not be imposed in addition to the penalties imposed by said public entity.

(f) **Entry Gate**. Vehicular access to the Subdivision will be provided through a controlled entry gate to be maintained by the Association. Absent Declarant's written consent to the contrary, the Subdivision entry gate, when constructed, shall be kept open to the public during daylight hours (or from 6:30 a.m. to 7:00 p.m., whichever is longer) until six (6) months following the closing and funding of the sale of the last Lot (improved with a residence) owned by Declarant and the Builders within the Subdivision. This right of entry is to permit access to Lots by prospective new home purchasers and builders to complete construction of homes.

(g) **Security**. The Association is not a provider of any security, and Owners must provide their own security for their home, improvements, and personal property within the Subdivision.

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, COMMITTEE MEMBERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE SUBDIVISION. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, COMMITTEE MEMBERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, COMMITTEE MEMBERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, COMMITTEE MEMBERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT, LIVING UNIT OR IMPROVEMENT ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LIVING UNITS AND IMPROVEMENTS AND TO THE CONTENTS OF LIVING UNITS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, COMMITTEE MEMBERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE SUBDIVISION.

(h) **View Impairment**. Neither Declarant nor the Association guarantee or represent that any view over and across the Lots, Common Areas, or other space within the Subdivision will be preserved without impairment. Neither Declarant, the Association, nor the ARC shall have any obligation to relocate, prune, or thin trees or shrubs on the Common Areas. Declarant and/or the Association shall have the right to add trees and other landscaping to the Common Areas. There shall be no express or implied easements for view purposes or for the passage of light and air.

(i) **Video, Data and Communication Service Agreements**. Subject to the approval of Declarant during the Declarant Control Period, the Association has or may hereafter enter into an agreement with a service provider for the provision of cable television and/or other communication services in order to obtain access to benefits and services for the benefit of Owners and Living Units located in the Subdivision. Payment for services and benefits provided pursuant to video, data and/or communication service agreements executed pursuant to this provision will be made from Assessments levied and collected by the Association pursuant to the authority granted in **Section 7** herein, and such Assessments shall be supported by the Assessment lien created herein. While Owners are free to obtain the same or similar services from a provider of their choice, no Owner may avoid paying any portion of Assessments levied based on non-use of video, data or communication services provided and paid for by the Association with Assessments.

(j) **Transfer of Title; Resale Certificate.**

(i) Transfer of Title: Any Owner, other than Declarant, desiring to sell or otherwise transfer title to a Lot shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The person, other than Declarant, transferring title shall continue to be jointly and severally responsible with the person accepting title for all obligations of the Owner, including

Assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

Upon acceptance of title to a Lot, the new Owner of the Lot shall pay to the Association an administrative transfer fee to cover the administrative expenses associated with updating the Association's records, which transfer fee is supported by the Assessment lien created herein. Such fees shall be in such amount as the Board may reasonably determine necessary to cover its costs, including but not limited to, fees charged by a management company retained by the Association for updating its records.

(ii) Resale Certificate: No Owner, other than Declarant, shall transfer title to a Lot, together with the improvements thereon, unless and until such Owner has requested and obtained a resale certificate signed by a representative of the Association as prescribed in Chapter 207 of the Texas Property Code, or its successor statute ("Resale Certificate") indicating, in addition to all other matters prescribed in Chapter 207, the information required in Section 5.012 of the Texas Property Code. The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Resale Certificate and accompanying information and any update to a Resale Certificate, which charge is supported by the Assessment lien created herein.

8. **GOVERNMENTAL REQUIREMENTS.**

(a) **Compliance.** All Improvements located, erected, constructed and installed upon any Lots and all activities of the Owners, their tenants, invitees, agents, employees and contractors on or about the Subdivision, shall conform to and comply with all Applicable Laws, including, without limitation, all building code, subdivision and zoning requirements of the City.

(b) **Precedence Over Less Stringent Applicable Laws.** If the covenants, conditions and restrictions set forth in this Declaration set or establish minimum standards or limitations or restrictions on use in excess of any Applicable Laws, the covenants, conditions and restrictions set forth in this Declaration shall take precedence and prevail over any less stringent Applicable Laws. Similarly, when any Applicable Laws are more stringent than those set forth in this Declaration, the more stringent Applicable Laws shall control.

(c) **Remedies of the Declarant, the Association and the ARC.** By acceptance of a deed to a Lot, each Owner agrees that Declarant, the Association and the ARC shall each have the right to enter upon any Lot on which one or more conditions or activities prohibited by Governmental Authority is maintained, or on which there has been a failure to perform any act required by Governmental Authority, for the purpose of curing any such violation, provided that the Owner has been given five (5) days prior written notice and has failed to remedy the violation within such time. **EACH OWNER INDEMNIFIES AND HOLDS HARMLESS DECLARANT, THE ASSOCIATION AND THE ARC FROM ALL COST AND EXPENSE OF ANY SUCH CURATIVE ACTION AND ANY COST OR EXPENSE OR PENALTIES OR FINES LEVIED BY ANY GOVERNMENTAL AUTHORITY AS A RESULT OF THE ACT OR FAILURE TO ACT OF THE OWNER WITH RESPECT TO ITS LOT(S) OR THE SUBDIVISION. THE FOREGOING REMEDY SHALL BE CUMULATIVE OF ALL OTHER REMEDIES FOR VIOLATIONS OF PROVISIONS OF THIS DECLARATION.**

(d) **Additional Obligations.** By acceptance of a deed to a Lot, or by initiating construction of Improvements to a Lot, each Owner assumes responsibility for complying with all certifications, permitting, reporting, construction, and procedures required under all Applicable Laws, including, but not limited to those promulgated or issued by the Environmental Protection Agency and related to Storm Water Discharges from Construction Sites (see Federal Register, Volume 57, No. 175, Pages 41176 et seq.), and with the responsibility of ascertaining and complying with all regulations, rules, rulings, and determinations of the Texas Commission on Environmental Quality (TCEQ), related to each Lot, including, without limitation, the provisions of Chapters 325 and 331, Texas Administrative Code, and any specific rulings made pursuant to the terms thereof. Each Owner is further advised that the Subdivision and Lots lie within the Edwards Aquifer Recharge Zone and as such are subject to the rules and regulations of agencies of the State of Texas, including TCEQ, in addition to the ordinances of the City

and statutes, or regulations affecting the Subdivision enacted by other Governmental Authority. Owners are advised that such requirements and prohibitions may relate to the types of pesticides and fertilizers which may be used, minimum topsoil requirements, inspection of sewer laterals prior to covering, and criteria standards for sewer pipe, among other matters. Each Owner is responsible for ascertaining all such requirements and prohibitions with respect to its Lot, and by acceptance of a deed to a Lot, agrees to abide by same. No statement herein, nor action by Declarant, the ARC, or the Association shall act to relieve an Owner from such duty or compliance. The foregoing references are made for the benefit of Owner and do not in any way limit the terms and requirements of this covenant and the requirement that all Owners and contractors comply with all Applicable Laws, and any plan required by such Applicable Laws, such as a Water Pollution Abatement Plan ("WPAP") or a Storm Water Pollution Plan ("SWPP"), affecting each Lot and construction site with which they are associated, including delivery to Declarant of a certification of understanding relating to any applicable TPDES permit prior to the start of construction. **EACH OWNER, BY ACCEPTANCE OF A DEED TO A LOT AND EACH BUILDER AND CONTRACTOR, BY UNDERTAKING THE MAKING OF IMPROVEMENTS TO A LOT, AGREES TO HOLD HARMLESS, DEFEND AND INDEMNIFY DECLARANT FROM AND AGAINST ALL COST (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT AND OTHER COSTS), LOSS, LIABILITIES, FINES, PENALTIES OR DAMAGE OCCASIONED BY THE FAILURE TO ABIDE BY ANY APPLICABLE LAWS RELATED TO THE LOT AND/OR THE SUBDIVISION.**

(e) **Military Influence Area**. The Subdivision is within the Camp Bullis Military Influence Area ("MIA") and the Camp Bullis Military Influence Overlay District ("MIOD"), and is subject to the restrictions and other requirements for such areas adopted by the City of San Antonio as may be amended from time to time (collectively, the "MIA Requirements"). Buyer and its contractors are responsible for ascertaining and complying with all applicable laws affecting the Lots, including the MIA Requirements.

9. **EASEMENTS**.

(a) **Subdivision Plat**. The Subdivision Plat creates for use as such, certain private streets and Easements shown thereon, and further establishes certain dedications, limitations, reservations and restrictions applicable to the Subdivision. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and all matters of record in the Real Property Records of Bexar County, Texas affecting the Subdivision are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant, conveying said property or any part thereof.

(b) **Reserved Easements**. All dedications, limitations, restrictions and reservations shown on any plat covering all or any portion of the Subdivision, and all grants and dedications of Easements, rights-of-way, restrictions, and related rights made by Declarant prior to the Subdivision becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Subdivision. Further, Declarant hereby creates, declares, grants and reserves for the benefit of Declarant, the Association, applicable Governmental Authority, and all Owners and any public or private providers of utility services to the Subdivision and their respective successors and assigns, a nonexclusive Easement for utility purposes over, under, within and upon other easement areas shown on the plats of the Subdivision or in instruments recorded in the Real Property Records of Bexar County, Texas, as amended, from time to time, for the purposes of constructing, installing, inspecting, maintaining, repairing and replacing from time to time any and all utility lines, systems and facilities from time to time deemed necessary or appropriate by Declarant for development of the Subdivision. Further, Declarant reserves the right, and all Owners agree to cooperate, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone, fiber optics, sanitary, sewer and drainage), across any Lot or on any portion of the Subdivision as is necessary or efficient to supply all utilities to all Lots.

(c) **Sidewalk Easements**. Each Owner shall, upon acceptance of a deed for a Lot, be deemed to have granted an Easement of use to the public as to any sidewalk then or thereafter constructed on the

front and/or side yard of such Lot adjacent to the curb of any street, and shall execute any instruments necessary to evidence the grant of such Easement.

(d) **Drainage Easements**. Easements for drainage throughout the Subdivision are identified and reserved as shown on the Subdivision Plat (collectively, the "Drainage Easements"). No Owner of any Lot in the Subdivision may perform or cause to be performed any act which would alter or change the course of such Drainage Easements in a manner that would divert, increase, accelerate or impede the flow of water over and across the Drainage Easements. More specifically, and without limitation, no Owner may:

(1) Alter, change or modify the existing natural vegetation or design of the Drainage Easements in a manner that changes the character of the design or original environment of such Drainage Easements;

(2) Alter, change or modify the existing configuration of the Drainage Easements, or fill, excavate or terrace such easements or remove trees or other vegetation therefrom without the prior written approval of the ARC;

(3) Construct, erect or install a fence or other structure of any type or nature within or upon such Drainage Easement; provided, however, that fences may be permitted in the event the proper openings are incorporated therein to accommodate the flow of water over said easement as determined by a qualified engineer and the appropriate Governmental Authority authorizes the construction;

(4) Permit storage, either temporary or permanent, of any type upon or within such Drainage Easements; or

(5) Place, store or permit to accumulate trash, garbage, leaves, limbs or other debris within or upon the drainage easements, either on a temporary or permanent basis.

On any Lot adjoining a greenbelt and/or Drainage Easement, the Owner, builder, contractor and all subcontractors shall be responsible for keeping all drainage areas and Drainage Easements free of construction materials, debris, equipment or other material which might impair the drainage or flow of water within such areas, including the construction and maintenance of outlets within any perimeter fence abutting a Drainage Easement. Any landscaping or vegetation (including trees and grass) within such areas altered or damaged during the construction process shall be replaced by the Lot Owner at such Owner's expense to the satisfaction of the ARC, Association or Declarant. All vegetation within the greenbelt and/or Drainage Easement will be maintained in its natural state and at no time will the taking of trees be allowed, unless it is determined by the Declarant and/or Association that it is in the best interest of safety or when constructing or improving the areas for the benefit of the Subdivision. The Association will be allowed to contract for the basic maintenance and clearing of greenbelts and Drainage Easements as needed and shall have an easement upon and across all adjacent Lots to perform such services.

A Grading Plan has been prepared for the Subdivision and is maintained by Declarant at its offices. A copy of the Grading Plan is attached hereto as **Exhibit G**. By acceptance of a deed to any Lot, each Owner covenants and agrees to ensure that its Lot is graded and maintained in accordance with such Grading Plan and that the drainage of such Lot is maintained in accordance with such Grading Plan upon construction of any Improvements on the Lot. Each Owner shall maintain safe and adequate drainage within and across his Lot and no Owner shall construct or maintain any Improvements or permit any condition which diverts, impedes, backs up, or otherwise prevents or impedes the drainage and flow of surface water on, over or across such Lot.

The failure of any Owner to comply with the provisions of this **Section** shall in no event be deemed or construed to impose liability of any nature on the Association, ARC and/or Declarant, and neither the Association, ARC nor Declarant shall be charged with any affirmative duty to police, control or enforce such provisions. The Drainage Easements provided for in this Declaration shall in no way affect any other recorded Easement in the Subdivision.

Notwithstanding anything herein to the contrary, the creation and/or maintenance of any Drainage Easements within the Subdivision shall not be deemed to constitute nor be construed as a representation or any assurance by Declarant, the Association, the ARC, or any Owner that stormwater and other drainage shall be collected and detained wholly within such Drainage Easements. Each Owner is advised of the potential for such stormwater or other drainage collection outside of the limits of the Drainage Easements.

