

**SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CASTLE HILL BURLESON HOMEOWNERS  
ASSOCIATION, INC.**

**JANUARY 2024**

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## ARTICLE I – RECITALS

This *Declaration of Covenants, Conditions and Restrictions for Phase I Castle Hill Estates* was originally made on October 12, 1999 by Browns Mountain LTD. (“Declarant”) and was amended on January 18, 2000, and was amended and restated by filing an *Amended and Restated Declaration of Covenants, Conditions and Restrictions for Castle Hill Burleson Homeowners Association, Inc.*, on or about June 15, 2012 in Johnson County, Texas, and on or about July 27, 2012 in Tarrant County, Texas.

1. Declarant was the Owner of certain land (“the Property”) situated in the City of Burleson in Tarrant and Johnson Counties, State of Texas, which is described in Exhibit A attached hereto and incorporated herein.
2. Declarant developed and improved the Property as a residential community to be known as PHASE I CASTLE HILL ESTATES.
3. Declarant intended the Property to be developed and improved in accordance with a common scheme and general plan. Declarant desired to subject the Property to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein for the benefit of the Property and each owner thereof.
4. Declarant caused the Castle Hill Burleson Homeowners Association, Inc. to be incorporated as a non-profit corporation under the laws of the State of Texas to administer and enforce the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration, By-Laws, or by its Articles of Incorporation.

## ARTICLE II – DEFINITIONS

1. “**Association**” means Castle Hill Burleson Homeowners Association, Inc., its successors, and assigns.
2. “**Board**” means the Board of Directors of the Association.
3. “**Builder**” means a person who acquires a Lot for the purpose of constructing a dwelling thereon for sale to another person.
4. “**City**” means the City of Burleson in Tarrant and Johnson Counties in the State of Texas.
5. “**Committee**” means the “Architectural Control Committee” established and empowered in Article X herein.
6. “**Common Area**” means all property, whether improved or unimproved, real and personal, or any easement, use, right, maintenance obligation, or other property right, or obligation

therein, owned or held by the Association for the common use, enjoyment, or obligation of its Members, including without Limitation:

- (a) Any “Recreational Common Area”.
  - (b) Any Project screening or decorative wall designed for common maintenance by Declarant:
  - (c) Any Project entrance monuments, right-of-way, landscaping, irrigation systems, drainage facilities and such other improvements and facilities lying within or upon land owned by the Association or any easements for the benefit of the Association or lying within dedicated public easements or rights-of way within or adjacent to the Project as may be designated by the City for Association maintenance or as deemed appropriate by the Board for the preservation, protection and enhancement of the Project. Common Area shall include those areas of the Property designated as such on the subdivision plats of Phase I Castle Hill Estates as recorded in the Plat Records of the “Counties” and on the recorded subdivision plats of any other land to which the jurisdiction of the Association shall be extended in accordance with the provisions of the Declaration.
7. “**Counties**” means “Tarrant and Johnson Counties in the State of Texas.
8. “**Declarant**” means Browns Mountain LTD., a Texas Limited Partnership and any successor or assign to whom it assigned its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the Counties, and which is no longer involved with the development and has no interest in the Property or Project.
9. “**Declaration**” means this Declaration and all amendments or supplements hereto.
10. “**Improvement**” means every structure and all appurtenances thereto of every type and kind including, but not limited to, buildings, outbuildings, patios, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, poles, signs, exterior air conditioning, antennas, towers, and any facilities used in connection with water, sewer, gas, electric, telephone, television, or other utilities.
11. “**Lot**” means any numbered lot together with any improvements thereon, as delineated by any recorded final subdivision plat of the Property or a part thereof, which contains or is intended to contain a single family residential dwelling.
12. “**Member**” means a member of the Association. The terms “Member” and “Owner” may be used interchangeably herein.
13. “**Owner**” means the record Owner, whether one or more persons or entities, of a fee simple title to any Lot, and shall include Declarant as to any Lot owned by Declarant. “Owner” shall not include any person or entity that holds an interest in a Lot merely as security for the performance of an obligation or as a tenant. The terms “Member” and “Owner” may be used interchangeably herein.

14. **“Property”** means the land which is described on Exhibit "A" and such other land to which the jurisdiction of the Association shall be extended in accordance with the provisions of this Declaration.
15. **"Project"** means the planned community which shall be developed and constructed as a single-family subdivision and which shall include a subdivision of a portion of the Property into lots, streets, and common areas, in accordance with a certain plat bearing said name and recorded in the Plat Records of the Counties and such other land to which the jurisdiction of the Association shall be extended in accordance with the provisions of this Declaration.
16. **"Recreational Common Area"** means all property, whether improved or unimproved, real and personal, or any easement, use, maintenance obligation, or other property right or obligation therein, owned or held by the Association for recreational purposes including, without limitation, (a) any rights of use or occupancy in recreational property or facilities acquired by lease, license, or other use agreement and (b) such portion of the Project which Declarant shall complete and convey or cause to be conveyed to the Association for the common use and enjoyment of its members for recreational purposes, together with any and all improvements constructed thereon.

### **ARTICLE III – COMPLIANCE WITH LAW**

Nothing herein is intended to conflict with the provisions of the Texas Property Code or any other statute governing the organization and/or operation of the Association. If a conflict exists between a provision in this Declaration and any such statutes, the statutes shall prevail and the subject provision of this Declaration shall be automatically construed to conform to such statute.

### **ARTICLE IV – SUBMISSION; AMENDMENT; ANNEXATION**

**Section 1. Submission.** The property shall be held, conveyed, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (a) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Project, and (b) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Project. All limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, and be binding upon and inure to the benefit of the Property, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Property, shall be binding on and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

**Section 2. Incorporation of Declaration Into Instruments.** Any deed or other instrument by which the Property or any portion thereof is conveyed shall be subject to the provisions of this Declaration and shall be deemed to incorporate the provisions of this Declaration, whether or not the deed makes reference hereto.

