

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR THE RANCHES AT BUCKHORN CREEK SUBDIVISION**

STATE OF TEXAS

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KNOWN ALL MEN BY THESE PRESENTS

COUNTY OF HOUSTON

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE RANCHES AT BUCKHORN CREEK SUBDIVISION (the "Declaration") is made on the date hereinafter set forth by BCTXLP, LLC, a Florida Limited Liability Company, hereinafter referred to as "Developer".

WITNESSETH:

WHEREAS, Developer is the Owner of that certain Tract of land located in Houston County, Texas and containing 713.57 Acres more or less and being more fully described on the map and plat recorded under Clerk's Instrument No. 20222932 of the Map and Plat Records of Houston County, Texas, hereinafter referred to as "Subdivision;"

WHEREAS, it is the desire and purpose of Developer to place certain restrictions, easements, covenants, conditions and reservations (hereinafter "Restrictions") upon the Subdivision in order to establish a uniform plan for its development, ensure the use of the subdivision for residential purposes only, prevent nuisances, prevent the impairment of the value of the Subdivision, maintain the desired character of the community and ensure the preservation of such uniform plan for the benefit of the present and future Owners of the Tracts within the Subdivision, and to promote the health, safety and welfare of the residents within the Subdivision;

NOW, THEREFORE, Developer hereby adopts, establishes, and imposes upon the Subdivision, the following Restrictions for the purposes of enhancing and protecting the value, desirability, and attractiveness of the Subdivision, which Restrictions shall run with the land and inure to the benefit of each Owner and his invitees:

**ARTICLE I
DEFINITIONS**

1.01 Architectural Control Committee or ACC. "Architectural Control Committee" or "ACC" shall mean the Developer until the Control Transfer Date and thereafter a committee initially appointed by the Developer pursuant to this Declaration to review and approve plans for the construction of Improvements as more specifically provided by Section 4.02 hereof. Board appointment shall mean property owners only, not developer board.

1.02 Annual Assessment. "Annual Assessment" means the amount set forth in Section 6.02 hereof.

1.03 Assessment. "Assessment" means the Annual Assessment, Special Assessments or other charges, interest, penalties, and fees authorized by these Restrictions together with the cost and expense incurred in collecting Assessments, including, but not limited to, court costs and attorney's fees.

1.04 Association. "Association" means and refers to The Ranches at Buckhorn Creek Property Owners' Association, Inc. and its successors and assigns.

1.05 Board of Directors. "Board of Directors" means and refers to the Board of Directors of The Ranches at Buckhorn Creek Property Owners' Association, Inc.

1.06 Bylaws. "Bylaws" mean the Bylaws of the Association as from time to time amended.

1.07 Certificate of Formation. "Certificate of Formation" shall mean the Certificate of Formation of The Ranches at Buckhorn Creek Property Owners' Association, Inc., and any amendments thereto, which have been or will be filed in the office of the Secretary of State of the State of Texas.

1.08 Common Area. "Common Area" means the portions of the Subdivision, including any applicable easements, owned by the Association for the common use and enjoyment of the Members including, but not limited to, all roads and the entrance, together with such other property as the Association may acquire in the future for the common use and enjoyment of the Members.

1.09 Common Area Expense. "Common Area Expense" means all expense necessary to maintain, replace, repair, and expand the Common Area as well as all necessary expense to operate the Association including, but not limited to, casualty and liability insurance, directors' and officers' liability insurance and all other reasonable and necessary expenses of the Association. Additionally, Common Area Expense shall include (a) the cost of repair and maintenance of the roads, (b) mowing of the Common Areas (c) Common Area maintenance and replacement of landscaping, (d) as well as such other expense and capital enhancements as may be determined by the Board of Directors to promote the safety, health, recreation, and welfare of the Members and maintain the Subdivision in an attractive manner.