(e) **Utility Easements**. Easements for installation and maintenance of utilities, cable television, and other utility facilities to service the Subdivision and certain adjoining land have been or will be reserved as shown on the Subdivision Plat and/or as provided by instruments of record or to be recorded. The surface of Easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers, unless otherwise specifically prohibited by the plat or any other recorded easement or the utility provider; provided, however, that no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities. The Easement area of each Lot, if any, and all improvements in such Easement area shall be maintained continuously by the Owner of the Lot, except for those improvements for which Governmental Authority or any utility or private company is responsible. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements. Owners do not own any utility facilities located in an Easement. Neither Declarant, the Association, the ARC, nor any utility company using the utility Easements shall be liable for any damage done by them or their assigns, agents, employees, or servants to shrubbery, grass, streets, flowers, trees, landscape or other property of the Owners situated on the land covered by said Easements, except as may be required by Applicable Laws or by custom and practice of such utility company.

(f) **Fence, Wall, Landscape, Maintenance and Access Easements**. Declarant hereby reserves unto itself, the Association, and their respective assigns, a ten foot wide (10') wall, fence, and landscaping Easement on the rear property line of Lots 2204-2208, 2211-2227 and 2229-2245, Block 26, and on the side property line of Lots 2204 (adjacent to Bedingfeld Road) and 2208 (adjacent to Lot 2019, Block 26), Block 26. Within said Easement, Declarant, the Association, and their respective assigns in writing, shall have the right, but not the obligation to construct a fence, and to install and maintain such landscaping and plants as they may determine, and shall have the right to erect, install and maintain such project features and signage as they may determine. The Easement owners shall also have a general right of access upon such Lots for the purpose of such initial construction and thereafter to exercise the other powers reserved unto them under the Easements hereby established. Any fence constructed by Declarant pursuant to the rights herein retained shall be the property of the Association following completion of construction, and the Association shall thereafter maintain said fence at all times and shall ensure that the exterior thereof is kept clean and free of all defacing, blemishes, mars, and markings thereon. In the event the Association shall ever fail to promptly make any needed repair, maintenance or cleaning to the fence, or shall fail to properly and neatly maintain the vegetation and landscaping between the fence and right of way, Declarant, its successors and assigns, shall have the right of entry onto said Lots and right to perform such functions at the expense of the Association.

(g) **Zero Lot Line Easements**. The following Easements are reserved and established on each Lot within the Subdivision to accommodate the development of zero lot line Lots:

(i) An eight inch (8") wide masonry wall and lug Easement is hereby reserved and established on each side of each Lot line.

(ii) A five foot (5') zero lot line Easement is hereby reserved and established along each side of each Lot for the purpose of construction, maintenance and/or repair of residences built on or near the zero lot line of such Lot, and for drainage and the acceptance of storm water flow from the roof overhang or otherwise from the adjoining Lot.

(iii) All Lots adjacent to Lots with improvements (including the garage) situated on or within one foot (1') of a zero lot line (the 1' being an allowance of errors in the actual placement of improvements on the Lots) shall be subject to a five foot (5') access Easement for the construction, repair

and maintenance of improvements located upon any adjacent Lot where such improvements are located on or near the zero lot line of such adjacent Lot.

(h) **Yard Maintenance Easements.** Declarant hereby reserves unto itself, the Association, and their respective contractors and assigns, an Easement on, over, across and under the yard areas of each Service Area Lot for the purposes of performing the Yard Maintenance Services.

(i) **Certain Other Easements**. There is hereby created in favor of the Easement owners, Declarant, the Association, the ARC, and their respective successors and assigns, a right of ingress or egress across, over, and under the Subdivision and Lots for the purpose of installing, replacing, repairing, and maintaining all facilities for utilities, including, but not limited to, water, sewer, telephone, electricity, gas, and appurtenances thereto, and to construct, reconstruct, repair, correct, replace, or maintain the Common Areas and the improvements thereon, including any wall, fixture, light, or other structure or item required to be constructed or maintained under the terms hereof or to correct or remove any condition prohibited to be maintained under the terms hereof.

(j) **Maintenance of Easements**. By acceptance of a deed to any one or more Lots, the Owner thereof covenants and agrees to keep and maintain, in a neat and clean condition, any Easement which may traverse any portion of said Lot or Lots, including, without limitation, removing weeds, mowing grass and trimming shrubbery and trees, if any, within such Easement area.

(k) **Damages**. Neither the Declarant, nor the Association, nor the ARC, nor any member of any of them, shall be liable for any damages done by any utility company or their assigns, agents, employees or servants, using any Easements now or hereafter in existence, whether located on, in, under or through the Subdivision, to persons or to property, including, without limitation, fences, shrubbery, trees or flowers or other property now or hereinafter situated on, in, under, or through the Subdivision. No provision hereof related to placement or the nature of structures or conditions on a Lot, nor the approval thereof, express or implied, by the Declarant, the Association or the ARC shall affect the rights of Easement owners nor enlarge the rights of Owners with regard to the construction or maintenance of Improvements or conditions within the Easement area.

10. **ENFORCEMENT**.

(a) **Authority to Promulgate Rules and Regulations**. The Board has the authority to promulgate, make, modify, amend, cancel, limit, create exceptions to, and enforce reasonable rules and regulations concerning enforcement of the covenants and restrictions contained in this Declaration, any supplemental amendment and/or amendments concerning the use and enjoyment of the Subdivision, including without limitation, rules limiting the use of the Common Areas, establishing and setting the amount of fines for violations of this Declaration, and all fees and costs generated in the enforcement of this Declaration. Such rules shall be binding upon all Owners, and Occupants, if any. The rights and remedies contained in this **Section 11** are cumulative and supplement all other rights of enforcement under Applicable Law.

(b) **Enforcement**. The Association, Declarant, and each Owner shall have the right, but not the obligation, to enforce all provisions imposed by this Declaration and the Governing Documents. Failure to enforce any covenant or restriction shall not be deemed a waiver of the right. The reservation of the right of enforcement shall not create an obligation of any kind to enforce same.

(c) **Attorney's Fees and Fines.** In addition to all other remedies that may be available, after giving notice and an opportunity to be heard as may be required by §209 of the Texas Property Code, as same may be amended, the Association has the right to collect attorney's fees and/or fines as set by the Board from any Owner that is in violation of this Declaration and/or any Governing Documents, including any applicable supplemental amendment or amendments, any ADGs, or any other rule or regulation promulgated by the Association. Said attorneys' fees and fines shall be added to the violating Owner's assessment account and shall be secured by the continuing lien on the Lot.

(d) **Remedies**. Every Owner shall comply with all provisions of this Declaration, the Bylaws, and the rules and regulations of the Association, all other Governing Documents and dedicatory instruments of the Association and any amendments or supplements to any of the foregoing. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association. In addition, the Association has the authority, but not the obligation, to enforce the covenants, conditions and restrictions contained in this Declaration, and to regulate the use, maintenance, repair replacement, modification, and appearance of the Subdivision, and may avail itself of any and all remedies provided in this Declaration, any amendment, supplemental amendment, the Bylaws, Governing Documents and/or any other dedicatory instruments. Notwithstanding anything contained herein to the contrary, the Board shall have no duty, legal or otherwise, to institute legal or other proceedings on behalf of or in the name of an Owner. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Such decision shall not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(e) **Enforcement by Owners**. Each Lot Owner may enforce the covenants, conditions and restrictions set forth in this Declaration; provided, however, no Owner shall have the right to enforce the lien rights retained in this Declaration in favor of the Association and/or other rights regarding Assessments retained by the Association.

(f) **Nonwaiver**. The obligation to abide by the provisions contained in this Declaration shall be deemed to be of a continuing and continual basis. Each and every day an Owner allows a condition to exist on its Lot which is not in compliance with the requirements contained herein shall constitute a separate and individual violation hereof, and shall give rise to a new cause of action for such breach. The intended effect and express purpose of this provision shall be that every Owner, by accepting title to a Lot, hereby waives the affirmative defenses of the statute of limitations, waiver and laches with respect to covenant violations. Noncompliant conditions shall be allowed to exist on a Lot only upon the Owner obtaining a written Variance in accordance with the applicable provisions herein. Failure of Declarant, the Association, the ARC, or of any Owner or other person to enforce the terms of this Declaration shall in no event be deemed a waiver of the right to do so at any time or from time to time thereafter.

(g) **Assessments by Award or Judicial Decree**. In the event arbitration or litigation is necessary to enforce any provision contained within this Declaration, any and all awards granted by the arbitrator, or damages, penalties, fees, costs, and/or any other charges awarded in the decree shall also constitute an Assessment, which shall likewise run with the land, and which shall have the same priority as the lien created in **Section 6** herein. Failure to pay Assessments imposed under this **Section** shall constitute an event which may give rise to the remedies provided in **Section 6** herein.

11. INDEMNIFICATION AND RELEASE. **EACH PROSPECTIVE PURCHASER IS RESPONSIBLE FOR THOROUGHLY INSPECTING AND EXAMINING THE LOT IN WHICH IT IS INTERESTED AND FOR CONDUCTING SUCH INVESTIGATIONS OF SUCH LOTS AS IT DEEMS NECESSARY TO EVALUATE ITS PURCHASE. BY COMPLETING THE PURCHASE OF A LOT, EACH PURCHASER IS ACKNOWLEDGING THAT IT IS PURCHASING THE LOT ON AN "AS IS", "WHERE IS" AND "WITH ALL FAULTS" BASIS. BY PURCHASING A LOT, EACH OWNER AGREES TO INDEMNIFY AND HOLD HARMLESS DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MANAGERS, CONTRACTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY CLAIMS, COSTS, FEES, EXPENSES, DAMAGES OR LIABILITIES THAT AN OWNER, AND/OR ITS FAMILY, OCCUPANTS, EMPLOYEES, GUESTS, INVITEES, CONTRACTORS AND/OR AGENTS MAY SUFFER OR INCUR AS A RESULT OF, ARISING OUT OF, OR RELATED TO ANY CONDITION ON, IN OR UNDER SUCH LOT, INCLUDING, BUT NOT LIMITED TO CAVES, KARSTS, SINKHOLES, GEOLOGICAL FEATURES, STREETS, TREES, DRAINAGE FACILITIES, PROJECTILES, AND OTHER DANGEROUS OBJECTS. EACH OWNER UNCONDITIONALLY RELEASES DECLARANT, THE ASSOCIATION, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, MANAGERS, CONTRACTORS, EMPLOYEES AND AGENTS, FROM ANY CLAIM OR CAUSE OF ACTION, BOTH**

KNOWN AND UNKNOWN, PRESENT AND FUTURE, ARISING OUT OF OR RELATED TO SAID CAVES, KARSTS, SINKHOLES, GEOLOGICAL FEATURES, STREETS, TREES, DRAINAGE FACILITIES, PROJECTILES AND OTHER DANGEROUS OBJECTS.

12. **DECLARANT'S RESERVED RIGHTS**.

(a) **Declarant Control Period**. Declarant hereby reserves for itself the Declarant Control Period, 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 or Builders. The reserved rights of Declarant shall include, but are not limited to, the unilateral right to appoint, remove and replace all directors and officers of the Association; adopt and amend Governing Documents; adopt Association budgets; change the rate and time of payment of Assessments; levy Special Assessments; and, receive applications for review and to approve all solar energy devices installed in the Subdivision.

The Declarant Control Period runs continuously from the date this Declaration is recorded until the earlier of (i) 120 days after seventy-five percent (75%) percent of the Lots that may be created on the Properties have been improved with Living Units and conveyed to Owners other than Builders or Declarant, or their respective affiliates, or (ii) thirty (30) years after the date on which this Declaration is publicly recorded, subject to the right of Declarant to unilaterally amend this **Section** 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 effect termination of the Declarant Control Period earlier than the term stated in this **Section**. Declarant, however, may terminate the Declarant Control Period at any earlier time by publicly recording a notice of termination. To the fullest extent permitted by Applicable Law, 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 Subdivision.

To the extent required by Applicable Law, within 120 days after the conveyance of seventy-five percent (75%) of the Lots that may be created, at least one-third of the Board must be elected by Owners other than Declarant in accordance with the Bylaws of the Association. Declarant construes the Applicable Law in effect on the date of this Declaration as applying only to improved Lots that have been conveyed to Owners other than Builders, and not applying to vacant Lots conveyed to Builders or to affiliates of Declarant. However, because the statute does not so state, Declarant will exercise the votes of Builders, if any. Declarant's unilateral right to remove and replace officers and directors applies only to Declarant's appointees.

To satisfy a requirement of Applicable Law that the Declaration state the maximum number of Lots that may be created and made subject to this Declaration, Declarant hereby states that the initial maximum number of Lots subject to this Declaration is thirty-nine (39) Lots, and reserves the unilateral right to increase or reduce that number by amendment of this Declaration.

(b) **Declarant Development Period.** Declarant hereby reserves for itself the Declarant Development Period, 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 or Builders. The reserved rights of Declarant shall include, but are not limited to, the unilateral right to appoint, remove and replace all members of the ARC pursuant to **Section 3** herein, and to amend this Declaration pursuant to **Section 13(b)** herein.

If Applicable Law requires a stated term, the Declarant Development Period runs continuously from the date this Declaration is recorded until the earlier of: (i) thirty (30) years after the date on which this Declaration is publicly recorded, or (ii) the date on which every residential Lot in the Subdivision is improved with a Living Unit and conveyed to Owners other than Builders or Declarant, or their respective affiliates. No act, statement, or omission by the Association may effect termination of the Declarant Development Period earlier than the term stated in this **Section**. Declarant, however, may terminate the Declarant Development Period at any earlier time by recording a notice of termination. To the fullest

extent permitted by Applicable Law, the Declarant Development 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 Subdivision.

(c) **Other Rights**. Declarant hereby reserves for itself 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, privilege, or exception is beneficial to or protective of Declarant or Builders. If the benefit or protection of Applicable Law is predicated on an express provision being in this Declaration or other Governing Document, such provision is hereby incorporated by reference unless Declarant executes an instrument to disavow such benefit or protection. Notwithstanding Applicable Law that condition or link a declarant's control of real property development with its control of the governing body, Declarant and this Declaration recognize the independence of those functions. Declarant may terminate its reserved right to appoint officers and directors of the Association without affecting any of Declarant's other rights and reservations under this Declaration or Applicable Law. Further, Declarant may from time to time assign to the Association, on a permanent or temporary basis, one or more of the rights, powers, obligations and duties of the Declarant under this Declaration.