**Section 3. Term.** This Declaration shall remain in force for a term of 20 years from the date it is recorded after which time it shall be automatically extended for continuous successive periods of 10 years, unless sooner terminated by the affirmative vote of at least 75% of all members of all classes of the Association.

**Section 4. Amendment.** This Declaration may be amended only by vote of at least 67% of the votes of the Members. However, no such amendment shall be valid or effective until the earlier of (a) construction of dwellings on all Lots within the Property. or (b) seven years after the first Lot with a dwelling thereon is conveyed to an Owner for use as a residence. If required by FHA and/or VA, amendments shall be subject to approval of FHA and/or VA.

**Section 5. Right to Annex.** Annexation of any land shall require the vote or written consent of at least 67% of all votes of each class of members.

**Section 6. Procedure for Annexation.** Annexation of additional property may be accomplished in phases. Any annexation shall be made by recordation in the Real Property Records of the Counties of a Supplemental Declaration covering the land to be annexed. The Supplemental Declaration shall describe the land to be annexed and shall state that the annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the land being annexed. 'The Supplemental Declaration may contain such complimentary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the land being annexed and as are not inconsistent with the general scheme of this Declaration. Annexation shall be effective upon recordation of the Supplemental Declaration.

**Section 7. No Duty to Annex.** No Owner nor any member shall have any obligation to annex any property to this Declaration, and no Owner of the property excluded from this Declaration shall have any right to have such property annexed thereto.

**Section 8. FHA/VA Approval.** Notwithstanding any provision of Section 4 to the contrary, if any Lot in the Project is subject to an FHA or VA mortgage loan, any annexation shall be subject to approval of FHA or VA. the Association shall submit a written request for annexation to FHA and VA accompanied by a copy of the Supplemental Declaration. If neither FHA nor VA delivers notice of objection to the annexation within 15 days of the date of the Association's request for approval, such approval shall be deemed to have been granted.

## **ARTICLE V – MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Governing Body.** The Association shall be the governing body for all members concerning management, administration, maintenance, repair and replacement of the Project, as provided by this Declaration, the Articles of Incorporation and the By-Laws of the Association. The Association's authority, power and duties shall be carried out by a Board of Directors, as more specifically described in Section 4 below and in the Association's By-Laws.

**Section 2. Membership.** Membership in the Association shall be composed of and limited to Owners as defined above in Article II (13). Each Owner, including Declarant, shall automatically be a member of the Association and entitled to vote as described in Section 3 below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of



ownership, an Owner's membership shall automatically terminate and transfer to the new Owner of the Lot.

**Section 3. Voting.** Members shall be entitled to one vote for each Lot owned. When more than one person owns a Lot, all such persons are members but only one vote may be cast regarding such Lot. The vote for any such Lot shall be exercised as the Owners shall determine among themselves; absent an agreement, the member with a majority ownership in such Lot shall govern unless the Association is notified otherwise by a co-owner prior to the casting of that vote. The vote of any owner shall be conclusively presumed to be the majority vote of all Lot owners.

**Section 4. Board Of Directors.** The members shall select the Board subject to the provisions of subparagraph (b) hereof, and the Board shall, by majority vote, conduct all Association business, except when membership votes are required by this Declaration, the Articles of Incorporation or the By-Laws.

**Section 5. By-Laws.** The Association may make and enforce whatever rules and By-Laws it deems desirable to govern the Association and its members including, without limitation, enforcement through the imposition of fines: provided, however, any conflict between such By-Laws and this Declaration shall be controlled by this Declaration.

**Section 6. Inspection Rights.** The Association shall make available its books and records, including financial records, to all Members or to persons designated in writing signed by the member as the Member's agent, attorney or certified public accountant. The Association's By-Laws shall specify the procedures for such inspections, as well as the Association's record retention policy, all of which shall comply with the By-Laws and with the provisions of the Texas Property Code and any other statutes governing such issues.

**Section 7. Declarant's Rights.** Declarant's rights under this Declaration have expired and have automatically passed to the Owners and the Association.

## **ARTICLE VI – ASSESSMENTS, LIENS AND FORECLOSURE**

**Section 1. Regular Assessments.** The regular annual assessment for each Lot for 2024 shall be a maximum of \$315 per Lot (the "Maximum Assessment Amount"). If an assessment year shall have fewer than 12 months, the Maximum Assessment Amount shall be appropriately prorated for the shorter period. For every assessment year after 2023, the Maximum Assessment Amount shall automatically increase to 110% of the Maximum Assessment Amount for the preceding assessment year, unless the Board in its discretion decides on a smaller increase or larger increase is necessary, and subject to the requirements in the following paragraphs and Section 5 of this Article VI.

The Board shall fix the amount and due date of the regular annual assessment on a yearly basis at least 60 days in advance of each assessment year provided, however, that the amount of the regular annual assessment for 2024 shall be \$315, and such amount shall be payable in semi-annual installments; and provided further that the Board may not impose a regular annual assessment which is more than 25% above the Maximum Assessment Amount for the last assessment year without the vote of at least 67% of Members of the Association who are voting in person or by proxy at a meeting duly called for such purpose at which a quorum is present. The notice and

quorum requirements of such meeting shall be the same as those set forth in Section 2 immediately below for special assessments. Written notice of the regular annual assessment shall be sent to every Owner who is not present at the time the regular annual assessment is so fixed. If the Board fails to so fix the regular annual assessment, the assessment applicable for the previous assessment year shall remain in effect until the Board shall fix a new regular annual assessment. Regular annual assessments shall be payable annually on the first day of each January or at such other time as the Board may fix, and may be payable in periodic (including quarterly or semi-annual) installments if the Board so determines. The Association shall, upon demand and for a reasonable charge, furnish to any person having a legitimate interest a certificate signed by an officer of the Association stating whether the regular annual assessment and special assessments, if any, on a specified Lot have been paid and, if not, the amount due.