1.10 Control Transfer Date. The "Control Transfer Date" shall mean the earlier date of: 1. Developer no longer owns any part of the entire Subdivision, including but not limited to Common Areas; 2. Fifteen (15) years from date of recordation of this Declaration; or 3. Developer, in its sole discretion, voluntarily relinquishes control of the Association as set forth in Section 7.01 hereof.

1.11 Construction Deposit. The Construction Deposit has the meaning described in Section 4.07 hereof.

1.12 Developer. "Developer" means and refers to BCTXLP, LLC, a Florida Limited Liability Company, its successors, and assigns.

1.13 Improvement. "Improvement" means every structure and all appurtenances of every type and kind, including but not limited to buildings, outbuildings, patios, storage buildings, barns,

garages, decks, stairs, retaining walls, screening walls, fences, landscaping art or statuary, poles, signs, exterior air conditioning units, exterior water softener fixtures or equipment, pumps, wells, tanks, reservoirs, pipes, utilities, lines, meters, antennas, towers, satellite dishes or any other sound or data receivers or transmitters. The term "Improvement" excludes the interior of each residence, guest quarters, barn or other approved building and the ACC shall have no authority to approve or disapprove improvements made to the interior of such buildings where the exterior of the building is not affected by the interior improvement.

1.14 Member. "Member" means and refers to every current Owner of a Tract.

1.15 Notice. Whenever any "notice" is required by this Declaration, such notices shall be in writing and shall be deemed received when actually received or five days after the deposit of such notice in the United States mail, postage prepaid and addressed to the last known address of an Owner appearing on the books of the Association, whether or not such notice is actually received. It shall be the duty of each Tract Owner to keep the Association apprised of its current address.

1.16 Owner. "Owner" means and refers to the record owner, whether one or more persons or entities of the fee-simple title to any Tract(s) but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner.

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

1.18 Plat. "Plat" means and refers to the plat of The Ranches at Buckhorn Creek Subdivision filed on August 19, 2022, under Clerk's Instrument No. 2022932 of the Map and Plat Records of Houston County, Texas.

1.19 Road. "Road" or "Roads" means property, or any road located within the Subdivision which has been dedicated for the purpose of ingress and egress through the Subdivision for the benefit of the property Owners.

1.20 Recreational Vehicle or RV. "Recreational Vehicle" is defined in Section 3.08 hereof.

1.21 Special Assessment. "Special Assessment" shall have the meaning given to that term in Section 6.03 hereof.

1.22 Subdivision. "Subdivision" means The Ranches at Buckhorn Creek Subdivision as shown on the recorded Plat.

1.23 Tract or Lot. "Tract" or "Lot" means the 70 individual Tracts of land, or lots identified on the Plat or any amendments thereto.

1.24 Vote of Members. "Vote of Members" means the affirmative vote of two thirds (2/3) of the Members entitled to vote who are present at a meeting of Members, either in person or by written proxy. In accordance with Section 5.04, only one Member is entitled to vote for each Tract and only one vote shall be counted for each Tract even though a Tract may have several Owners.

ARTICLE II

RESERVATIONS, EXCEPTIONS AND DEDICATIONS

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

2.02 Utility and Drainage Easements.

- A. An access and utility easement measuring fifty feet (50') in width is reserved on Tract 1 through Tract 5 and Tract 18 through Tract 24.
- B. A utility easement measuring thirty feet (30') in width is reserved on Tract 1 through Tract 5 and Tract 18 through Tract 24. This is in addition to the access and utility easement stated above in Section A.
- C. An access and utility easement measuring twenty five feet (25') in width is reserved along the Private Roads on Tract 6 through Tract 17 and Tract 25 through Tract 70.
- D. A utility easement measuring thirty feet (30') in width is reserved along the Private Roads on Tract 6 through Tract 17 and Tract 25 through Tract 70. This is in addition to the access and utility easement stated above in Section C.
- E. A utility easement measuring thirty feet (30') exists along the side and rear property lines for all Tracts in the Subdivision.
- F. Tract 1 has a community entrance, signage, and fencing located within a one hundred feet (100') by one hundred feet (100') landscape maintenance easement. The maintenance of these structures is the responsibility of The Ranches at Buckhorn Creek Property Owners' Association.
- G. Tract 1 has an existing Houston County Electric Cooperative easement measuring seventy feet (70') in width.