(d) **Effect of Reserved Rights**. This Declaration creates a number of periods of time for the exercise by Declarant of certain reserved rights, including, but not limited to, the Declarant Control Period and the Declarant Development Period. Each reservation period is independent of the others. Each reservation period is for a term of years or until a stated status is attended, and does not require that Declarant own a Lot or any other land in the Subdivision. No act, statement, or omission by the Association, a Builder, or any other party may effect a change or termination of any Declarant reservation period. Declarant, however, may unilaterally change any Declarant reservation period by amending this Declaration. To document the end of a Declarant reservation period, Declarant may (but is not required to) execute and publicly record a notice of termination of the period.

13. **GENERAL PROVISIONS**.

(a) **Term**. This Declaration runs with and binds the land, and will inure to the benefit of and be enforceable by the Association, Declarant, and every Owner, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded in the Real Property Records of Bexar County, Texas, and continuing through and including December 31, 2036, after which time this Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least fifty percent (50%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose in accordance with the Bylaws; provided, however, that such change will be effective only upon the recording of a certified copy of such resolution in the Real Property Records of Bexar County, Texas.

(b) **Amendment.** This Declaration may only be amended as follows:

(1) Declarant shall have and reserves the right at any time and from time to time during the Declarant Development Period, without the joinder or consent of any Owner or any other party, to unilaterally amend this Declaration by any instrument in writing duly signed, acknowledged, and filed for record for the purpose of (i) correcting any typographical or grammatical error, ambiguity or inconsistency appearing herein, or inadvertent omission, provided that any such amendment shall be consistent in all material respects with and in furtherance of the general plan and scheme of development as evidenced by this Declaration; (ii) bringing any provision into compliance with any applicable governmental statute, rule, regulation, or regulatory or judicial determination; (iii) enabling any title insurance company to issue title insurance coverage on any portion of the Subdivision; (iv) enabling any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, without limitation, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (v) complying with any requirements promulgated by local, state or federal governmental agency, including, without limitation, the Department of Housing and Urban Development or any utility provider.

(2) This Declaration may be amended from time to time by the recording in the Real Property Records of Bexar County, Texas, of an instrument executed and acknowledged by the authorized officers of the Board of the Association setting forth the amendment and certifying that such amendment has been approved in accordance herewith, as follows:

(i) Prior to termination of the Declarant Development Period, upon the unilateral approval of Declarant to the fullest extent permitted by Applicable Law, or if required by Applicable Law, the approvals required in **Subsection (ii)** below;

(ii) After termination of the Declarant Development Period, then upon the following:

(A) Written approval of a majority of the Directors of the Board of the Association; and

(B) The approval of a majority of the aggregate votes held by the Members of the Association.

(3) Not less than ten (10) days prior written notice of any such change shall be provided to each Director of the Association and to each Member of the Association.

(4) If any conflict exists between this Declaration and any amendment and/or supplement, the more restrictive provision shall control.

(c) **Notice of Change**. If a provision of a Governing Document is modified, rendered void, or becomes obsolete because of a change of Applicable Law, and the Board determines that the significance of the provision that is changed by operation of law should be brought to the attention of Owners and the public, the Board, without a vote of the Owners, may issue a Notice of Change that references the provision of a Governing Document and how it is affected by Applicable Law. The Notice may be recorded in the Real Property Records of Bexar County, Texas, and does not constitute an amendment of the Governing Document. If such a Notice is issued, the Association will notify Owners of its existence and will make it available to Owners as a record of the Association. This provision may not be construed to give the Board unilateral amendment power, nor to prevent an amendment of a Governing Document to achieve the same purpose.

(d) **Severability**. The provisions of this Declaration shall be deemed independent and severable, and invalidation of any one of the provisions, covenants or restrictions set forth in this Declaration by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

(e) **Assignment by Declarant**. Notwithstanding any provision in this Declaration to the contrary, Declarant may in writing filed of record expressly assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Upon assignment by Declarant of any or all of such rights, such Declarant shall no longer be liable for performance of such assigned rights provided that the assignee expressly assumes in the recorded assignment the obligations of such Declarant that are assigned.

(f) **Singular Includes Plural**. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(g) **Captions**. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect any term or provision set forth herein.

(h) **Gender and Grammar**. The singular whenever used herein, shall be construed to mean the plural, when applicable, and the necessary grammatical changes required to make the provisions here apply either to corporations or individuals, males or females, shall in all cases be assumed as though in each case fully expressed.

(i) **Interpretation**. If this Declaration or any word, clause, sentence, paragraph, or other part thereof shall be susceptible of more than one or conflicting interpretations, then the interpretation which is most nearly in accordance with the general purposes and objectives of this Declaration shall govern. The terms and provisions of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision in any Governing Document or Applicable Law, including restrictions on the use or alienability of property, will be resolved in the following order of preferences, regardless which party seeks enforcement: First, to give effect to Declarant's intent to protect Declarant's interests in the Subdivision; Second, to give effect to Declarant's intent to direct the expansion, build-on, and sell-out of the Subdivision; Third, to give effect to Declarant's intent to control governance of the Association for the maximum permitted period; Fourth, in favor of the operation of the Association and its enforcement of the Governing Documents for the benefit of Owners collectively; and, Finally, to protect the rights of individual Owners. If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity, or effect to any other word, clause, sentence, or provision appearing in this Declaration shall be omitted herein, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence or provision shall be supplied by inference.

(j) **Notice**. Whenever written notice to an Owner or Member is permitted or required hereunder or by the Governing Documents, unless otherwise required by Applicable Law, such notice shall be given by mailing such notice to the address of such Owner or Member appearing on the records of the Association, unless such Owner or Member has given written notice to the Association of a different address, in which event such notice shall be sent to the Owner or Member at the address so designated. Such notice shall conclusively be deemed to have been given as of the date such notice is deposited in the United States Mail, properly addressed, whether actually received by the addressee or not. Unless otherwise required by Applicable Law, actual notice, however delivered, is sufficient.

(k) **Current Address and Occupants**. Owners are required to notify the Association in writing of their current address if other than the physical address of the Lot at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot as the current address. If the Lot or Improvements are leased or otherwise occupied by another person, Owner shall provide the name of the Occupant to the Association.

(l) **Governing Law**. This Declaration shall be governed by and construed in accordance with the laws of the State of Texas and shall be performable in Bexar County, Texas.

(m) **Lienholder Consent.** Each of the current owners and holders of existing mortgages and liens upon and against the Property, or any portion thereof, have consented to and joined in the execution of this Declaration solely for the limited purposes set forth in the Lienholder Consent executed by each such lienholder and attached hereto and incorporated herein.

(n) **Counterparts**. This Declaration may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[COUNTERPART SIGNATURE PAGES FOLLOW]

COUNTERPART SIGNATURE PAGE TO
POND HILL GARDEN VILLAS
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS

DECLARANT:

POND HILL GARDEN VILLAS, LTD., a Texas limited partnership

By Its Sole General Partner:
BITTERBLUE, INC., a Texas corporation

By: _____
Lloyd A. Denton, Jr., President

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on October 23, 2017, by Lloyd A. Denton, Jr., President of Bitterblue, Inc., a Texas corporation, the sole General Partner of Pond Hill Garden Villas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

BRENDA ARMSTRONG
Notary Public, State of Texas
Comm. Expires 01-29-2021
Notary ID 12227048

_____
Notary Public, State of Texas

COUNTERPART SIGNATURE PAGE TO
POND HILL GARDEN VILLAS
DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS

DAVIS:

W. STEVE DAVIS CUSTOM HOMES, LTD., a Texas limited partnership

By Its Sole General Partner:
STEVE DAVIS CUSTOM HOMES, INC., a Texas corporation

By: _____
Steve Davis, President

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on October 23, 2017, by Steve Davis, President of Steve Davis Custom Homes, Inc., a Texas corporation, the sole General Partner of W. Steve Davis Custom Homes, Ltd., a Texas limited partnership, on behalf of said limited partnership.

BRENDA ARMSTRONG
Notary Public, State of Texas
Comm. Expires 01-29-2021
Notary ID 12227048

_____
Notary Public, State of Texas

EXHIBIT A
PROPERTIES/SUBDIVISION

All properties comprising POND HILL GARDEN VILLAS SUBDIVISION in the City of Shavano Park, Bexar County, Texas, according to plat thereof recorded in Volume 9705, Pages 86-87, Deed and Plat Records of Bexar County, Texas.

EXHIBIT B
REQUIRED PLANS AND DESIGN REVIEW PROCEDURES

1. **Submittal Requirements**. The Required Plans submittals shall be determined by the ARC from time to time, and shall include, without limitation, the following:

Building Plans:

(a) Completed submittal form with the qualified professional contractor listed; and

(b) Two (2) complete site plans showing;
- (1) House;
- (2) Flatwork:
- (3) Setbacks:
- (4) Easements:
- (5) Fencing (if known);
- (6) Swimming pool and/or spa and related improvements (if any);
- (7) Adjacent greenbelts and drainage;
- (8) Proposed Lot grading and drainage;

(c) Two (2) sets of plans depicting room size; layout; all exterior elevations; and exterior materials; and

(d) Exterior materials list, and samples of colors and materials.

Fencing Plan:

(a) Two (2) sets of plans with the qualified professional contractor listed; and

(b) Materials list and site plan showing fence and gate location.

Landscape Plan:

(a) Two (2) site plans with the qualified professional contractor listed, and showing name and size of all plants to be used and clear identification of locations.

Pool/Spa Plan:

(a) Two (2) site plans showing pool/spa location with fence plan and with the qualified professional contractor listed.

All Other Exterior Modifications:

(a) Improvement Request Form with the qualified professional contractor listed;

(b) Two (2) site plans showing item location in reference to property line and other structures with clear labeling of materials; and

(c) All exterior elevations, if applicable.

2. **Other Information**. Each submittal of Required Plans shall include the identity of the qualified professional contractor intended to perform the work and projected commencement and completion dates.

3. **Procedures**. Within thirty (30) days after the ARC has received the Required Plans and written notice that the Owner desires to obtain ARC approval, the ARC shall notify Owner in writing whether the Required Plans are approved or disapproved. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove them in part, conditionally or unconditionally, and reject the balance or may notify the Owner that additional documents or information is required. In the event all Required Plans have been submitted by the Owner and have not been approved or disapproved within thirty (30) days after being submitted, the plans so submitted will be deemed to have been approved; provided however that a deemed approval shall not permit a violation of any of the terms of this Declaration nor extend to any deviation from or alteration to the plans actually submitted, nor to any matter requiring a written variance.

EXHIBIT C
YARD MAINTENANCE SERVICES

Yard Maintenance Services as set forth in **Exhibit C-1** will be performed in the front and rear yards of each Service Area Lot, and in the side yards abutting streets with respect to corner Service Area Lots. In the event of any disagreement of what constitutes the front yard of a Service Area Lot, the determination of the Association or its designee will be final. The Board of the Association, in its sole discretion, may, from time to time and at any time, make deletions, modifications, and changes to any of the Yard Maintenance Services being provided to the Service Area Lots. Notwithstanding any provision or description of Yard Maintenance Services herein to the contrary, Yard Maintenance Services will be provided in accordance with any applicable agreements with or requirements imposed by Governmental Authority.

Each Owner of a Service Area Lot will be responsible for irrigation and must properly irrigate the entire yard turf areas of each Service Area Lot. The Yard Maintenance Services do not include irrigation or the repair and maintenance of irrigation facilities. The Association or its designated landscape company, from time to time, will provide each Owner with a schedule of dates on which Lawn Maintenance Services will be performed. Each Owner will be obligated to ensure access to the front, rear and side (if applicable) yards on the scheduled yard maintenance dates and shall refrain from irrigating such yards while Yard Maintenance Services are being performed. Any alterations in the landscaping of a Service Area Lot by an Owner must be approved in writing by the Association prior to the alterations being made.

EXHIBIT C-1
LANDSCAPE MAINTENANCE SCHEDULE

SERVICES	FREQUENCY												
	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL
MOW, EDGE, WEED-EAT, PICK-UP BOTTLES, CANS, PAPERS IN GRASS/BEDS, POWER BLOW WALKS/CURB	2	2	–	W	E	E	K	L	Y	–	2	2	
WEED ALL BEDS	1	1	1	1	1	1	1	1	1	1	1	1	
MAJOR TRIM OF SHRUBS AND PLANT MATERIAL			1							1			
TOP AND FACE SHRUBS AND PLANT MATERIAL				1	1	1	1	1	1				
CULTIVATE BEDS	1			1			1			1			
CHEMICALLY TREAT WEEDS IN CONCRETE/ASPHALT AREAS													As Needed
REMOVE SUCKERS FROM TREES 6 FEET AND UNDER													As Needed
TURF FERTILIZATION			1							1			
SHRUB FERTILIZATION			1							1			
COLOR INSTALLATION					1						1		
ANT INSECTICIDE													As Needed
CREPE MYRTLES PRUNED BACK		1											
TURF PRE-EMERGENT WEED CONTROL										1			
TURF POST-EMERGENT WEED CONTROL				1									
RE-MULCH OF EXISTING FRONT YARD BEDS										1			

EXHIBIT D
USE AND OTHER RESTRICTIONS

(a)	Permitted Uses	(m)	Numbering
(b)	Animals	(n)	Parking and Storage of Vehicles
(c)	Builder Approval	(o)	Repair and/or Restoration of Buildings
(d)	Common Areas	(p)	Rentals
(e)	Construction Materials and Debris	(q)	Resubdivision and Consolidation of Lots
(f)	Construction and Design Restrictions	(r)	Septic Systems
(g)	Fireworks, Firearms, and Other Devices	(s)	Signs
(h)	Fuel Storage and Open Fires	(t)	Temporary Structures and Facilities
(i)	Hazardous Activities	(u)	Trash and Recycle Materials
(j)	Maintenance	(v)	Water and Sewage Systems
(k)	Wells, Mining and Drilling	(w)	Yards
(l)	Noise and Nuisances	(x)	Additional Regulations

(a) **Permitted Uses.** The Subdivision shall be used for private, single-family residential purposes only, or as part of the Common Areas; provided, however, that only one (1) such private single-family residence may be constructed, or otherwise placed upon, any one Lot. No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Subdivision or any Lot, except an Owner or Occupant of a residence may conduct business activities within a residence so long as: (i) the business activity is conducted without the employment of persons other than the residents of the home constructed on the Lot; (ii) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence, i.e., no sign may be erected advertising the business on any Lot; (iii) the business activity conforms to all zoning requirements for the Subdivision; (iv) the business activity does not involve door-to-door solicitation of residents within the Subdivision; (v) the business does not generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Subdivision which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. The terms "business" and "trade", as used in this **Subsection**, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity in intended to or does generate a profit; or (c) a license is required. Leasing of a residence shall not be considered a business or trade within the meaning of this **Subsection**. This **Subsection** shall not apply to any activity conducted by an Owner engaged in the business of constructing homes for resale who acquires one or more Lots within the Subdivision for the purpose of constructing residences thereon for resale to a third party. This restriction shall not prohibit the inclusion of permanent living quarters for domestic servants or prevent domestic servants from being domiciled with an Owner or resident.