**Section 2. Special Assessments.** In addition to regular annual assessments, the Board may levy in any assessment year, a special assessment against the Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements, and related fixtures, and personal property on or comprising a part of the Common Area provided, however, that such special assessment shall have been approved by vote of at least 67% of Members who are voting, in person or by proxy, at a meeting duly called for such purpose not less than 10 days nor more than 60 days in advance of such meeting. At the first such meeting called, the presence of members (in person or by proxy) entitled to cast 51% of all the votes of members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be 1/2 of the required quorum at the preceding meeting. No meeting for a special assessment shall be held more than 50 days following the preceding meeting.

**Section 3. Allocation and Use of Assessments.** Except as otherwise provided in this Declaration, all regular and special assessments shall be levied equally against all Owners. Regular annual or special assessments paid by Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Area, other purposes reasonably related to the foregoing, and to promote the recreation, health, safety, and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization to the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

**Section 4. Commencement of Assessments.** The regular annual assessments provided for herein commenced as to all Lots in the Property on the first day of the month next following the conveyance of the first Lot by Declarant. The first assessment year shall be the period commencing on the date regular annual assessments commence and ending on the December 31st. The regular annual assessment for the first assessment year shall be prorated from the amounts fixed by the Board for a full 12-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board.

**Section 5. Revised Assessments.** Subject to the provisions of Section 1 above, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or more than adequate by reason of a revision of its estimate of either expenses

or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for the balance of the assessment year. Any such revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

**Section 6. Personal Obligations.** Each regular or special assessment, together with any late charges, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of each person or entity, other than the holder of a mortgage or deed of trust lien, who held an ownership interest for the Lot at the time such assessment was levied. If more than one person or entity held an ownership interest in the Lot at such time, the personal obligation to pay such assessment or installment respecting such Lot shall be joint and several. No Owner may exempt himself from payment of assessments, or installments, waiver of the use or nonuse of any Recreational Common Area within the Project or of any other portion of the Common Area or by abandonment or leasing of his Lot. The personal obligation for delinquent assessments shall not pass to a successor Owner unless expressly assumed by such successor Owner.

**Section 7. Delinquent Assessments, Fines, Remedies.** Any assessment not paid within 30 days after the due date shall be delinquent, and shall bear interest from the due date until paid in full at the rate of 15% per annum, but in no event in excess of the maximum rate allowed by Texas law. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. The Association may commence foreclosure proceedings and/or institute suit to collect such amounts and/or to foreclose its lien in accordance with the authority and requirements of the Texas Property Code and any other applicable statutes. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charge as a debt, or to enforce the lien by suit, judgment and such foreclosure as is authorized and required by the Texas Property Code and any other applicable statutes. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees. All payments shall be applied as required by the Texas Property Code and as set forth in Section 11 below.

**Section 8. Alternative Payment Plans.** The Board shall adopt an alternative payment schedule by which an Owner may make partial payments for delinquent amounts owing the Association, and shall file such alternative payment schedule guidelines in the real property records of each county in which the subdivision is located. Such alternative payment schedule guidelines shall comply with the provisions of the Texas Property Code and any other applicable statutes.

**Section 9. Third Party Collections.** An Owner shall not be liable for the fees of a collection agent unless the Association first provides written notice to the Owner, by certified mail, return receipt requested, which complies with the requirements of the Texas Property Code and any other applicable statutes governing such issues.

**Section 10. Right to Hearing.** If entitled to cure an obligation or violation, an Owner may submit a written request for a hearing before the Board or a committee appointed by the Board, and such notice and hearing shall comply with the provisions of the Texas Property Code and any other statutes.

**Section 11. Priority of Payments.** Payments received by the Association on an Owner's delinquent account shall be applied in the following order and as required by the Texas Property Code: (a) any delinquent assessment; (b) any current assessment; (c) any attorneys' fees or third party collection costs incurred by the Association relating solely to assessments or other charges that could provide the basis for foreclosure; (d) any attorneys' fees not subject to (c) above; (e) any fines assessed by the Association; and (f) any other amount owed to the Association. However, if at the time the Association receives a payment the Owner is in default under a payment plan agreed to by the Owner and the Association, the Association is not required to prioritize the payment as outlined above; however, an assessed fine may not be given priority over any other amount due the Association.

**Section 12. Covenant to Pay Assessments.** Subject to the terms of this Article, every Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. To the extent permitted by the applicable statutes, the amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees) as such may be provided in this Declaration, shall be secured by a lien ("Assessment Lien") on such Lot in favor of the Association. Such Assessment Lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes, or (b) liens for all sums unpaid on a debt validly secured by a mortgage or deed of trust duly recorded in the land records of the Counties (and all amounts advanced pursuant to such mortgage or deed of trust and secured thereby in accordance with the terms of such instrument). All other persons acquiring liens or encumbrances on any Lot shall be deemed to consent that such liens or encumbrances are inferior to the lien provided herein to secure the payment of future assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

**Section 13. Power of Sale.** Regarding the Assessment Lien created herein, each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other conveyance to such Owner, a power of sale to be exercised in accordance with Texas foreclosure statutes.

**Section 14. Lien Filing.** Although no further action is required to create or perfect the Assessment Lien, the Association may, as further evidence and notice of such lien, execute and record a document setting forth as to any Lot the amount of the delinquent sums due the Association at the time such document is executed and the fact that an Assessment Lien exists to secure the repayment thereof; such document, when properly filed and recorded in the official public records of a county is a legal instrument affecting title to real property. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability or priority of the Assessment Lien.

**Section 15. Subordinated Lien to Secure Payment.** The lien on any particular Lot for payment of assessments as provided for herein shall be subordinate to the liens of any valid previously recorded mortgage or deed of trust encumbering such Lot. Sale or transfer of any Lot shall not impair the enforceability or priority of the Assessment Lien against such Lot.

**Section 16. Notice of Enforcement Action.** Before the Association may suspend an Owner's right to use a common area, file a suit against an Owner other than suit to collect a regular or

special assessment or foreclose an Association lien, charge an Owner for property damage or levy a fine for violation of the restrictions or By-Laws of the Association, the Association or its agent must give written notice to the Owner by certified mail, return receipt requested. Such notice must comply with the requirements of the Texas Property Code including, but not limited to, the requirement that the Association inform the Owner of special rights or relief under federal law, including the *Servicemembers Civil Relief Act*.