- H. Tract 1 has an existing: (i) Consolidated Water Supply Corporation Easement, (ii) FiberLight Easement, and (iii) Windstream Communications Easement located on the northern boundary line along Texas State Highway 21.
- I. Tract 1 has an existing fifty feet (50') by one hundred feet (100') TXDOT Channel Easement located on the northern boundary line along Texas State Highway 21.
- J. Tract 5 has an abandoned water well located near the northeast corner of the property. The Seller does not warrant or guarantee the age, condition, or prior uses of this well and makes no representation regarding its functionality.
- K. Tract 5 has an existing Enbridge Pipelines LP gas pipeline easement measuring fifty feet (50') in width.
- L. Tract 5 has an existing Interstate Exploration, LLC gas pipeline easement measuring fifty feet (50') in width. A small portion of this easement is also located on the back portion of Tract 4.
- M. Tract 1 through Tract 10, Tract 18, Tract 25 through Tract 26, Tract 42 through Tract 44, and Tract 59 through Tract 60 have an existing Houston County Electric Cooperative easement measuring sixty feet (60') in width. Seller will be relocating the existing overhead power lines located within this easement to the roadside utility easement adjacent to the Private Roads. Once Seller relocates the existing overhead power lines, this easement shall terminate.
- N. Tract 8 through Tract 17, Tract 20 through Tract 22, and Tract 27 through Tract 34 have an existing EOG Resources, Inc. easement located along the rear boundary line.

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

2.03 Construction of Improvements on Utility Easements. No buildings or walls shall be

located over, under, upon or across any portion of any utility easement. The Owner of each Tract shall have the right to construct, keep and maintain concrete drives, landscaping, fences and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Tracts, provided, however, any concrete drive, landscaping, fencing or similar improvement placed upon any utility easement shall be constructed, maintained and used at the Owner's risk and each Tract Owner shall be responsible for repairing any damage caused by the utility providers to Improvements constructed within the easements located on his Tract.

2.04 Road Maintenance. The maintenance of Private Road(s), grading and drainage improvements, and easements shown on this plat are the responsibility of the individual property owners by way of The Ranches at Buckhorn Creek Property Owners' Association and does not constitute acceptance of same for maintenance purposes by Houston County.

2.05 Lakefront Tracts & Lake Use Easement.

- A. Tract 18 through Tract 28 are considered "Lakefront Tracts" and thus have direct access to the large lake at the center of the Subdivision ("Lake"). Access to this Lake is provided only through each respective owner's individual Tract as shown on the Recorded Plat. There is no common, public, or community access to the lake.
- B. A Lake Use Easement exists to allow Tracts 18 through Tract 28 the ability to navigate over any navigable portion of the Lake. The intent of the Lake Use Easement is to allow Lakefront Tract Owners enjoyment of the entire lake for recreational use. A Lakefront Tract Owner can use all navigable portions of the lake, but is not permitted to enter onto the shoreline property of another Tract Owner. All ingress and egress from the Lake must occur from each Lakefront Tract Owners' individual property.
- C. The maintenance of the Lake and the Lake Use Easement is the responsibility of the Association. From time to time, maintenance and improvements may be necessary by the Association on or around the Lake and the Lake Use Easement. The Seller makes no warranties of the water level of the lake or the long-term ability of the lake to maintain a specific level of water.
- D. Tract 18 through Tract 28 are permitted to have no more than one (1) private dock on the lake. Each dock cannot protrude more than thirty feet (30') from the shoreline and shall have no more than one thousand five hundred (1,500) square feet of total surface area located within the Lake Use Easement. Dock locations must adhere to all additional setbacks and requirements as established by the ACC. Prior to installation, detailed plans and specifications for all docks must be submitted to the Developer (prior to the Control Transfer Date) or ACC in order to be considered for approval.
- E. There currently exists an approximately one hundred seventy feet (170') existing fishing pier on Tract 26. This existing fishing pier is grandfathered to remain in its existing condition, with no required improvements. All future alterations to this particular structure must be submitted to the Developer (prior to the Control Transfer Date) or