(b) **Animals**. No animals, livestock, poultry, exotic, vicious or dangerous pets/breeds of any type, including but not limited to, pit bulls, boa constrictors or ferrets, that may pose a safety or health threat to the community, or animals that may hunt or prey on birds, shall ever be raised, kept, bred, or harbored on any portion of the Lots or the Subdivision, except that dogs or other common household pets [in the case of adult pets, not to exceed a total of four (4) adult animals] may be kept, provided that they are not kept, bred, or maintained for any commercial purposes, and provided further that such common household pets shall at all times, except when they are confined within a private single-family residence or Lot upon which same is located, be restrained or controlled by a leash, rope, or similar restraint or a basket, cage, or other container. For purposes of this Declaration, "adult animal" shall mean animals one (1) year of age or older. All animals shall be kept in strict accordance with all local laws and ordinances (including leash laws), and in accordance with all rules established by the Association. It shall be the responsibility

of the Owners of such household pets to prevent the animals from running loose or becoming a nuisance to the other residents.

(c) **Builder Approval**. Except for maintenance, repair or construction activities being undertaken by contractors at the direction of any Governmental Authority, no construction of any building, fence, wall, recreational facilities, landscaping, outbuilding or other structure or any other Improvement shall be commenced on, in, or within the Subdivision until the primary contractor to perform such construction shall have been approved in writing by the ARC. If the ARC fails to approve or disapprove a written request for the approval of a primary contractor to perform such construction within thirty (30) days after such request is submitted to it in accordance with the requirements set forth in **Exhibit B** to this Declaration, such approval will not be required, and the provisions of this **Section** will be deemed to have been fully complied with.

(d) **Common Areas**. The following restrictions shall apply to the Common Areas:

(1) No maintenance, trimming, cutting or removal of any vegetation situated in the Common Areas may be undertaken by or on behalf of an Owner or by anyone other than the Declarant or a party expressly authorized by Declarant to do so.

(2) No activities shall be conducted or permitted by any Owner in the Common Areas which would cause the Common Areas to have an unattractive appearance, which would constitute a nuisance or a material annoyance or disruption to the other Owners, or which would obstruct the Common Areas in any way.

(3) No permanent or temporary storage of any personal property or materials shall be permitted in the Common Areas.

(4) No motorcycles, motorbikes, off road recreational vehicles or other similar motorized vehicles will be permitted in any greenbelts, trails or other designated portions of the Common Areas without the prior written approval of the ARC. The ARC reserves the right to promulgate reasonable rules and regulations from time to time governing the use of any such vehicles within the Common Areas.

(5) The discharge of any fireworks or firearms including BB guns, paint ball guns and pellet guns, and the use of any bow and arrow, slingshot or other launching or catapulting device, or other similar dangerous or objectionable conduct is not permitted in the Common Areas.

(e) **Construction Materials and Debris**. Each Owner and Builder shall provide sufficient means for temporary collection of and removal of all construction debris. In particular, all refuse or waste material generated from such Builder's construction shall be collected in a container or otherwise secured within a contained area on the Lot and picked up for disposal on a regular basis. Additionally, the Owner and Builder of a residence undergoing construction shall be responsible for providing sanitary bathroom facilities to accommodate all contractors and subcontractors during the construction period, which toilets will be serviced regularly and removed promptly once plumbing in the residence on such Lot becomes operational. These requirements are intended to facilitate the goal of the Declarant and the Association to maintain the Subdivision in a clean and respectable manner. If an Owner or Builder unreasonably violates this objective, Declarant and/or the Association shall have the option to initiate cleanup of the Lot, and/or place facilities on the Lot necessary to maintain the referenced goal. In the event such action becomes necessary, the costs and expenses of same shall be imposed upon the Owner, and shall become a lien on the Lot as described in **Section 6** of this Declaration.

(f) **Construction and Design Restrictions**. In order to protect the overall integrity of the Subdivision as well as the quality and appearance of Improvements of all Owners within the Subdivision, the ARC shall have the right, but not the obligation, to control all construction, development and improvement activities of any kind within the Subdivision, and to insure that all such activities are properly conducted in accordance with and in good workmanlike manner, and in accordance with standard industry trade practices. Traditional style architectural designs are encouraged. No geodesic, A-Frames,

log homes, or free style architectural designs shall be permitted. Owners are encouraged to submit preliminary or conceptual plans and specifications of front elevation (and side elevation on corner lots), materials specifications, and the positioning of the Living Unit upon the Lot to the ARC for review and comment, prior to the completion of final plans and specifications. Prior to the commencement of any construction, all final plans and specifications must be approved in writing, by the ARC.

(g) **Fireworks, Firearms, and Other Devices**. The discharge of any fireworks or firearm, including BB guns, paint ball guns and pellet guns, within the Subdivision or on adjacent lands owned in whole or in part by Declarant or the Association is strictly prohibited. Each Owner shall ensure family members and Occupants do not violate such prohibition. Additionally, there is prohibited the use of any bow and arrow, slingshot, paintball, or other launching or catapulting device except strictly within the confines of a Lot and not involving the hunting or killing of any animal.

(h) **Fuel Storage and Open Fires**. No butane, propane or other combustible fuel tank or container shall be installed or kept on any Lot except for (1) portable, small sized tanks used solely to fuel barbecue units or fire pits or portable tools, (2) fuel tanks installed in vehicles, boats or equipment, or (3) a reasonable number of portable cans/tanks used to refuel equipment or vehicles. No open fires shall be permitted on any Lot except those within an interior or exterior fireplace designed and built according to industry standards and all Applicable Laws, or those within a contained barbecue unit which is attended by a responsible adult while in use for cooking purposes only. No fireplace, fire pit or barbeque unit shall be permitted to be placed or operated in any front yard or driveway on any Lot. The burning of any materials will not be allowed, including, but not limited to, brush and building materials on any Lots, Common Areas, or greenbelts within the Subdivision, or on adjacent lands owned in whole or in part by Declarant or the Association.

(i) **Hazardous Activities**. No activities shall be conducted on the Lots or within the Subdivision and no Improvements shall be constructed on the Lots or within the Subdivision which are or might be unsafe or hazardous to any Person or the Subdivision.

(j) **Maintenance**.

(1) Improvements. Each Owner is responsible for keeping all Improvements on their Lot in a neat, well maintained, and attractive fashion. No Improvement shall be allowed to be left in a state of disrepair, damaged, or in a condition which appears to be excessively weathered or worn.

(2) Irrigation Systems. Each Owner is responsible for maintaining his irrigation system in working order at all times.

(3) Lot and Lawns and Plantings. The Owners of all Lots shall keep grass and vegetation well mown and trimmed, shall promptly remove all weeds as they grow, and all trees, shrubs, vines and plants which die or are diseased, and shall keep all yard areas in a sanitary, healthful, and attractive manner. Lawns, front and back, must be mowed at regular intervals (maintained at less than six inches (6") in height), and fences must be repaired and maintained in an attractive manner. No objectionable or unsightly usage of Lots, or condition on any Lot, will be permitted which is visible to the public view. Building materials shall not be stored on any Lot except when being employed in construction upon such Lot, and any excess materials not needed for construction and any building refuse shall promptly be removed from such Lot.

(4) Oak Wilt. All Owners are advised to secure from the Texas Forest Service, local county agent, Texas Extension Forester at Texas A&M University, or elsewhere, information on oak wilt and other diseases which may infect their trees and may spread to trees on other Lots. Each Owner is responsible for taking such action as may be necessary on his property to ensure that oak wilt and other diseases are not spread to the trees of other Owners. Because there is no known cure for oak wilt and oak wilt almost always will spread from a diseased tree to its neighboring oaks, at a minimum, each Owner shall:

(i) Properly destroy all infected oaks;

(ii) Avoid unneeded pruning of and immediately apply dressing to all wounds on oaks. It should be noted that the period of February 1 to June 1 is the most susceptible.

(iii) Where oak wilt is detected, trench three feet (3') deep in advance of infection front (100 feet is recommended) to stop the spread through connecting roots;

(iv) Avoid infected oak firewood. As a precaution, no oak wilt infected firewood should be kept for more than one heating season and firewood should be cut only in the summer;

(v) Use fungicide propiconazole to treat uninfected oaks when Owner becomes aware of oak wilt nearby.

The foregoing information regarding oak wilt is provided to alert Owners and neither Declarant nor the Association shall be liable to any Owner in connection with the existence or spread of oak wilt on any Lot. In the event of default on the part of the Owner or Occupant of any Lot in observing the above requirements or any one of them, such default continuing ten (10) days from date of a written notice thereof deposited in the United States mail, Declarant, or the Association may, without liability to Owner or any Occupants in trespass or otherwise, enter upon said Lot, cut or cause to be cut, such lawn, weeds and grass not being maintained, remove or cause to be removed, such dead vegetation, garbage, trash and rubbish or infected oak trees, or do any other thing necessary to secure compliance with the terms of this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or Occupant of such Lot for the cost of such work, plus a reasonable administrative charge and reasonable attorney's fees. The Owner or Occupant, as the case may be, agrees by the purchase or occupation of the Lot to pay such statement immediately upon receipt thereof. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions hereof or otherwise as provided by law.

(5) Vacant Lots. Until a Living Unit is built on a Lot, Declarant or the Association may, at its option, have the grass, weeds and vegetation cut when and as often as the same is necessary in its reasonable judgment, and have dead trees, shrubs and plants removed therefrom. Declarant and/or the Association may also, at its option, after ten (10) days written notice, remove any excess building materials or building refuse situated on a Lot in violation of this covenant. The Owner of such Lot shall be obligated to reimburse Declarant and/or the Association, as applicable, for the cost of any such maintenance or removal upon demand. The sum due shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such sums are due, and may be enforced in accordance with the provisions hereof or otherwise as provided by law.

(6) Owner's Responsibilities. In the event an Owner is advised by the Board, or by an agent of a management company hired by the Board to assist with administration of Association business that the condition of their property is in violation of this **Section**, the Owner shall undertake whatever measures are necessary to cure the non-conforming condition as soon as it is reasonably practicable to do so.

(k) **Wells, Mining and Drilling**. No individual water supply system shall be permitted on any Lot, including but not limited to, water wells. No oil or natural gas drilling, oil or natural gas development or oil refining or quarrying, or mining operations of any kind shall be permitted upon any portion of the Lots or within the Subdivision, nor shall oil, natural gas, or water wells, tanks, tunnels, mineral excavations or shafts be permitted upon, in or within any portion of the Lots or within the Subdivision. No derricks or other structures for use in the boring or drilling for oil, natural gas, minerals or water shall be erected, maintained or permitted upon, in or within any portion of the Lots or within the Subdivision.

(l) **Noise and Nuisances**. No exterior speakers, horns, whistles, bells or other sound devices (other than alarm devices used exclusively for security purposes) shall be located, used or placed on any of the Lots or within the Subdivision without the express written approval of the ARC as to such system,

including, without limitation, speaker placement, permissible sound levels, and other specifications. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Lots or within the Subdivision so as to be offensive or detrimental to any other portion of the Lots or the Subdivision or to the Occupants of any Lot.

No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No Owner or Occupant shall perform any work that will impair the structural soundness or integrity of another Living Unit or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Living Units or their Owners or residents.

(m) **Numbering**. House numbers identifying the address of each Living Unit must be placed as close as possible to the front entry so that the numbers can be easily read from the street at night. Size, color and material of the numbers must be compatible with the design and color of the house. The ARC may establish a consistent style, size and location of house numbers and/or address markers.

(n) **Parking and Storage of Vehicles**. No truck (other than pickups not to exceed one ton capacity), tractor, van, bus, motorcycle, wagon, motor scooter, other wheeled motorized vehicles, golf carts, garden maintenance equipment, boat, trailer, tent, recreational vehicle, commercial vehicle, camping unit, wrecked, junked, inoperable, self-propelled or towable vehicle, equipment or machinery of any sort shall be kept, parked, stored, or maintained on any Subdivision street or Common Areas, or in any portion of the front yard in the front of the building line of the permanent structure and shall be parked, stored or maintained on other portions of a Lot only within an enclosed structure or a screened area, which shall be approved by the ARC, which prevents the view thereof from any Subdivision street, the Common Areas, or adjacent Lots. Each Lot shall have sufficient garage space or screened area to the rear of the Living Unit to house all vehicles to be kept on the Lot.