**Section 17. Foreclosure.** Foreclosure of the lien described in this Article shall be governed by the following provisions:

- (a) The Association may not foreclose an Assessment Lien if the debt securing same consists solely of fines or attorneys' fees assessed by the Association, or amounts added to the Owner's account as an assessment for costs of copying records or inspection as provided in the Association's By-Laws.
- (b) The Association may not foreclose its Assessment Lien unless it has provided written notice of the total amount of the delinquency giving rise to the foreclosure to any other lienholder of record on the property whose lien is inferior or subordinate to the Association's Assessment Lien and is evidenced by a deed of trust; and unless it has provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the recipient receives the notice.
- (c) Notices under Section 16 above must be sent by certified mail, return receipt requested, to the lien holder's address shown in the deed records relating to the property subject to the Association's Assessment Lien.
- (d) Except as provided by Subsection (e) below and subject to §209.009, Texas Property Code, the Association may not foreclose its Assessment Lien unless the Association first obtains a court order in an application for expedited foreclosure, as promulgated by the Texas Supreme Court for expedited foreclosure proceedings for use by property owners' associations in foreclosing assessment liens.
- (e) Expedited foreclosure, as described above, is not required if the Owner of the subject property agrees in writing at the time foreclosure is sought to waive expedited foreclosure. Such a waiver may not be required as a condition of the transfer of title to real property.
- (f) A provision granting the right to foreclose an Assessment Lien may be removed from or adopted in a dedicatory instrument by a vote of at least 67% of the total votes allocated to Owners in the Association. Owners holding at least 10% of all voting interests in the Association may petition the Association and require a Special Meeting to be called to vote for the purposes of this Subsection.
- (g) The Association shall have the power to bid on a Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same. The Association may sue for unpaid assessments and other charges without foreclosing or waiving the lien securing the same. The sale or transfer of any Lot shall not affect the Assessment Lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to

foreclosure of a mortgage or deed of trust lien shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A mortgagor or other purchaser of a Lot who obtains title pursuant to foreclosure of the mortgage or deed of trust shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be common expenses collectable from Owners of all Lots subject to assessment under this Declaration, including such acquirer, its successors, and assigns.

**Section 18. Notice After Foreclosure Sale.** Following the foreclosure sale of an Owner's Lot, the Association must meet all statutory requirements for notice under Texas law and must send to the Owner and to each lienholder of record, by certified mail, return receipt requested, not later than the 30th day following the foreclosure sale, a written notice stating the date and time the sale occurred and informing the Owner and each lienholder of record of the Owner's right to redeem the Lot. Such written notice must be sent as required by Texas law and must include the following:

- (a) The Owner's last known mailing address, as shown in the Association's records.
- (b) The address of each lienholder on the subject Lot as evidenced by the most recent deed of trust filed of record in the real property records of the county in which the property is located.
- (c) To the address of each transferee or assignee of a deed of trust described in (b) above who has provided notice to the Association of such transfer or assignment. Notice provided to the Association by a transferee or assignee must be in writing, must contain the mailing address of the transferee or assignee, and must be mailed by certified mail. Return receipt requested, or United States mail with signature confirmation to the Association.
- (d) If a recorded instrument does not contain the lienholder's address, the Association has no duty to notify the lienholder.
- (e) For purposes of this Section, the Owner is deemed to have given the Association approval to notify the lien holder.
- (f) Not later than the 30<sup>th</sup> day after the Association sends the notice required by this Section, the Association must record an affidavit in the real property records of the county in which the Lot is located, stating the date on which the notice was sent and containing a legal description of the Lot. Anyone is entitled to rely conclusively on the information contained in the recorded affidavit.
- (g) The notice requirements of this Section also apply to the sale of an Owner's Lot by a Sheriff or Constable conducted as provided by a judgment obtained by the Association.

**Section 19. Owner's Right of Redemption.** Notwithstanding anything to the contrary contained in this Declaration, in the By-Laws or in the Articles of Incorporation, the Owner of a Lot foreclosed on by the Association to enforce its Assessment Lien or the lienholder of record may redeem the property from the foreclosure sale purchaser not later than 180 days after the Association mails notice of the foreclosure sale to the Owner and the lienholder. Any such

redemption shall be in accordance with the Texas Property Code and any other statutes governing such redemptions,

**Section 20. Reserve Funds.** The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance and the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserve. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the budget of the Association and expended for the purpose for which such other reserve fund has been established.

## **ARTICLE VII – COMMON AREA AND PROPERTY RIGHTS**

**Section 1. Conveyance of Common Area to Association.** The Declarant has conveyed the Common Area to the Association free and clear of any encumbrances except those created by this Declaration or imposed by the City, Counties or other applicable governmental authority, prior to the sale of the first Lot in the Project.

**Section 2. Common Area Easements.** Subject to the further provisions of this Article, each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Recreational Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Recreational Common Area and facilities to the members of such Owner's family or to persons residing on the Lot under a lease or contract to purchase.

**Section 3. Extent of Members' Easements.** The rights and easements of use and enjoyment created hereby shall be subject to the following:

- (a) The right of the Association to prescribe rules and regulations governing the use, operation and maintenance of the Common Area and Recreational Common Area, including the right of the Association to charge reasonable fees for the use of any Recreational Common Area.
- (b) The right of the Association to suspend any member's access and use of any of the Recreational Common Area for any period not to exceed 60 days for an infraction of the Association's Rules & Regulations.
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any municipal corporation, public agency, authority, or utility company for such purposes and upon such conditions as may be agreed upon by the Board; provided, however, that no such dedication or transfer shall be effective unless an instrument signed by at least 67% of members agreeing to such transfer or dedication has been recorded.

**Section 4. Utility Easements.** Any easements for installation, maintenance, use or repair of public utilities or drainage facilities which are dedicated on any final subdivision plat of the project or created in some other way shall be kept free of buildings, and within such easements no structure shall be placed or permitted to remain which may damage or interfere with the installation,

maintenance, use or repair of such public utilities or drainage facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. All such easements at all times shall be accessible until the Project is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities and drainage facilities.