ACC in order to be considered for Approval.

- F. The Owners of Tract 23 and Tract 24 are not permitted to construct a home, barn, workshop, storage building, or septic system adjacent to the Lake. These items must be constructed on the northeast side of the Private Road (consistent with all ACC requirements). The Owners of Tract 23 and Tract 24 are permitted to construct a private dock or gazebo (consistent with all ACC requirements) on the southwest side of the Private Road.
- G. The Owner of Tract 28 will be permitted to construct private dock on the Lake Area located on and owned by Tract 27. The private dock constructed on Tract 28 must commence on Tract 28, and must comply with all rules and requirements established by the Association or ACC (referenced in Section 2.05). The private dock constructed on Tract 28 cannot protrude into the Lake more than thirty feet (30') from the shoreline.
- H. Boating within the Lake Use Easement is limited to non-powered boats (such as canoes or kayaks) and boats with electric-powered motors only.

ARTICLE III

USE RESTRICTIONS FOR TRACTS

3.01 Single Family. Except as specifically set forth in this Declaration, all Tracts shall be used for single family residential purposes only. Except as expressly permitted herein, only one single family residence for each Tract is permitted.

3.02 Minimum Square Footage. Every single-family dwelling shall contain at least one thousand two hundred (1,200) square feet of living area, excluding porches, garages, and storage areas.

3.03 Garages. All single-family dwelling units, except approved guest quarters, shall have at least a two-car attached or detached garage and coincide with the main dwelling unit. All garages shall be located on the Tract as indicated by the Architectural Control Committee approved site plan.

3.04 Guest Quarters. One guest quarter may be built upon each Tract, provided the living quarters contains no less than five hundred (500) square feet and is no more than half the size of the main house. Guest quarters must be constructed with material harmonious with the main dwelling. Guest quarters must be built along with or after the construction of the main dwelling and may not be built or occupied prior to the main dwelling unit being occupied, except as it pertains to Barndominiums used as a "weekend getaway" (as referenced in Section 3.06).

3.05 Barns, Workshops & Storage Buildings. An Owner shall be permitted to construct one (1) permanent metal, stucco, rock and/or hardiplank barn, one (1) workshop, and one (1) storage building. Detailed plans, specifications, and construction materials for barns, workshops, and storage buildings must be submitted to the Developer or ACC in order to be considered for approval. Such structures must be located behind the main dwelling site and may be constructed on the Tracts prior

to the main dwelling being constructed or occupied. No portable storage buildings shall be allowed.

3.06 Barns as Temporary Living Space. Living quarters located inside of a barn which is constructed on the Property shall be allowed so long as the living quarters are not used as a permanent residence. Living quarters cannot comprise more than fifty percent (50%) of the interior space of such barn. Such living quarters may be used as the Tract Owner's temporary residence during the construction of the main dwelling or as a "weekend getaway" for such Owner prior to the construction of the main residence. All barns, workshops and storage buildings must be approved by the Developer or the ACC after the Control Transfer Date.

3.07 No Mobile or Manufactured Homes. No mobile homes or manufactured homes are permitted to be located on any Tract except as permitted by Section 3.08 hereof.

3.08 Temporary Structures & Use of RVs. No structure of a temporary character, whether trailer, motor home, recreational vehicle, tent, basement, shack, garage, barn, or other outbuilding shall be maintained or used on any Tract at any time as a residence, either temporarily or permanently, except as provided below.