No repair or maintenance work or dismantling or assembling of motor vehicles, boats, trailers or other machinery or equipment shall be permitted except in fully enclosed garages or other structures screened from public view. No commercial vehicle bearing commercial insignia or names shall be parked on any Lot except within an enclosed structure or a screened area, which shall be approved by the ARC, which prevents such view thereof from adjacent Lots and streets, unless such vehicle is temporarily located for the purpose of serving such Lot.

All designated parking spaces within the Subdivision are reserved for guests, visitors and invitees of residents and may not be utilized by residents for parking. Guests, visitors and invitees of residents may use such designated parking spaces for overnight parking; however, overnight parking elsewhere on any street within the Subdivision, whether by a resident, a guest, visitor or invitee of a resident, or otherwise, is prohibited.

The Board is empowered to establish additional rules and regulations relating to the parking and storage of vehicles, equipment, and other property both on Lots, Subdivision streets and the Common Areas (including Subdivision streets and in parking islands) as it may from time-to-time deem necessary to ensure the preservation and appearance of the Subdivision. Such rules and regulations shall, when promulgated, be in all respects binding on and enforceable against all Lot Owners, provided, however, no such additional rules or regulations shall in any manner revoke or relax any of the restrictions of use set forth in this **Exhibit D**. During the construction of improvements on a Lot, necessary construction vehicles may be parked thereon for and during the time of such necessity only.

(o) **Repair and/or Restoration of Buildings**. In the event of fire or other casualty causing damage to Improvements on a Lot, the Owner of the Lot shall promptly remove all debris and promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such removal of debris and repair, restoration or replacement shall be commenced within thirty (30) days of the casualty and shall be completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures, except with the written consent of the ARC.

To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within thirty (30) days after the occurrence of such damage or destruction, and thereafter prosecute same diligently to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or cleanup, and such Owner shall be personally liable to the Association for the cost of such work and the Lot shall be subject to the lien of the Association for such costs; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or cleanup, the rights of the Association under this provision shall not arise until the expiration of thirty (30) days after such prohibition or delay is removed.

(p) **Rentals**. Nothing in this Declaration shall prevent the rental of any Lot and the Living Unit thereon by the Owner thereof for single-family residential purposes; provided however, that all provisions of the Governing Documents applicable to the Subdivision and Owners, shall also apply to all Occupants. Every Owner shall cause all Occupants to comply with the Governing Documents, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is jointly and severally liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not be allowed to return to the Subdivision and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated. No "time-share plan" or any similar plan of fragmented or interval ownership of a Living Unit shall be permitted on the Lots within the Subdivision.

(q) **Resubdivision and Consolidation of Lots**. No Lot may be subdivided except with the prior written consent of Declarant. Any Owner owning two or more adjoining Lots or portions of two or more such Lots, may with the prior approval of the ARC and City consolidate such Lots or portions thereof into a single building site for the purpose of constructing one residence and such other Improvements as are permitted herein. The Lot resulting from such consolidation shall bear, and the Owner thereof shall be responsible for all assessments applicable to the Lot. Provided the unimproved Lots have been consolidated by a reasonably identifiable method, as approved by the ARC, the assessment for the consolidated Lot shall be equal to any other single unimproved Lot. When the consolidated Lot is improved with a single Living Unit, the Owner will be subject to an assessment equal to that for a single improved Lot. No Easement in a Lot may be granted by an Owner without the prior written approval of the ARC.

(r) **Septic Systems**. No privy, cesspool, or septic tank or system shall be placed or maintained upon any portion of the Subdivision.

(s) **Signs**. No signs of any kind shall be displayed to the public view on any Lot, or on any vehicle or trailer parked on or adjacent to any Lot, including, but not limited to, the displaying of any signs which advertise the Lot or Improvements for sale or lease, except as expressly permitted by the ARC. Each model home may be advertised by one front yard sign not larger than 8' x 4', which shall have been approved in advance by the ARC as to color and design.

The ARC shall establish standardized sign criteria which permits the displaying of one sign per Lot uniform in size, color and permitted location on the Lot, which such sign can be used to identify that an Improved Lot is for sale or lease. The ARC specifically reserves the right to establish a separate set of sign standards and criteria for Unimproved Lots and to modify both such standards and criteria from time to time, but in no event shall any sign reference bankruptcy, distressed nature of sale, lease, or foreclosure. The ARC shall be contacted for information on sign style, color, where the sign inset and sign frame can be obtained.

In addition to the foregoing, political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than ninety (90) days in advance of the

election to which they pertain and are removed within fifteen (15) days after the election, and that the ARC shall have the right to regulate the size and type of political signs on Lots.

All other signage is prohibited such as, but not limited to builders/architect signs, subcontractors, lenders, and real estate companies. All signs within the Subdivision shall be subject to the prior written approval of the ARC. No signs are allowed on any Common Areas within the Subdivision.

Signs used by Declarant to advertise the Subdivision during the development, construction and sales period shall be permitted, irrespective of the foregoing, but subject to size, design, and other requirements of the ARC.

(t) **Temporary Structures and Facilities**. Except as expressly provided herein, no structure of a temporary character (sales structure, trailer, tent, shack, garage, barn or other outbuildings) shall be used on any Lot at any time for storage or as a residence, either temporarily or permanently. No prefabricated dwelling or building previously constructed elsewhere may be placed or maintained on any Lot. No modular or mobile home, whether or not the wheels have been removed, may be placed or maintained or any Lot. All structures of a temporary character must be approved by the ARC. Notwithstanding the other provisions of this **Section**:

(1) Declarant reserves unto itself and its assigns in writing the exclusive right to erect, place, and maintain such temporary facilities in or within any portions of the Subdivision as Declarant in its sole discretion may determine to be necessary or convenient while selling Lots, selling or constructing residences and constructing other Improvements within the Subdivision. Each Builder may not, however, utilize more than one mobile trailer or similar vehicle as a temporary facility, but may use such as a sales or construction office only in support of sales and construction activities within the Subdivision, and each such mobile trailer or similar vehicle shall be parked only within a Lot owned by such Builder, the location and use of which shall have been approved in advance by Declarant or the ARC.

(2) Each Owner shall have the right to erect, place, and maintain on his Lot such temporary facilities, other than mobile trailers or similar vehicles, as may be necessary or convenient for construction of a residence thereon and each Owner engaged in the construction of residences within the Subdivision for sale shall have the right to erect, place, and maintain temporary facilities for offices, storage, and accumulation of reasonable amounts of construction debris while so engaged in the construction of residences within the Subdivision the location and use of such facilities shall have been approved in advance by Declarant or the ARC.

(u) **Trash and Recycle Materials**. No trash, rubbish, garbage, recycle materials, manure, putrescible matter or debris of any kind shall be dumped or allowed to accumulate on any portion of the Subdivision. All rubbish, trash, garbage and recycle materials shall be kept in sanitary refuse containers with tightly fitting lids, and, except as necessary for purposes of effecting garbage pickup, said containers shall be kept in an enclosure or other screened area of the Lot sized to accommodate not less than two (2) 96- gallon containers and adequately screened by planting and/or fencing so as not to be visible from streets, Common Areas, or neighboring Lots.

Reasonable amounts of construction materials and equipment may be stored upon a Lot by the Owner thereof for reasonable periods of time during the construction of Improvements thereon provided that the same shall not be stored or kept within any drainage easement area.

It shall be the duty of each Owner to preserve the condition of surrounding Properties during the construction of each residence on any Lot. No grading, dumping, disposal of trash, driving of vehicles or equipment operation or other activities shall be permitted to overlap or encroach on neighboring Lots or the greenbelts or other Common Areas. No material shall be dumped or stored in any street, green belt, Common Areas, or conservation area.

It shall be the duty of all Owners and their builders to prevent trash from their activities from finding a resting place on any one of the surrounding Properties, and any trash for any reason placed, moved,

dumped or blown by wind onto neighboring Lots, greenbelts, conservation areas, Common Areas, open areas, or streets shall be promptly retrieved and placed in the collection facility herein required.

No lumber, gravel, bricks, sand, dirt or other material of any nature shall be placed or stored on the streets, safety lanes, greenbelts, open areas or adjoining property, nor shall tractors, graders, ditching machines or other machinery be parked or placed on said areas without express written permission from the Owner thereof received in advance.

(v) **Water and Sewage Systems**. No individual water supply system or sewage disposal system shall be permitted on any Lot, including, but not limited to, water wells, cesspools or septic tanks. Each dwelling on a Lot must utilize the water system and sewage disposal systems provided to the Subdivision.

(w) **Yards**.

(1) Front Yard. The ARC may restrict the placement of rock or material other than dirt and vegetation in the front yard area of any Lot. The "front yard area" shall be defined as that area of a Lot situated between the front curb line and a line extending from the front of a residence to the side Lot lines.

(2) Back Yard. The Owners or Occupants of any Lots at the intersection of streets or where the rear yard or portion of the Lot is visible to public view from a street or Common Areas shall construct and maintain an inner fence or other Improvements as approved by the ARC to adequately screen from view of streets and Common Areas any of the following: the drying of clothes, yard equipment, wood piles or storage piles which are incident to the normal residential requirements of a typical family. Trash, garbage or other waste materials shall be kept in a clean and sanitary condition. Clothes hanging devices exterior to a dwelling shall not exceed six feet (6') in height and shall be so located as to not be visible from any street, Lot, or Common Areas.

(x) **Additional Regulations**. Notwithstanding anything in this Declaration to the contrary, the size, design, type, placement, display, use and maintenance of certain materials, systems or other items on Lots or other areas within the Subdivision may be subject to the ADGs adopted by the ARC and additional rules and regulations adopted by the Association or established by Declarant as provided herein or as required or permitted by Applicable Law, including, without limitation, the following:

- Display of Flags
- Display of Political Signs
- Display of Certain Religious Items
- Solar Energy Devices
- Roofing Materials
- Rain Barrels
- Xeriscaping

In the event of any conflict or inconsistency between the terms of this Declaration and any such regulations, the terms of such regulations shall govern and control to the fullest extent permitted by Applicable Law.

EXHIBIT E
CONSTRUCTION AND DEVELOPMENT STANDARDS

(a)	Antennas and Flagpoles	(p)	Foundation Exposure and Finished Floor Elevation
(b)	Artificial Vegetation	(q)	Garages and Carports
(c)	Athletic Facilities and Playscapes	(r)	Grading, Fill and Elevations
(d)	Building Materials, Finishes and Colors	(s)	Guttering
(e)	Burglar and Fire Alarms	(t)	Holiday Decorations
(f)	Chimneys	(u)	Landscaping and Irrigation
(g)	Compliance	(v)	Mailboxes
(h)	Construction Activities	(w)	Numbering
(i)	Construction in Place	(x)	Outbuildings
(j)	Corner Lot Residences	(y)	Pet and Dog Runs
(k)	Drainage	(z)	Refuse Containers
(l)	Driveways and Curbs	(aa)	Solar Panels and Systems
(m)	Exterior Equipment	(bb)	Structures: Placement on Logs, Size and Height
(n)	Exterior Lighting	(cc)	Swimming Pools/Spas
(o)	Fences	(dd)	Tree Protection

(a) **Antennas and Flagpoles**. No radio or television aerial wires or antennae or other radio or television related apparatus or equipment shall be placed or maintained on any residence or on any other exterior portion of a Lot except with the prior written approval of the ARC, which shall have the authority to disapprove the installation of same. With the prior written consent of the ARC, a satellite disc or dish of not more than eighteen inches (18") in diameter may be placed on a Lot where such equipment is not visible from a street or Common Area and where such location does not materially and adversely obstruct the view from an adjacent Lot.

Flagpoles of a modest size may be displayed if specifically approved by the ARC. Flagpoles must be in proportion to the modest size of the flag and may not exceed the height of the horizontal line of the roof fascia of the structure to which the flagpole is attached or most closely located.

(b) **Artificial Vegetation**. No artificial turf or other artificial vegetation shall be installed or kept in the front or side yard areas on any Lot except as otherwise permitted in the ADG or approved by the ARC.

(c) **Athletic Facilities and Playscapes**. Sports courts, basketball goals and playscapes shall be allowed only with the approval of the ARC and shall comply with all other Applicable Law. Landscaping and fencing requirements may be prescribed by the ARC as a condition of approval of any athletic facilities or playscapes.

(d) **Building Materials, Finishes and Colors.**

(1) Masonry. The exterior walls of all residential buildings shall be constructed with masonry or masonry veneer for (i) the entire first floor of the exterior wall area (exclusive of chimneys and/or boxed windows on the sides or rear of the residence), and (ii) at least seventy-five percent (75%) of the front exterior wall area. In determining compliance with this **Section**, window and door openings shall be considered as masonry. Masonry or masonry veneer includes stucco, ceramic tile, clay, brick, rock and all other material commonly referred to in Bexar County, Texas as masonry, but shall exclude any product, regardless of composition, which is manufactured to have a wood or non-masonry appearance. Absent the express written consent of the ARC, vinyl siding and aluminum siding shall not be allowed.

(2) Siding and Sidewall Design. Subject to the limitations imposed by **Subsection (1)** above, wood and fiber cement siding may be used. All other siding materials, and all siding colors, must be approved by the ARC. Absent the express written consent of the ARC, vinyl siding and aluminum siding shall not be allowed. The sidewall of each house on a corner Lot that faces a side street will be designed and constructed to create an attractive appearance that is comparable to its front elevation in terms of building materials, use of architectural trim and decor, windows, doors and other relief areas.

(3) Patio/Atrium Walls. Any patio/atrium walls built along the zero lot line are required to be at least eight (8') above the finished floor of the higher of the two (2) adjacent lots.