**Section 5. Ingress.** Full rights of ingress and egress shall be had by the Association at all times over and upon the Common Area for the purpose of maintaining the Common Area as set forth herein.

**Section 6. Association Easements.**

- (a) The Association is granted the right and easement to maintain, repair, replace and reconstruct any Project screening wall in substantially the same location as originally installed. Such easement rights shall include the right of access upon and across any portion of the Project as may be reasonably necessary to allow the performance of any such maintenance, repair, replacement, or reconstruction to any portion of such screening wall.
- (b) The Association is granted the right and easement to maintain, repair, replace, and reconstruct any Project entrance monument and related facilities, including without limitation, landscaping, lighting, and irrigation systems, in substantially the same location as originally installed. Such easement rights shall include the right of access upon and across any portion of the Project as may be reasonably necessary to allow the performance of any such maintenance repair, replacement, or reconstruction to any portion or such entrance monument easement area.
- (c) The Association is granted the right and easement to enter upon any easement area granted, dedicated or reserved, for the benefit of the Association, to maintain, repair, replace and reconstruct any improvements or other facilities within any easement area.

**Section 7. Rights of Governmental Authority.** Any governmental authority or agency, including, but not limited to the City and the counties, their agents, and employees, shall have the right of immediate access to the Common Area at all times if necessary for the preservation of public health, safety and welfare; provided, however, that neither the City nor the Counties shall be responsible for any construction or maintenance in the Common Area. Notwithstanding the above, in the event the City, through its officers, agents, servants or employees, determines that the Common Area is not being properly maintained in a manner necessary to protect the public health, safety and welfare, the City may direct the Association to remedy such condition within a reasonable period of time as determined by the City. If such condition has not been properly repaired or remedied within the prescribed time period, the City may perform the necessary work and all costs associated therewith will be paid by the Association. It is specifically understood that the Declarant has installed non-conventional street and traffic signs in the Project at Declarant's sole cost and expense. In the event such non-conventional street and traffic signs are damaged or removed and the Association does not take necessary steps to repair or replace such damaged or missing signs in a reasonable period of time as instructed by the City, the City may remove such signs and install standard signs and all costs related thereto will be paid by the Association.



**ARTICLE VIII – INSURANCE: REPAIR AND RESTORATION**

**Section 1. Right to Purchase Insurance.** The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Area and any improvements thereon or appurtenant thereto, for the interest of the Association and its members, in such amounts and with such endorsements and coverage as shall be considered prudent for properties similar in construction, location and use to the Common Area. Such insurance may include, but need not be limited to:

- (a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value.
- (b) Public liability and property damage insurance on a broad form basis.
- (c) Fidelity bond for all officers and employees of the Association having control over the receipt and disbursement of funds.
- (d) Officers’ and Directors’ liability insurance.

**Section 2. Insurance Proceeds.** The Association and the members shall use the net insurance proceeds to repair and replace any damage or destruction of the property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association, as required in this Article, remaining after satisfactory completion of repair and replacement, shall be retained by the Association as part of a general reserve fund for repair and replacement of the Common Area.

**Section 3. Insufficient Proceeds.** If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment as provided in Article VI above to cover the deficiency.

**ARTICLE IX – USE RESTRICTIONS**

The property (and each Lot situated therein) shall be occupied and used as follows:

**Section 1. Single-Family Residential Use.** All Lots and residences shall be occupied by only one family consisting of persons related by blood, adoption or marriage or no more than two unrelated persons living together as a single housekeeping unit, together with any household servants. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence, which residence may not exceed two stories in height, and a private garage as provided below.

**Section 2. Garages.** Each residence shall have a garage suitable for parking not less than two or more than four standard size automobiles, which garage conforms in design and material with the main structure.

**Section 3. Driveways.** All driveways shall be surfaced with concrete or a similar substance approved by the Committee.

**Section 4. Floor Area Restrictions.** The total air-conditioned living area of the main residential structure, as measured to the outside of exterior walls, but exclusive of open porches, garages, patios, and detached accessory buildings, shall be not less than 1,450 square feet for Lots 11,000 square feet or less, and not less than 1,800 square feet for Lots greater than 11,000 square feet. Notwithstanding any provision hereof to the contrary, the minimum floor area of a residential structure shall be not less than the minimum, habitable floor area as specified by the applicable governmental authority at the time of construction.

**Section 5. Building Materials – Exterior Items and Surfaces.** The total exterior wall area of the main structure shall be not less than 85% brick, brick veneer, stone, stone veneer, masonry or other material approved by the Committee. Roofing shall be constructed of composition material of grade at least equal to a “20-year shingle” as defined by industry standards, unless specifically approved otherwise by the Committee in writing before installation. Unless otherwise approved by the Committee, roof pitch shall be minimum of 8/12, except the roof pitch of a garage may be 4/12. However, the following roofing shingles are expressly permitted: those designed primarily to be wind and hail resistant, to provide heating and cooling efficiencies greater than those provided by customary composite shingles, to provide solar generation capabilities and, when installed resemble the shingles used or otherwise authorized for use on properties in the subdivision, which are more durable than and are of equal or superior quality to the shingles described immediately above, and which match the aesthetics of the properties surrounding the Owner's property.

**Section 6. Chimneys.** All chimneys shall be constructed of brick or brick veneer. All fireplace flues, smokestacks, and spark arrestors shall be completely enclosed and concealed from public view in finished chimneys of materials architecturally compatible with the finish material of the exterior walls of the dwelling or as otherwise approved by the Committee.

**Section 7. Fences and Walls.** Any fence or wall must be constructed of wood, “wrought iron” style tubular steel, masonry, brick or other material approved by the Committee. Chain link fencing shall not be allowed. No fence or wall shall be permitted to extend nearer to the street upon which the house fronts than 45 feet, except for retaining walls or screening walls installed by Declarant or retaining walls or decorative fences specifically approved by the Committee. All fences or walls, including those erected by Declarant, shall become the property of the Owner of the Lot on which the same are erected and, as such, shall be maintained and repaired by such Owner. No portion of any fence shall exceed eight feet in height. The only railroad tie retaining walls allowed in the subdivision shall be those constructed by the Declarant. Nothing herein is intended to conflict with Section 202.023 of the Texas Property Code or other Texas statute.