Prior to the construction of a residence on a Tract, an Owner may use a recreational vehicle camper or motor home (Recreation Vehicle or "RV") for camping purposes more than a total of one hundred eighty (180) days per calendar year. With written approval from the ACC, an RV may be used as a temporary residence during construction, not to exceed twelve (12) months, provided an approved septic system has been installed for the RV and the RV is placed at the rear of the construction site.

Temporary structures, including portable restroom facilities or construction storage facilities may be located on a Tract while the main residence for a Tract is actively under construction, provided that such are removed upon substantial completion of construction and are not located on a Tract for longer than the time allowed for construction of a main residence pursuant to Section 3.11 hereunder.

The Developer reserves the exclusive right to install and make use of a temporary office or temporary storage facilities within Subdivision while the developer is selling Tracts or building homes in the subdivision.

3.09 Storage of Trailers, RVs and Boats. All trailers, RVs, trucks (other than pickups with a rated capacity of one (1) ton or less), boats, personal watercraft, tractors, wagons, buses, motorcycles, motor scooters, all-terrain vehicles, golf carts and other recreational vehicles, lawn or garden equipment, farm or ranch equipment, construction equipment and other similar items shall be stored in enclosed structures or reasonably screened from view from the road. No Owner shall be allowed to drive an 18 wheeler into the Subdivision on a regular basis, 18 wheelers are only allowed during construction or for deliveries.

3.10 Construction Sites. All construction sites shall have sufficient portable restroom facilities or other adequate restroom facilities as determined by the Architectural Control Committee or Developer prior to Control Transfer Date. Construction sites shall be kept neat and clean at all times and comply with such construction site guidelines as may be established by the Architectural

Control Committee from time to time.

3.11 Construction Time. Any construction of any Improvement shall be completed, as to the exterior, within twelve (12) months from the construction commencement date.

3.12 Height Restrictions. No Improvement shall be erected, altered or placed on any Tract which exceeds the lesser of thirty-five feet (35') in height (measured from the ground to the topmost part of the roof) or 2-1/2 stories in height.

3.13 Construction Materials. All Improvements must be built with new construction materials and must be built in place on the Tract. All construction materials used shall be of materials such as wood, rock, brick, hardiplank or stucco. The use of aluminum siding or vinyl siding is prohibited. The Architectural Control Committee or the Developer prior to the Control Transfer Date may authorize the use of other materials on a case-by-case basis. Barns and other outbuildings may be constructed of metal or materials listed above.

3.14 Roofing Materials. Only the following roofing materials may be used for the main residence, guest quarters and garages: slate, stone, concrete tile, clay tile or other tile of ceramic nature, metal, or composition shingles with a thirty (30) year or more warranty. Colors of roofing material are subject to the approval of the Architectural Control Committee or the Developer (prior to the Control Transfer Date) approval. The Architectural Control Committee or the Developer (prior to the Control Transfer Date) shall have the authority and sole discretion to approve other roof treatments and materials which are harmonious with the surrounding homes and the Subdivision as a whole. The materials and colors of Roofs on all other structures must be approved by the Architectural Control Committee or Developer (prior to the Control Transfer Date). Owners may install roof shingles that are wind and hail resistant, energy efficient or solar generating if the quality and appearance are comparable to the subdivision standard. All such materials will need approval from the Architectural Control Committee or Developer (prior to the Control Transfer Date).

3.15 Color. All exterior color schemes for Improvements are subject to the prior written approval of the Architectural Control Committee or Developer (prior to the Control Transfer Date).

3.16 Construction Equipment Damage. Tract Owners shall be responsible for any damage caused to the roads by construction equipment or trucks making deliveries to their Tracts.