(4) Roofing. The surface of roofs of principal and secondary structures, including garages and domestic living quarters, shall be of slate, stone, concrete tile, clay tile, or other tile of a ceramic nature; or metal, left natural or painted; or dimensional composition (30 year). The ARC shall have the authority to approve other roof treatments and materials if the form utilized will, in its sole discretion, be harmonious with the surrounding homes and Subdivision as a whole. All roofs shall have a pitch of 4:12 or greater. Flat roofs are not permitted. The ARC shall establish roofing criteria which are directed to generally improving the quality of material used; encouraging the use of colors which are in harmony with other structures in the Subdivision; and establishing minimum pitch requirements.

(5) Finishes and Colors. The exterior colors of all Improvements on a Lot, including any repainting of Improvements, shall be subject to approval by the ARC. A sample of the masonry, roofing material, paint color(s) and any additional exterior materials shall be submitted to the ARC for review prior to its application. Any changes to exterior material or color shall be submitted to the ARC for review.

(6) Windows. All windows shall be wood, vinyl, or factory or job-finished painted metal windows, or as otherwise approved in writing by the ARC, and shall be white, beige or stained or painted in a color compatible with the exterior color of the residence and approved by the ARC. All glass in exterior windows, except fixed glass, shall be double pane, and all glass in exterior windows shall be of a color and type approved by the ARC. No colored, reflective, or mirror type glass is permitted.

(7) Exterior Glass and Mirrors. No reflective or mirrored glass shall be used on, in or for the windows or doors of any buildings or other Improvements constructed within the Subdivision.

(8) Clerestory Windows. Any clerestory window must be approved in writing by the adjacent property Owner and the ARC.

(9) Glass Block. All glass block on the zero lot line side shall be fully opaque. The maximum area of the glass block is twenty inches (20") in height and eight feet (8') in width. The glass block shall not be placed within seven feet (7') of the finished floor. Only one glass block area is allowed on the zero lot line side.

(10) Tubular Skylights. Tubular skylights are allowed only with the written approval of the ARC.

(e) **Burglar and Fire Alarms**. Each residence constructed on a Lot within the Subdivision shall be pre-wired for a perimeter burglar alarm system covering all exterior doors, entries and windows and such type, number, and location of smoke detectors as stipulated by the ordinances and/or building codes of the City or governing municipality then in effect. The ARC may, but is not required to establish, minimum standards for such burglar alarm systems and smoke detectors and shall, at such time, make the same available to Lot Owners and Builders, and may disapprove any plans and specifications not conforming to this provision or such standards.

(f) **Chimneys**. All fireplace flues and smoke stacks shall be enclosed and concealed from public view in finished chimneys or materials architecturally compatible with the finish material of the exterior wall of the Living Unit, including Hardie Plank stucco finish or equivalent, or other material approved by the ARC. All chimneys located on the front or the street side of a residence will be composed of masonry matching the primary masonry used on the residence.

(g) **Compliance**. Each Owner shall comply strictly with the provisions of these restrictions as the same may be amended from time to time. Failure to comply with any of this Declaration shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by an aggrieved Owner or Declarant. Declarant makes no warranty or representation as to the present or future validity or enforceability of this Declaration, its terms or provisions. Any Owner acquiring a Lot in reliance on this Declaration, its terms and provisions shall assume all risks of the possible amendment, validity and enforceability thereof and, by acquiring the Lot,

agrees to hold Declarant harmless from any damages resulting from any amendment to or invalidity or unenforceability of this Declaration.

(h) **Construction Activities**. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Subdivision. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, or similar activities, provided that such construction is pursued to completion with reasonable diligence and as hereinafter provided, and conforms to usual construction practices in the area. No residential building including flatwork shall remain incomplete for more than six (6) months after the foundation construction has commenced. The ARC may, by its written approval, permit extensions of the aforesaid timeframe in its sole discretion, provided that construction is being diligently pursued.

(i) **Construction in Place**. All Improvements constructed within the Subdivision shall be built in place on the Lot and the use of prefabricated buildings is prohibited.

(j) **Corner Lot Residences**. Residences constructed upon corner lots shall be oriented so that the front of the residence shall face the street as approved by the ARC.

(k) **Drainage**. All storm water from any Lot shall drain into or onto contiguous or adjacent street rights-of-way, drainage easements, or retention areas, or as determined by a qualified engineer. All work done on any Lot affecting or pertaining to the Lot grade, the flow of surface water drainage, the alteration or removal of any drainage or environmental berm or swale or any storm berm or swale, must be in accordance with the Grading Plan and the site grading and drainage plans prepared by an engineer selected by Declarant or the ARC to prepare such plan or plans and also in accordance with all Applicable Law.

(l) **Driveways and Curbs**.

(1) Driveways.

(i) Driveways on each residential Lot and visible from a street must be constructed of salt or broom finished concrete, stamped concrete, or brick pavers, provided that the ten feet (10') of the driveway entry shall be salt or broom-finished concrete.

(ii) All curb cuts must be professionally machine cut. No more than one curb cut per Lot shall be permitted without approval of the ARC. Driveway locations shall be only as approved by the ARC. A circular driveway may be considered by the ARC if the driveway is not more than twenty feet (20') wide and the total impervious cover of the driveway material does not exceed forty percent (40%) of the front building setback area.

(iii) Driveways which have more than six inches (6") of exposed concrete foundation sides shall have a masonry veneer applied or be fully parged, and additional landscaping may be required depending on the amount of exposure.

(iv) The driveway leading directly to the garage shall in all cases, and regardless of the house being on the topographically low or high side of the street, be constructed in a manner consistent with the FHA Block and Lot Grading data sheet guidelines and the following:

(1) The elevation of the driveway approach surface at a point ten (10) linear feet from the curb line shall be at least nine inches (9") higher than the pavement grade at gutter line. There shall be a 12% positive slope meeting the requirements of applicable Governmental Authority.

(2) For Lots on the topographically low side of the street, the driveway shall be constructed with a protective swale in front of the garage to prevent runoff water from entering into the

house and/or garage. Also, the driveway shall not have the effect of "trapping" a low area of ground with no other convenient route of drainage. The Lot Grading Plan will serve to indicate areas of concern.

(2) Curbs.

(i) All curbs shall be cut by an experienced, qualified professional curb cutter. All driveways and curb cuts must be shown on the plans submitted to the ARC and approved prior to any action being taken.

(ii) No curbing shall be ripped out to provide access for a driveway (header curb) or sidewalk approach.

(iii) Any portion of curbing which is damaged, whether during construction or afterwards, shall be repaired as soon as practicable at the sole and exclusive expense of and by the Owner of the Lot appurtenant to such damaged curb.

(3) General. Asphalt paving and loose gravel driveways or sidewalks are specifically prohibited forward of the front building line. Builders and contractors are required to clean streets immediately after aggregate finished driveways have been washed.

(m) **Exterior Equipment.** All electric service meters, air conditioning units, pool equipment, or other outdoor equipment shall be located where not in view of any street, Common Areas, or fully screened by landscaping (evergreen plants) or fencing so as not to be in view from any street or Common Areas.

(n) **Exterior Lighting**. Exterior lighting is required at the front door of each residence; provided, however, that no light fixture or lantern of any type shall be placed in the front yard, or in the back yard if same is visible from any other portion of the Subdivision or any streets, of any Lot until the same has been approved by the ARC. No exterior lighting of any sort shall be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property. Reasonable security or landscape or tennis court lighting is permitted with the approval of the ARC, provided that no security lighting may be left on continuously or controlled by photocell device.

Maintenance and the electricity to operate the street lights shall be the responsibility of the Association. The Owners of the Lots enumerated below shall receive a credit or reimbursement from the Association for the estimated use of electricity for the street lights billed to their residences. Prior to completion of construction of a principal residence on any Lot herein designated, the Owner of said Lot shall be responsible for the electrical connection (on a separate breaker in an exterior panel) and supply of the initial bulb (100 watt metal halide). Lighting specifications shall be specified by the ARC. Such lights and fixtures shall be repaired and maintained by the Association and at the expense of the Association. Each designated Lot and adjoining Lot shall be subject to an easement of access and use for placement, repair, and maintenance of such light fixtures. The following Lots and the Owners thereof are responsible for such front light fixtures.

LOT	BLOCK
2221	26
2227	26
2237	26

The front light fixtures shall be located and maintained as currently erected or located on such Lots and Declarant and the Association shall have an ingress and egress easement to these lights for maintenance, repair, reconstruction, or removal of same.

(o) **Fences**. No fence or wall shall be built or maintained forward of the front building line of the main structure. This setback restriction does not apply to decorative walls or fences which are part of the architectural design of the main structure, and which are not to be built or maintained nearer than the building setback line of any Lot unless otherwise approved in writing by the ARC. Except as specifically

set forth in this Declaration, all fences or walls located on a Lot are to be maintained at the expense of the Lot Owner.

(1) All fencing shall comply with the following requirements:

(i) Side Fencing Adjacent to Streets: Shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, vertical planks, without gaps between planks, with a top rail as shown on **Exhibit F-1** attached hereto. The smooth side shall face the street and the framing shall face the interior of the Lot. Masonry columns are required on all street side fencing at the front building setback and the rear property corner adjacent to the street. The side fencing for Lot 2204, Block 26 (adjacent to Bedingfeld Road) shall be composed of six feet (6') tall masonry.

(ii) Rear Fencing Adjacent to Streets: Shall be composed of six feet (6') tall masonry for Lots 2204-2208, Block 26.

(iii) Side Fencing Not Adjacent to Streets: Shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, notched, vertical cedar planks, without gaps between planks. The side of Lot 2208, Block 26 (adjacent to Lot 2019, Block 26) shall be composed of one inch by four inch (1" X 4"), six feet (6') tall, vertical planks, without gaps between planks, with a top rail as shown on **Exhibit F-1** attached hereto. The smooth side shall face the interior of the Lot and the framing shall face the exterior of the Lot. The side of Lot 2245, Block 26 (adjacent to Lot 2246, Block 26) shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, vertical planks, without gaps between planks, with a top rail as shown on **Exhibit F-1** attached hereto. The smooth side shall face the exterior of the Lot and the framing shall face the interior of the Lot with masonry columns required at the front building setback and the rear property corner.

(iv) Rear Fencing Not Adjacent to Streets: Rear fencing on Lots 2211-2227, Block 26, shall be composed of one inch by four inch (1" x 4"), six feet (6') tall, vertical planks, without gaps between planks, with a top rail as shown on **Exhibit F-1** attached hereto. The smooth side shall face the interior of the Lots and the framing shall face the exterior of the Lots. Rear fencing on Lots 2229-2245, Block 26, shall be composed of eight feet (8') tall masonry.

(v) Wing Walls and Gates: Wing Walls shall be composed of masonry and shall match the primary masonry used on the home. Gates shall be composed of wrought iron. All gates shall not exceed four feet (4') in width. All wrought iron used in fencing shall be of Montage-style ("3-Rail") as shown on **Exhibit F-2** hereto, and shall be painted black.

(vi) Courtyard Walls: Courtyard Walls located on a residential Lot shall be composed of masonry and shall match the primary masonry used on the home. All Courtyard Walls shall not exceed forty two inches (42") in height and must be on or behind (but not in front of) the front building setback of the home.

(vii) Declarant Fencing: Lots 2204-2208, 2211-2227 and 2229-2245, Block 26, shall have Declarant constructed fences on the Lots ("Declarant Fencing"). The owners of Lots with Declarant Fencing shall be responsible for all costs of the maintenance, repair and replacement of the Declarant Fencing on their respective Lots, but not the initial construction costs of such Declarant Fencing.

(2) All masonry columns shall be six and one-half feet (6' 6") in height. All wrought iron used in fencing shall be of Montage-style ("3-Rail") as shown on **Exhibit F-2** hereto, and shall be painted black. No fence shall exceed six feet (6') in height unless specifically described herein or approved by the ARC and applicable Governmental Authority. Declarant reserves the right to build columns at a spacing it deems appropriate along all street and future street right-of-ways.

(3) The ARC is empowered to waive the composition requirements for fences and the height or setback limitation in connection with retaining walls and decorative walls if, in its sole discretion, such

waiver is advisable in order to accommodate a unique, attractive or advanced building concept, design or material, and the resulting fence, decorative wall and/or retaining wall (whichever is applicable) will not detract from the general appearance of the neighborhood and it meets the requirements of the City or applicable Governmental Authority. Any materials other than cedar planks, vinyl (for any area other than a side property line), wrought iron, or masonry to be attached to or made part of a fence must be approved in writing by the ARC prior to installation.

(4) No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area as formed by the extension of curb lines and a line connecting them at points twenty-five feet (25') from the intersection of the curb lines into the street, or in the case of a rounded property corner, from the intersection of the street line extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Notwithstanding the foregoing, no structures, walls, fences or vegetation higher or greater than two (2) feet in height shall be constructed or maintained on any Lot within an area labeled on the Subdivision Plat as a clear vision easement.

(5) Pool and decking perimeter fencing will be required as safety fencing for pools and spas. These fences must have self-closing and self-latching gates as well as meet all other requirements under this **Section**. Pool fencing shall be installed prior to the completion of the construction of the pool.

(6) Each Owner shall maintain all fencing placed on his Lot including the reconstruction or replacement of fences which are tilted more than ten (10) degrees from a vertical position and the replacement of broken or cracked wooden pickets.

(7) All solid fencing shall include weep holes with the invert of the pipe at finished grade. Owner shall be responsible for clearing and maintaining the weep holes to permit the free flow of water.

(p) **Foundation Exposure and Finished Floor Elevation**. The Builder of each residence and building shall, to the extent possible, minimize the amount of exposed foundation below the brick lug, and in any event, no more than twelve inches (12") of the foundation along the front elevations, zero lot line, and along the first fifteen feet (15') on the non-zero lot line side of the residence shall be exposed to view from any street. No more than twenty-four inches (24") of the foundation along the remainder of the residence shall be exposed to view from any street or Common Areas. All exposed slab areas shall be parged or concealed by masonry or masonry veneer approved by the ARC. Additional landscape screening of exposed foundation may be required by the ARC. All stucco exteriors shall be fully extended to the minimum level approved by VA and FHA. Stucco homes only are permitted to parge and paint exposed slab areas in excess of the maximum requirements if a stucco band is installed to conceal the differential offset from stucco surface to the parged foundation. All foundations shall be a poured concrete slab. The finished floor elevation for the Living Unit and all other buildings situated on each Lot shall be in accordance with the elevations shown on the Grading Plan for such Lot and must be a minimum of eight inches (8") above the adjacent finished grade.