**Section 8. Solar Energy Devices.** The Association may not prohibit an Owner from installing a solar energy device (*as defined by the Texas Property Code and the Texas Tax Code*) if such device and installation complies with the requirements of this Declaration and the By-Laws. The Association may, however, prohibit the installation of a solar energy device which fails to comply with the requirements of the Texas Property Code.

**Section 9. Irrigation and Composting.** The Association may not prohibit an Owner from composting solid waste, the installation of rain barrels or the installation of irrigation systems if the same comply with the requirements of the ‘Texas Property Code and any other applicable statutes.

**Section 10. Flags and Religious Displays.** The Association may not prohibit the display of the flags of the United States of America, the State of Texas or any branch of the United States armed forces if such display complies with the requirements of the Texas Property Code. Likewise, the Association may not prohibit an Owner from displaying or affixing to the entry of the Owner's or resident's dwelling one or more religious items the display of which is motivated by the Owner's or resident's sincere religious belief, if such display complies with the requirements of the Texas Property Code, and specifically Section 202.018 of the Texas Property Code, and any other applicable statutes. However, the religious display may not contain language, graphics or other information that is patently offensive for reasons other than its religious content.

**Section 11. Landscaping.** The front yard of all Lots shall be landscaped by the original builder. All front yards shall have an electric timed sprinkler system installed by the original builder, and the Owner shall at all times maintain the sprinkler system in working condition.

**Section 12. Sidewalks.** All sidewalks shall be placed and conform to specifications and regulations of applicable governmental authorities. Each Owner shall be responsible for maintenance of the portion of any sidewalk located upon the Owner's Lot.

**Section 13. Mailboxes.** Mailboxes shall be standardized and shall be constructed of a material and design approved by the Committee.

**Section 14. Construction of Improvements.** No Improvements shall hereafter be constructed upon any of the Property, and no change, alteration, addition or removal of any improvement (other than nominal maintenance and repair which does not materially alter or change the exterior appearance, condition and color of same) shall be made without the prior written approval of the Committee. In the case of single-family residences to be constructed on a Lot, the Committee may limit the review to a review of a typical floor plan for the proposed residence, and upon the Committee's approval of such floor plan, residences may be constructed consistent with the approved floor plan without the requirement of further review or approval by the Committee, anything herein to the contrary notwithstanding.

**Section 15. Uses Specifically Prohibited.**

- (a) No temporary dwelling, shop trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, which may be placed on a Lot only in places which are not visible from any street on which the Lot fronts) shall be permitted. No building material of any kind or character shall be placed or stored upon the Property until the Owner thereof is ready to commence construction of improvements, and then such material shall be placed within the property lines of the Lot upon which the improvements are to be erected.
- (b) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home camper body or similar vehicle or equipment may be parked in the driveway or front yard of any dwelling or parked on any public street, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless completely concealed from public view (including any adjoining Lot Owner) by a garage, screening structure or fencing approved by the Committee. No such vehicle or equipment

shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked and used for construction, maintenance or repair of a residence in the immediate vicinity.

- (c) Any commercial truck or van with the name, logo or other marking of a commercial enterprise, and any trucks with tonnage in excess of one ton shall not be permitted to park overnight except those used by a builder during the construction of improvements. Nothing herein is intended to prevent residents living in the residence on the Property from parking a pickup truck or van with their company or employer's name, logo or marking of a commercial enterprise overnight on the Property.
- (d) No vehicle of any size, which transports inflammatory or explosive cargo may be kept In the Project at any time.
- (e) No structure of a temporary character, such as a trailer, tent, shack, barn, or other out-building shall be used at any time as a dwelling house; provided, however, any Builder, with the prior written approval of the Committee, may maintain and occupy model houses, sales offices, and construction trailers during the construction period.
- (f) No oil drilling, or development operation, oil refining, quarrying or mining operations of any kind shall be permitted in the Project, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any part of the Project. No derrick or other structure designed for use quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted within the Project.
- (g) No animals, livestock or poultry of any kind shall be raised, bred or kept on any property in the Project except that dogs, cats or other household pets may be kept for the purpose of providing companionship for the private family. Animals are not to be raised, bred, or kept for commercial purposes or for food. It is the purpose of these provisions to restrict the use of the property so that no person shall quarter or keep on any Lot cows, horses, bees, hogs, sheep, goats, ducks, chickens, turkeys, skunks or any other animals that may interfere with the quietude, health or safety or the community. No more than four pets will be permitted on each Lot. Pets must be restrained or confined to the rear of the Lot inside the fenced area or within the house. It is the pet Owner's responsibility to keep the Lot clean and free of pet debris. All animals must be properly tagged for identification.
- (h) No Lot or other area in the Project shall be used as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers in appropriate locations which may be specified by the Committee and unless otherwise expressly permitted by the Committee, such containers shall be situated and enclosed or screened so as not to be visible from any residential street, private drive or adjacent Lot, except on days when such waste is collected by the municipality or private company providing waste collection service. All incinerators or other equipment for the storage or other disposal of such material shall be kept in clean and sanitary condition.
- (i) No individual water supply system shall be permitted in the Project, except to the extent permitted by Section 9 above.