3.17 Propane Fuel Storage. Propane fuel storage for residential use may be located on the Tracts and may be placed above ground or below ground. The exact location and quantity of said fuel storage tanks are subject to written approval of the Architectural Control Committee or Developer (prior to the Control Transfer Date). All above ground tanks, pumps, vent pipes and other equipment must be concealed or attractively screened.

3.18 Consolidated Building Site. Any Owner of one or more adjoining Tracts may, with the prior written approval of the Board of Directors and with the approval of the Houston County Commissioners Court, if required, consolidate two or more Tracts into one Tract or building site, in which case the common boundary line between any combined Tract shall be eliminated and the setback lines shall be measured from the remaining exterior boundary lines. Any portion of any utility

easement located within the common boundary lines of any combined Tract shall be eliminated if such utility easements are not being used at the time any Tracts are combined. No Tract shall be deemed to be combined with another Tract until such time as an appropriate re-plat of the combined Tracts is filed with the Houston County Plat Records and all necessary approvals have been obtained. Any Tracts which are combined as provided above shall be assessed as one Tract for Assessment purposes. Developer shall not be liable for any fees associated with Tract consolidation.

3.19 Setback Lines. Except for fencing, light posts, driveways, walkways and landscaping, no improvements shall be located nearer than: a) fifty feet (50') from any roadside access easement and b) thirty feet (30') from the side and back property lines of the Tract. The Architectural Control Committee or Developer (prior to the Control Transfer Date) may waive or alter any setback line, if in the Architectural Control Committee's or Developer's (prior to the Control Transfer Date) sole discretion, such waiver or alteration is necessary to permit effective utilization of a Tract due solely to drainage or land contour related concerns.

3.20 Maintenance. The Owner shall keep its Improvements in good condition and repair at all times and ensure that all Improvements are adequately painted and otherwise maintained by the Owner.

3.21 Alteration or Removal of Improvements. No exterior Improvements shall be altered, modified or removed without the prior written approval of the Architectural Control Committee or Developer (prior to the Control Transfer Date). Improvements may be repainted the same color without approval of the Architectural Control Committee or Developer (prior to the Control Transfer Date).

3.22 Walls and Fences. Walls, fences, and light posts, if any, must be approved prior to Construction by the Architectural Control Committee or Developer (prior to the Control Transfer Date) and must be constructed of new material, and unless otherwise permitted by the Architectural Control Committee or Developer (prior to the Control Transfer Date), constructed of masonry, wrought iron, wood, metal, pipe, or ranch fencing with t-posts. Chain link fencing is prohibited. If pipe fencing is used, such fences must have a minimum of three (3) horizontal pipes along the front of the Tract and otherwise conform with the Architectural Control Committee's or Developer's (prior to the Control Transfer Date) specifications.

- A. The perimeter of the community has an existing high fence in place. The ownership and precise location in relation to the surveyed property boundary, age, condition, or any other attributes of this existing fence has not been determined.
- B. *The "Removal of Adjoining Fences" statute, Texas Agric. Code Sections 143.121-.123,* states a person may not remove a fence that is a separating or dividing fence in which the person is a joint owner or that is attached to a fence owned or controlled by another person, *absent mutual agreement between the parties. If a person wishes to remove his or her fence that is attached to a fence owned either wholly or partially by another person, the party seeking removal must give written notice to the owner of the attached fence six months prior to removal.* Similarly, if a person owns a fence wholly on his or her property, he or she may require the owner of an attached fence to disconnect the attached fence after providing written

notice six months before the required disconnection.

3.23 Mailboxes. Community Mailbox Clusters will be located throughout the community in order to provide mail delivery for all residents within the Subdivision. The maintenance of the Community Mailbox Clusters is the responsibility of the Association.

3.24 Antennas, Towers and Satellite Dishes. Antennas, towers, satellite dishes or other sound or data receivers or transmitters of any kind shall not exceed ten feet (10') above the roof of the residence or accessory building upon which they are attached. Any antenna, tower or satellite dishes or other sound or data receivers or transmitters must be located to the side or the rear of the residence or accessory building. The Architectural Control Committee or Developer (prior to the Control Transfer Date) must approve all exterior antennas, towers, satellite dishes or other sound or data receivers or transmitters, including but not limited to the location of the placement of the same.