(q) **Garages and Carports**. A garage able to accommodate at least two (2), but not more than four (4) automobiles must be constructed and maintained for each residence. Detached garages may be allowed with ARC approval. Garages on model homes will be allowed to be used as a builder's sales offices but must be reconverted to use as a garage upon conveyance or occupancy of home as a residence.

(r) **Grading, Fill and Elevations**. No excessive excavation or fill will be permitted on any Lot. Every effort must be made to minimize cut and fill necessary for the construction of a residence on a Lot. Excess fill may not be placed on a Lot and must be legally disposed of outside of the Subdivision. For Lots adjacent to a 100 year flood plain, the finished house pad elevation must be a minimum of two feet (2') above the 100 year flood plain elevation and/or the minimum grade specified on the Subdivision Plat.

(s) **Guttering**. Gutters are required on the zero lot line side of all homes. All gutters are required to be a minimum of five inch (5") baked colored aluminum matching the trim color on the residence or galvalume to match the roof on the residence. Other portions of the home shall be guttered with downspouts located so as to minimize adverse drainage consequences for adjoining Lots and shall blend with the exterior of the house.

(t) **Holiday Decorations**. Holiday decorations, including lights, wreaths, and other similar decorations, may be placed on the exterior of the residence and/or the yard area of a Lot, provided that such decorations shall not be displayed more than thirty (30) days in advance of the holiday to which they pertain and shall be removed within fifteen (15) days after such holiday. No lighted decorations shall be permitted to shine into any neighboring residence or yard area, and no sound-emitting decorations shall be permitted. The ARC shall have the right to establish (and thereafter to amend) standards and guidelines for holiday decorations from time to time.

(u) **Landscaping and Irrigation**. The following provisions shall be applicable to landscaping and irrigation of the Lots in the Subdivision:

(1) General. Landscaping shall consist of quality materials which may include grasses, trees, shrubs, flowers, and ground cover. Landscapes will consist of plants and trees that are drought tolerant, which may be indigenous to the area, and require minimum amounts of water to survive and prosper.

(2) Plans. All landscape designs must be submitted to and approved by the ARC prior to installation of any landscaping in accordance with the requirements set forth in **Exhibit C** of this Declaration. The ARC may modify the requirements of submittals to facilitate review of plans for various building programs. All plans shall be submitted to the ARC for review in determining their consistency and compatibility with the design and character of adjacent Lots and the Subdivision as a whole. Such plans shall be drawn to scale and shall include delineation of existing or proposed structures, pavement and other site features; and designate by name, size and location the plant material to be installed.

After a landscaping plan has been approved and instituted, each Owner is required to submit to the ARC a written request for any change in the plan; each Owner shall at all times maintain the minimum required vegetation; and each Owner shall be charged with the responsibility of replacing any vegetation which shall thereafter die or is destroyed or removed.

Installation of all landscaping and irrigation systems must be completed within ninety (90) days of first occupancy of the residence on a Lot in accordance with the landscape plan approved by the ARC.

(3) Plant Materials. All plant materials must be submitted to and approved by the ARC as part of the landscape plan. The ARC shall maintain and make available to all Owners an approved plant list. Each Owner shall make every effort to preserve significant natural vegetation. Appropriate procedures consistent with sound nursery practices shall be employed in all cases. The use or preservation of natural vegetation is intended to be sensitive to the natural plant species especially those which require minimal watering. This is not however intended to allow weeds, non-maintained, peculiar, or radical landscape to exist. The ARC expressly reserves the right to require the landscape plan for each residence to include the planting of trees by Owner if in the opinion of the ARC such trees are necessary to preserve the general landscaping goals and criteria for the Subdivision as a whole.

Minimum landscaping requirements shall include the following:

(i) At least two (2) of the following trees are either to remain or be planted in the front yard of each Lot: live oaks, cedar elms, or red oak, three inches (3") or greater in diameter, or multi-trunk mountain laurel, six feet (6") or greater in height;

(ii) Complete landscaping in front and rear yards and, for corner Lots, along the side yard adjacent to a street; and only drought tolerant grasses which require minimum watering will be approved for such areas.

(iii) Basic foundational planting of which will be full grown five (5) gallon size, spaced not more than three feet (3') apart across the entire front of the residence and extending around the front corners of the residence. Foundation plants will be included in ground cover beds configured in shape and size that complement the shape of the residences, flatwork, and trees. Full foundation planting is required along the side elevation adjacent to a side street on corner Lots.

(iv) Additional evergreen planting will be required to screen the broad expanse of concrete for circular driveways, or a three (3) or four (4) car garage driveway that side loads from a side street.

In order to help Owners and their landscape designers, the National Wildflower Research Center publications "Native Plant Bibliography for Texas", "Texas Sources for Native Plants and Seeds", "Gardening and Landscaping with Native Plants", and "Wildflower Meadow Gardening" are maintained by the ARC for inspection and reference. In addition, the National Wildflower Research Center has consultants available at a nominal fee to help Owners either by prepaid telephone conversations or personal appointments. A list of native plants and publications are available, on request, from the ARC.

Complete landscaping in front yard and, for corner Lots, along the side yard adjacent to a street is required. Owners are also required to landscape the cut/slope between the street curb and the Lot line and maintain the same in good condition as approved by the ARC. The ARC will require consistency in the choice of material and maintenance of this area. Owners are encouraged to use xeriscaping and plants, trees, and grasses that require minimum water usage and to use water efficient watering systems to minimize the amount of water applied to the Lots. All planted or landscaped areas should be mulched with at least four (4") inches of native mulch.

(4) Hardscape. All retaining wall material shall be approved by the ARC. No railroad tie retaining walls are allowed. Statues, statuary fountains, multiple tier planters, above-ground pots or plant holders, and concrete and other lawn furniture are prohibited in front and side yards. All hardscape selections must be presented to and approved by the ARC as part of the landscape plan.

(5) Irrigation. Each Owner shall be responsible for watering and maintaining the landscaping on his Lot, including landscape easements and pedestrian easements. Water efficient irrigation systems covering at least all of the front yard area and side yard area of corner Lots shall be required and used to irrigate the landscaping material that requires periodic supplemental watering.

(6) Landscape Lighting. Landscape lighting is only allowed when approved by the ARC and when the submittal indicates the lighting scheme is limited in area and in intensity. The purpose of landscape lighting is to provide for safety and diffused mood lighting only, not for decoration. Step lights, pole and pilaster mounted fixtures may be allowed when placed appropriately. Filters and shields are required to hide the light source. Fluorescent, metal halide, or low pressure sodium lamps are not allowed. No light fixtures are allowed in setbacks.

(7) Variances. In addition to the Variance powers of the ARC hereinafter set forth, the ARC shall have the right to grant a Variance or waiver of the requirements of this **Section** of the landscaping standards from time to time promulgated in such instances as it shall determine that such waiver is advisable in order to accommodate a unique, attractive or advanced landscaping concept, design or material and the resulting appearance, in the opinion of the ARC, will not detract from the general appearance of the neighborhood. No such Variance or waiver shall be presumed and any such grant of Variance or waiver shall be in writing.

(v) **Mailboxes**. No mailboxes or similar receptacles shall be installed or maintained on a Lot, it being contemplated that there shall be one or more central mail areas situated upon the Common Areas or Lots.

(w) **Numbering**. House numbers identifying the address of each Living Unit must be placed as close as possible to the front entry so that the numbers can be easily read from the street at night. Size, color and material of the numbers must be compatible with the design and color of the Living Unit. The ARC may establish a consistent style, size and location of house numbers and/or address markers.

(x) **Outbuildings**. Every outbuilding, inclusive of such structures as a storage building, pool house, servants' quarters, greenhouse or children's playhouse, shall be compatible with the dwelling to which it is appurtenant in terms of its design and material composition. The design, materials and location of all such buildings shall be subject to the prior written approval of the ARC. In no instance shall an outbuilding exceed one (1) story in height other than a detached garage, nor shall the total floor area of any outbuilding other than a detached garage exceed twenty percent (20%), individually or in the aggregate, of the floor area of the main dwelling.

Every proposed addition or exterior modification to any structure or Improvement shall be subject to the terms of this Declaration and the plans and specifications for same shall be submitted to the ARC for approval.

Accessory buildings; include, but are not limited to, detached private garages, green houses, tool sheds, portable storage buildings; bath houses; gazebos; bona fide servants' quarters not for rent; nonpaying guest houses or rooms for guests within an accessory building but not for permanent residence, but for the use of servants employed on the premises, when detached from the principal main building and located in the rear yard within the side and rear setback lines for said Lot. When the accessory building is directly attached to the principal main building by a breezeway, such accessory building shall be considered an integral part of the principal main building. The breezeway may be considered a part of an accessory building when the breezeway extends into the required rear yard.

(y) **Pet and Dog Runs**. Dog runs may be constructed on a Lot when approved in advance by the ARC. Dog runs must be integrated to the fullest extent with the primary residence and may not be freestanding. Chainlink fencing of any type is not allowed.

(z) **Refuse Containers**. All trash and recycle containers shall be kept in an enclosure or other screened area of the Lot sized to accommodate not less than two (2) 96-gallon containers, and adequately screened by planting and or fencing so as not to be visible from streets or Common Areas.

(aa) **Solar Panels and Systems**. No solar panels or solar heating or electrical system or similar apparatus shall be placed in or upon any Lot or Improvements except as permitted in the ADG or approved by the ARC.

(bb) **Structures: Placement on Lots, Size and Height**:

(1) Setback Lines. All buildings or other structures, permanent or temporary, habitable or not, must be constructed, placed and maintained in conformity with the setback lines hereby established and those shown on the Subdivision Plat, if any. In no event shall any such building or other structure be constructed, placed or maintained except in accordance with the following:

(i) Front Setbacks: Minimum front building setback-twenty feet (20'), except that side load garage designs are subject to a minimum front building setback of ten feet (10').

(ii) Side Setbacks: Zero feet (0') on the side abutting an adjoining Lot having a minimum ten foot (10') setback. Zero lot lines are designated on the recorded Subdivision Plat.

(iii) Rear Setbacks: Ten feet (10'), provided that no structure may be constructed or maintained within any utility or other easement.

Eaves of buildings shall not be deemed to be a part of a building or structure, but steps, porches and other permanent improvements shall be deemed to be a part of a building or structure for the purpose of this **Section**. The ARC shall have the right to grant Variances to the setbacks established in this **Section** to accommodate topography, existing trees and vegetation, or rock outcroppings on a Lot or the architectural design of the proposed Improvements. In no event may any structure be constructed or maintained upon any utility easement or other easement. All Variances to setbacks must be approved in writing by the ARC and may also require approval by the Board of Adjustments or other applicable department of the City or applicable Governmental Authority.

(2) Size. Each one (1) story or one and one-half (1½) story building or structure shall contain not less than 1,500 contiguous square feet of living area, and each two (2) story or two and one-half story (2 ½) building or structure shall contain not less than 1,800 contiguous square feet of living area, exclusive of open or screened porches, terraces, patios, driveways, carports, garages, and living quarters for domestic servants separated or detached from the primary living area.

(3) Height. No building or structure erected, altered or placed on, any Lot within or in the Subdivision shall exceed forty feet (40') in height (measured from the top of the foundation to the top most part of the roof), nor be more than two and one-half (2 ½) stories in height without the written approval of the ARC; provided, however, that all applicable ordinances, regulations, and statutes with respect to the maximum height of building and structures shall be complied with at all times.

(cc) **Swimming Pools/Spas**. Any swimming pool/spa constructed on a Lot must be enclosed with a fence or other device completely surrounding the swimming pool/spa which, at a minimum, satisfies the City Code and all other Applicable Law. Pool/spa fencing shall be installed prior to the completion of the construction of the pool/spa. Nothing in this **Section** is intended or shall be construed to limit or affect an Owner's obligation to comply with any Applicable Law concerning swimming pool/spa enclosure requirements. All plans for swimming pools/spa, and all related fencing, construction and access must be submitted to the ARC for approval prior to the start of construction. When swimming pool/spa construction accompanies the initial construction of a residence, such plans (include clear site plans) shall accompany the submission of plans for the residence. Above ground pools are not permitted. Swimming pool filter tanks shall be fully screened from view of all streets and other Lots or buried in conformity with Applicable Law.

(dd) **Tree Protection**. Maintenance of the trees within the Subdivision is strongly encouraged. Prudence, care, and discretion should be used in the positioning of all Improvements in order to preserve as many trees as possible within the Subdivision. Replacement of trees that are removed or die is encouraged. All precautions shall be taken in connection with the pruning and trimming of trees, in order to prevent the spread of oak wilt and oak decline within the Subdivision. Such precautions shall include, but not be limited to minimal trimming and pruning of oak trees, trimming and pruning during dormant months only (normally January and February), and painting all fresh cuts with appropriate dressing or paint.