- (j) No individual sewage disposal system shall be permitted in the Project.
- (k) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period which have been approved by the Committee in writing) shall be occupied by any Owner, tenant, or other person prior to the erection of a residence.
- (l) No air-conditioning apparatus shall be installed on the ground in front of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.
- (m) Except with the written permission of the Committee, no antennas shall be permitted in the Project except antennas for AM or FM radio reception and television reception. All antennas shall be located inside the attic of the main residential structure except with the written permission of the Committee, and provided that a satellite dish which does not exceed 18 inches in diameter may be placed outside of the main residential structure. No use shall be made of any Lot or structure thereon for any type of radio or television or similar broadcasting systems.
- (n) No Lot or improvement shall be used for business, professional, commercial or manufacturing purposes of any kind. No activity, whether for profit or not, shall be conducted which is not related to single-family residential purposes. No noxious or offensive activity shall be undertaken within the Project, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a Builder's temporary use of a residence as a sales office or model home until such Builder's last residence in the Project is sold if such Builder has received the prior written approval of such use from the Committee. Nothing in this subparagraph shall prohibit an Owner's use of a residence for quiet, inoffensive activities such as working remotely in their homes, tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street or interfere with adjoining Homeowners' use and enjoyment of their residences and yards.
- (o) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected thereon.
- (p) No changes shall be made to any portion of a Lot (including without limitation any easement area, set back area, drainage channel, swale or other area) which may damage or interfere with the installation and maintenance of utilities or which may change the overall drainage pattern of a Lot (including without limitation the alteration of existing topography or the installation of structures, plantings or other materials), without the prior written approval of the Committee and any appropriate governmental authority having authority to grant such approval.
- (q) Except to the extent permitted by Section 10 above, no sign of any kind shall be displayed to the public view on any Lot except temporary school spirit signs; temporary political signs which may be placed and kept only in accordance with applicable ordinances and

only with respect to elections scheduled in the immediate future; one professional sign of not more than five square feet advertising the property for sale; and professional signs not exceeding nine square feet used by a builder to advertise the property during the construction and sales period, and provided that during the construction and sales period (and subject to applicable ordinances) a Builder shall be permitted to place larger signage on any Lot upon which the Builder shall have constructed a model home. Notwithstanding the foregoing, no sign shall use the terms “foreclosure” or foreclosed or words of like import. Handwritten advertisements and pricing on windows is also expressly prohibited. The Association or its or their agents shall have the right to remove any sign, billboard of other advertising that does not comply with the foregoing requirements, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

- (r) The drying of clothes in full public view is prohibited. The Owners and occupants of any Lots at the intersections of streets or adjacent to facilities where the rear yard is visible to full public view shall construct a drying yard or other suitable enclosure to screen from public view the equipment which is incident to normal residences, such as clothes drying equipment, yard equipment and storage piles.
- (s) Except within fireplaces in the main residential dwelling and except for outdoor cooking, no burning of anything shall be permitted anywhere within the Project.
- (t) With the exception of antennas meeting the requirements of subsection (m) above, no satellite dish or any other type of instrument or structure for receiving radio or television reception or other types of sound or video reception shall be allowed at any place outside the house on a Lot, including, without limitation, on the roof of such a house or in the front, back or side yards of a Lot unless located in the back yard of a Lot and completely screened from public view.
- (u) No vehicles or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pickup trucks and pickup trucks with attached bed campers that are in operating condition and have current license plates and inspection stickers and are in daily use as motor vehicles on the streets and highways of the State of Texas.

**Section 16. Utilities.** Except as to special street lighting or other aerial facilities which may be required by the City or which may be required by the franchise of any utility company or which may be installed by the Declarant pursuant to its development plan, no aerial utility facilities of any type (except meters, risers, service pedestals, transformers and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed in the Property whether upon individual Lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity. including, but not limited to, any person owning or acquiring any part of the Property, and all utility service facilities (including but not limited to water, sewer, gas, electricity, telephone and television cable) shall be buried underground unless otherwise required by a public utility.

**Section 17. Restrictions on Re-Subdivision.** None of the Lots shall be subdivided for the purpose of creating additional Lots.

## ARTICLE X – ARCHITECTURAL CONTROL

**Section 1. Committee Membership.** The Committee shall consist of at least three members who shall serve until resignation or removal by majority vote of the Board. No member of the Board, spouse of a Board member, or other member of a household of a Board member may serve on the Committee while that Board member serves on the Board.

**Section 2. Declarant's Right of Appointment.** The Board shall appoint the members of the Committee.

**Section 3. Action by Committee.** Items presented to the Committee shall be decided by a majority vote of the members of the Committee. The Committee may appoint an agent to act on behalf of the Committee, and the Committee may delegate any duties, powers and/or functions to the agent. Any such appointment and delegation shall be in writing. In the absence of such designation the vote of a majority of all members, which may be taken without a meeting, shall constitute an act of the Committee.

**Section 4. Compensation.** No member of the Committee shall be entitled to compensation although members may be reimbursed for expenses incurred in performing their duties hereunder.

**Section 5. Adoption of Rules.** The Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, architectural guidelines, landscaping guidelines, and other similar codes or guidelines as it may deem necessary and desirable.

**Section 6. Review of Proposed Construction.** Except as otherwise specifically provided herein, prior to (i) the commencement of any construction of any improvement on the Property or any portion thereof, or (ii) any change, alteration, addition or removal of any improvement other than normal maintenance and repair which does not materially alter or change the exterior appearance, condition and color of same, the plans and specifications therefor shall be submitted to the Committee in duplicate, and construction thereof may not commence unless and until the Committee has approved such plans and specifications in writing. Upon written request, the Committee may waive the requirement of such plans for any Lot if the Builder uses plans previously approved by the Committee for another Lot at such time as the plans and specifications meet the approval of the Committee, one complete set of plans and Specifications will be retained by the Committee and the other complete set of plans will be marked "Approved" and returned to the Owner or his designated representative marked "Approved" and accompanied by a statement of complete approval or approval based on certain conditions and specifications.

If found not to be in compliance with this Declaration, one set of such plans and specifications shall be returned marked "Disapproved," accompanied by a reasonable statement of items found not to comply with this Declaration. Any modification or change to the approved set of plans and specifications must again be submitted to the Committee for its inspection and approval. The approval or disapproval of the Committee, as required herein, shall be narrative and in writing. If the Committee, or its designated representative, fails to approve or disapprove such plans and specifications within 30 days after the date of submission, then approval shall be presumed; provided, however, that nothing in this Section shall affect in any way the method for seeking or

granting variances, as described in Section 7 below nor shall any failure of the Committee to act on a variance request within any particular period of time constitute the granting or approval of any such variance request.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or by the Board, including the inspection of construction in progress to assure its conformance with plans and specifications approved by the Committee. The Committee may postpone review, or any plans and specifications submitted for approval pending its receipt of any information or document deemed necessary by it. The Committee shall have the authority to disapprove in writing any proposed improvement based upon this Declaration, and the decision of the Committee may be appealed to the Board pursuant to the requirements of Section 209.00505 of the Texas Property Code or other applicable Texas statutes. The Committee shall not be responsible for reviewing any proposed improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

**Section 7. Variance.** The Committee may grant variances from compliance with any of the provisions of this Declaration when, in its opinion and in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property and/or is justified due to aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument in recordable form and must be signed by a majority of the members of the Committee. The granting of such variance shall not operate to waive or amend any of the terms and provisions of this Declaration applicable to the Lots for any purpose except as to the particular property and the particular matter covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof.

**Section 8. No Waiver of Future Approvals.** The approval or consent of the Committee to any plans and specifications shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different person.

**Section 9. Work in Progress.** At its option, the Committee may inspect any work in progress to ensure compliance with approved plans and specifications.

**Section 10. Non-liability of Committee Members.** Neither the Committee nor any member thereof, nor the Board nor any member thereof, shall be liable to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's or the Board's respective duties under this Declaration, unless due to the willful misconduct or bad faith of such person. Neither the committee nor any member thereof shall be liable to any Owner due to the construction of any improvement within the Property.

## **ARTICLE XI – MAINTENANCE**

**Section 1. Property and Lot Maintenance.** All vacant Lots and undeveloped portions of the Property shall be kept mowed and free of trash and construction debris by the Owner thereof, The Owner and occupant of each Lot upon which a dwelling has been constructed shall cultivate an



attractive ground cover or grass on all yards visible from the street, and shall maintain the yards in a sanitary and attractive manner, and shall edge the street curbs that run along the property line. Grass, weeds and vegetation on each Lot must be kept mowed at regular intervals so as to maintain the property in a neat and attractive manner. No vegetables shall be grown in any yard that faces a street unless completely screened from public view. No Owner shall permit weeds or grass to grow to a height of greater than six inches upon its Lot. Upon failure of the Owner of any Lot to maintain such Lot (whether or not improved), the Association may, at its option, have the grass, weeds and vegetation cut as often as necessary in its judgment, and the Owner of such Lot shall be obligated, when presented with an itemized statement, to reimburse the Association for the cost of such work.

**Section 2. Maintenance of Improvements.** Each Owner shall maintain the exterior of all buildings, and other improvements on his Lot (except as provided in Article 1X above) in good condition and repair, shall replace worn and rotten parts, shall regularly repaint all painted surfaces and shall not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, driveways, parking areas or other exterior portions of the improvements to deteriorate.

**Section 3. Costs.** The cost of repair or replacement of any Improvement to be maintained and kept in repair by the Association, which repair, or replacement is required because of the act or omission of any Owner, shall be the responsibility of and paid for by such Owner.

## **ARTICLE XII – DECLARANT’S RIGHTS**

**Section 1. Declarant’s Rights.** The rights under this Section have terminated as homes have been constructed on every Lot in the Project.

## **ARTICLE XIII – GENERAL PROVISIONS**

**Section 1. Remedies.** In the event of any default by any Owner under the provision of this Declaration, the By-Laws or Rules & Regulations of the Association, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the By-Laws, the Rules & Regulations and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for the payment of the money and collection thereof, or for any combination of the remedies, or for any other relief.

No remedies herein provided or available at law or in equity shall be deemed mutually exclusive of any other such remedy. All expenses in connection with any such actions or proceedings, including court costs, attorneys' fees and other fees and expenses, and all damages, together with interest thereon but, with reference to, any Lots financed by FHA insured loans, not in excess of the maximum rate of FHA loans at the time of delinquency, from the due date until paid, shall be assessed against such defaulting Owner, and shall be added to and deemed part of his maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or any Owner.

**Section 2. Miscellaneous Provisions.** Any provisions of this Declaration or of the Articles of Incorporation and By-Laws to the contrary notwithstanding, the following provisions shall control:

- (a) **FHA/VA Approval.** If any prospective Owner applies for FHA or VA mortgage financing and receives a commitment therefor then, to the extent required by applicable regulations promulgated by the FHA or the VA, the following actions will require approval of the FHA and the VA as applicable: (1) addition of properties except as set forth in Article 11, (2) mortgaging or dedication of Common Areas, (3) amendment of this Declaration or the Articles of Incorporation or By-Laws of the Association, and (4) dissolution of the Association. Approval may be presumed if proper written notice is provided and no response is received within a reasonable time.
- (b) The following actions require notice to all holders of first mortgage liens: (1) abandonment or termination of the Association, or (2) material amendment to this Declaration.
- (c) Upon the request of any first mortgagee, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such dwelling in the performance of such Owner's obligations under this Declaration or by By-Laws or Association rules and regulations which is not cured within 30 days. Any first mortgagee of a dwelling who comes into possession of such dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged dwelling which accrued prior to the time such holder comes into possession of the dwelling.
- (d) All personal pronouns used in this Declaration, whether masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

**Section 3. Headings.** The headings in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

**Section 4. Conflicts.** In the event of conflict between the terms of this Declaration and the By-laws, Rules & Regulations or Articles of Incorporation of the Association, this Declaration shall control.

**Section 5. Partial Invalidity.** The invalidation of any provision by judgment or court order shall not affect any of the other provisions, which shall remain in full force and effect.

I certify that the foregoing Second Amended and Restated Declaration of Covenants and Restrictions for Phase I Castle Hill Estates was properly adopted by at least 67% of the Owners on the \_\_\_\_\_ day of January 2024.

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Leslie Crook, President

BEFORE ME, the undersigned authority, on this day personally appeared Leslie Crook, President, known to me to be the person whose name is subscribed to the foregoing document and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of January 2024.

\_\_\_\_\_  
Notary Public, State of Texas

My Commission Expires: \_\_\_\_\_