EXHIBIT F-1
WOOD FENCE DETAIL

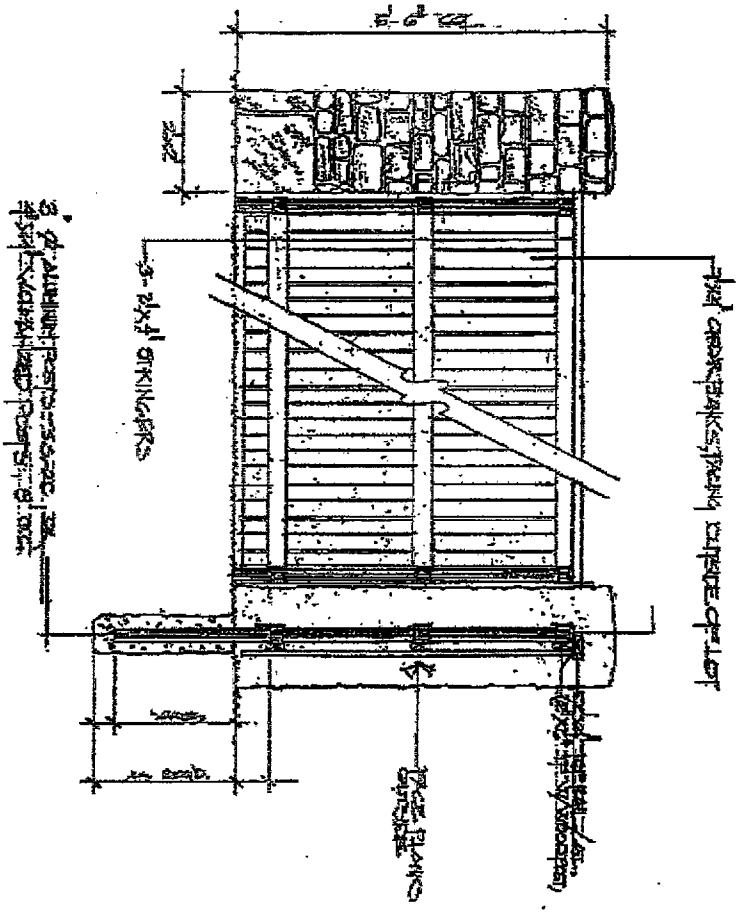


EXHIBIT F-2
METAL FENCE DETAIL

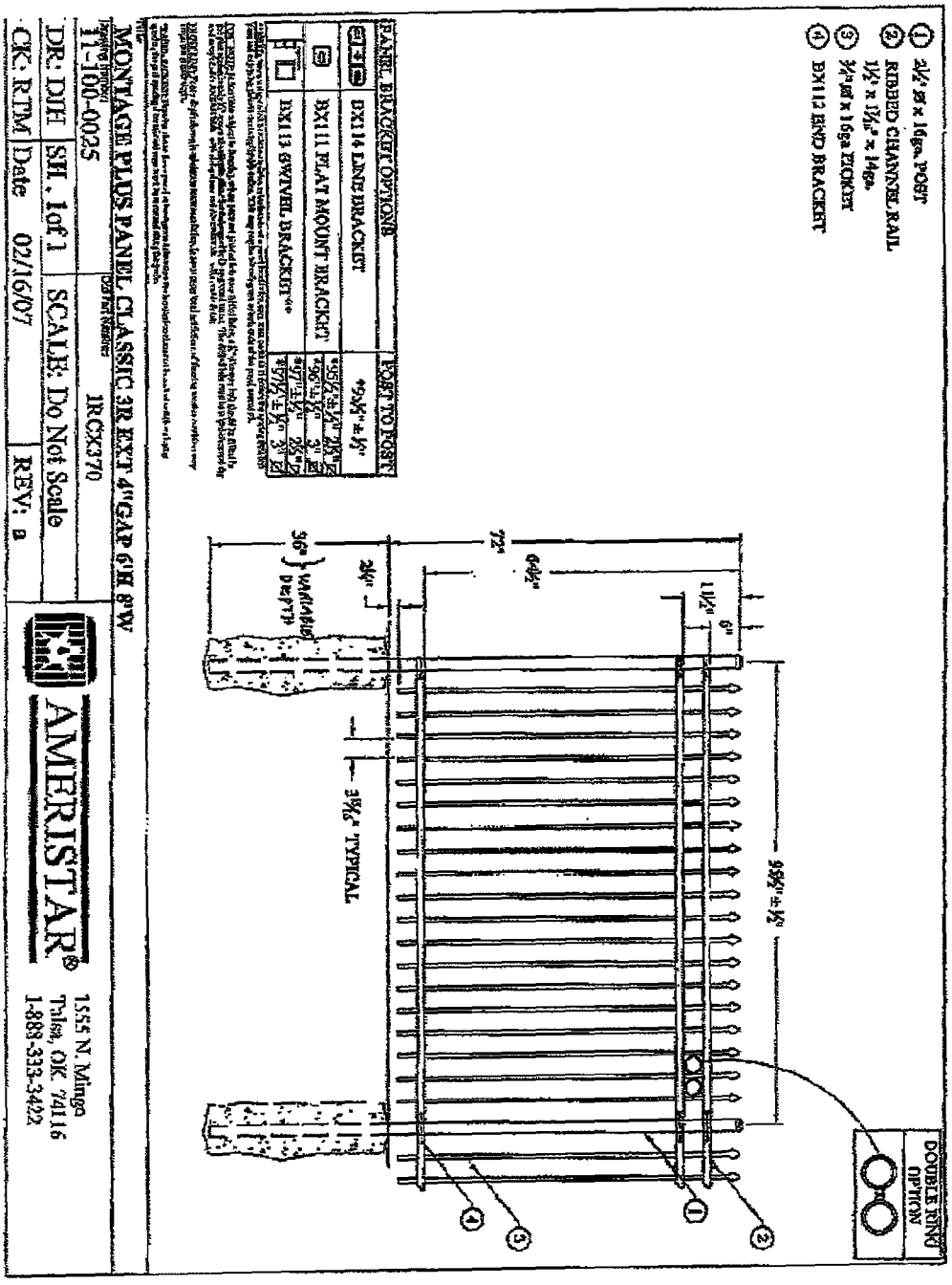
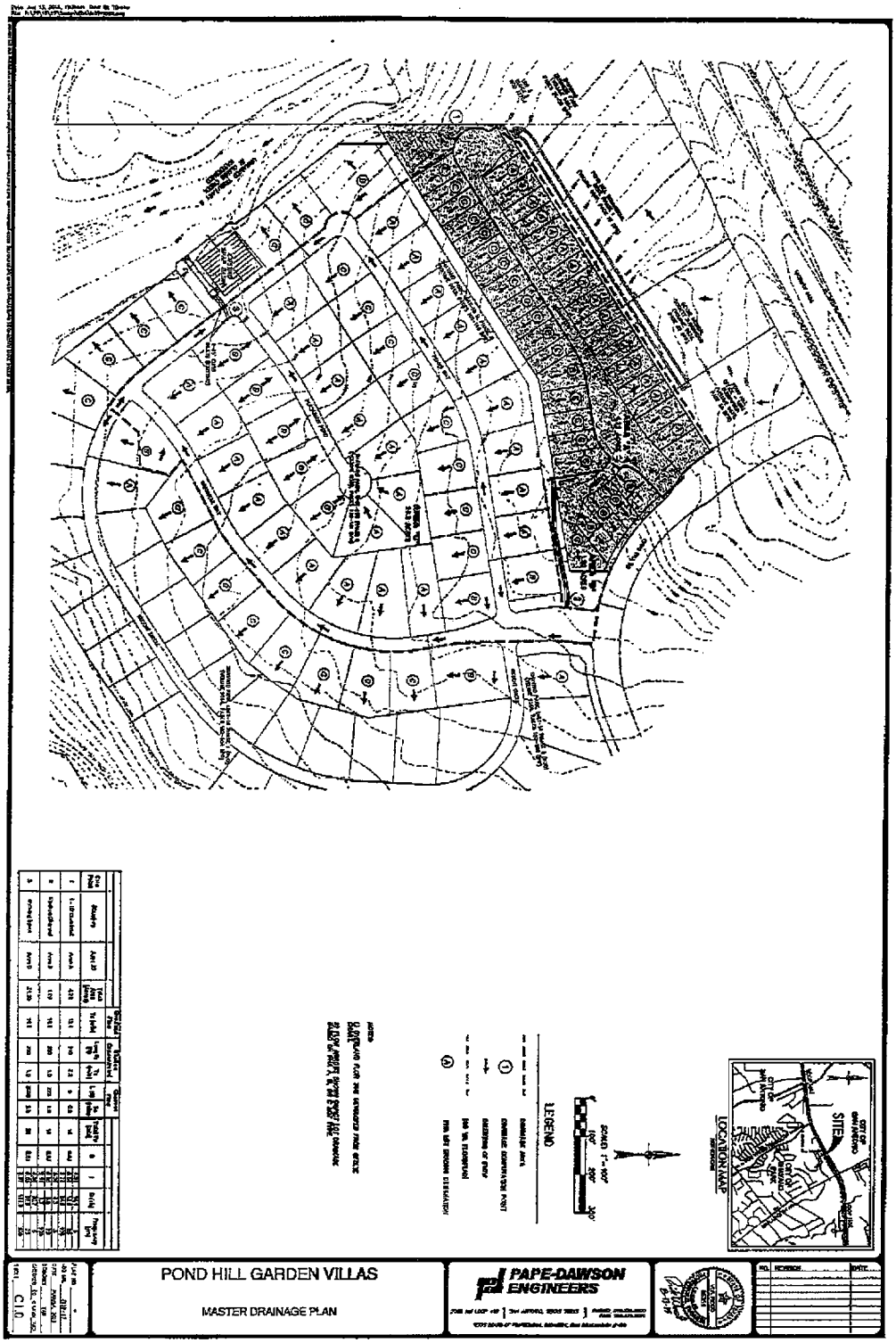


EXHIBIT G
GRADING PLAN



LIENHOLDER CONSENT

The undersigned ("Lienholder"), being the owner and holder of existing mortgage(s) and liens upon and against the Property, or any portion thereof, subject to this Declaration, being described in the Deed of Trust for the benefit of Lienholder recorded in Volume 17393, Page 1087, Real Property Records of Bexar County, Texas, and as may be amended from time to time, and acting solely as mortgagee and lienholder and at the specific request of the Declarant, does hereby consent to and join in the foregoing Declaration for the sole purpose of subordinating the liens held by Lienholder to all of the provisions of the foregoing Declaration. The sole purpose and effect of this subordination shall be limited to ensuring that the Declaration shall survive foreclosure of Lienholder's lien, and that any sale of the Property at foreclosure will be made subject to this Declaration. Each Owner who accepts title to any of the Property hereby acknowledges that Lienholder is not a party to this Declaration except for the sole purpose of subordinating its liens as set out herein, and specifically and unconditionally releases and discharges Lienholder from any claims or liability with respect to, or arising out of, the Declaration, except as to actions which may hereafter be taken by Lienholder as a successor to the interest of Declarant. Notwithstanding any other provisions to the contrary, the provisions of this Lienholder Consent may not be amended without Lienholder consent, and to the extent of any conflict with the Declaration, the terms of this Lienholder Consent shall prevail.

Executed to be effective as of August 31, 2017.

LIENHOLDER:

MMNG INVESTMENTS, LP, a Texas limited partnership

By its Sole General Partner:
GVH ENTERPRISES MANAGEMENT, LLC, a Texas limited liability company

By: _____
Gordon V. Hartman, Sole Member

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on August 31, 2017, by Gordon V. Hartman, the sole Member of GVH Enterprises Management, LLC, a Texas limited liability company, the sole General Partner of MMNG Investments, LP, a Texas limited partnership, on behalf of said limited partnership.

BRENDA ARMSTRONG
Notary Public, State of Texas
Comm. Expires 01-29-2021
Notary ID 12227048

_____
Notary Public, State of Texas

LIENHOLDER CONSENT

The undersigned ("Lienholder"), being the owner and holder of existing mortgage(s) and liens upon and against the Property, or any portion thereof, subject to this Declaration, being described in the Deed of Trusts for the benefit of Lienholder recorded in Volume 18144, Page 997 (Lot 2211), Volume 18144, Page 617 (Lot 2212) and Volume 18144, Page 633 (Lot 2213), each in the Real Property Records of Bexar County, Texas, and as may be amended from time to time, and acting solely as mortgagee and lienholder and at the specific request of Davis, does hereby consent to and join in the foregoing Declaration for the sole purpose of subordinating the liens held by Lienholder to all of the provisions of the foregoing Declaration. The sole purpose and effect of this subordination shall be limited to ensuring that the Declaration shall survive foreclosure of Lienholder's lien, and that any sale of the Property at foreclosure will be made subject to this Declaration. Each Owner who accepts title to any of the Property hereby acknowledges that Lienholder is not a party to this Declaration except for the sole purpose of subordinating its liens as set out herein, and specifically and unconditionally releases and discharges Lienholder from any claims or liability with respect to, or arising out of, the Declaration, except as to actions which may hereafter be taken by Lienholder as a successor to the interest of Declarant. Notwithstanding any other provisions to the contrary, the provisions of this Lienholder Consent may not be amended without Lienholder consent, and to the extent of any conflict with the Declaration, the terms of this Lienholder Consent shall prevail.

Executed to be effective as of September 11, 2017.

LIENHOLDER:

JEFFERSON BANK, a Texas state bank

By: _____
Name: Mitch Walker
Title: SVP

STATE OF TEXAS

COUNTY OF BEXAR

This instrument was acknowledged before me on Sept. 11, 2017, by Mitch Walker, Senior Vice President of Jefferson Bank, a Texas state bank, on behalf of said bank.

BRENDA ARMSTRONG
Notary Public, State of Texas
Comm. Expires 01-29-2021
Notary ID 12227048

_____
Notary Public, State of Texas

Doc# 20170212690
Pages 62
10/26/2017 3:43PM
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Official Public Records of
BEXAR COUNTY
GERARD C. RICKHOFF
COUNTY CLERK
Fees $266.00

STATE OF TEXAS
COUNTY OF BEXAR
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was e-FILED and e-RECORDED in the Official
Public Records of Bexar County, Texas
on this date and time stamped thereon.
10/26/2017 3:43PM
COUNTY CLERK, BEXAR COUNTY TEXAS