3.25 Prohibited Activities and Nuisance. No activity (including the operation of a bed and breakfast or similar activity) whether for profit or not, shall be conducted on any Tract which is not related to the occupation of a Tract for single family residential purposes, unless said activity meets the following criteria: (a) no exterior sign of the activity is present, (b) no additional traffic is created as a result of the activity and (c) no toxic substances (as determined at the sole discretion of the Association) are stored on the Tract. Nothing herein shall prohibit the use of home offices in compliance with the preceding subsections (a), (b) and (c). This restriction is waived in regard to the customary sales activities required to sell homes in the Subdivision. No activity which constitutes a nuisance or annoyance shall occur on any Tract. The Association shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. All exterior lighting must be approved by the Developer or, after the Control Transfer Date, the ACC. Any exterior lighting, including but not limited to light post, must be approved by the Architectural Control Committee or Developer (prior to the Control Transfer Date). The Architectural Control Committee or Developer (prior to the Control Transfer Date) has the sole discretion to reject any exterior lighting, as it is the intent of these restrictions that exterior lighting be installed so that there is down lighting.

3.26 Garbage and Trash Disposal. No Tract shall be used to maintain as a dumping ground for rubbish, landscape trimmings or other debris. All Tracts shall be kept in a neat and orderly condition. No refrigerators, freezers, washing machines, dryers, furniture, tools, equipment, toys or other such items shall be stored outside of a building on any Tract. No junk of any kind or character shall be kept on any Tract. Trash, garbage, landscape trimmings or other debris shall not be allowed to accumulate on any Tract. Any such items shall be kept in sanitary containers and shall be disposed of regularly in accordance with all applicable laws, rules and regulations. All equipment for the storage or disposal of trash and other debris shall be kept in a clean and sanitary condition. Except on established garbage collection days and in connection solely with that collection process, all trash containers shall be stored in enclosed structures or screened from view from the Road.

3.27 Unregistered or Junked Motor Vehicles Prohibited. No Tract shall be used as a depository for abandoned, junked, or unregistered motor vehicles, boats, airplanes, trailers, or other similar items.

3.28 Signs. No signs, advertising, billboards, or advertising structure of any kind may be erected or maintained on any Tract without the consent in writing of the Architectural Control Committee or Developer (prior to the Control Transfer Date) except as installed by Developer. Political signs for a political candidate or ballot item for election, as set forth in the Texas Election Code §259.002, may be displayed on a Tract but can only be displayed on or after the 90th day before the date of the election to which the sign relates and must be removed 11 days after the election. The sign must be ground mounted, 2' x 3' in size and a Tract Owner may only display one sign for each candidate or ballot item. In addition to other signs which may be allowed by the Architectural Control Committee or Developer (prior to the Control Transfer Date), the Architectural Control Committee or Developer (prior to the Control Transfer Date) shall allow one (1) professionally made sign not more than twenty-four inches (24") by thirty inches (30") advertising Owner's residence for sale or rent. The term "professionally made sign" does not include plastic or metal pre-made for sale or for rent signs. No signs shall be nailed to a tree. Signs erected on any unimproved Tract advertising for sale shall not be permitted.

Subject to the provisions of this Section 3.28 and approval by the Architectural Control Committee or Developer (prior to the Control Transfer Date), Owners may display on or affix to an Owner's Lot one or more religious items or display, the display of which is motivated by the Owner's or resident's sincere religious belief. Except as otherwise provided in this Section 3.28, the Architectural Control Committee shall grant any application for such approval if such application is properly submitted in accordance with this Declaration; provided that, to the extent allowed by the Constitution of the State of Texas and the Constitution of the United States, no such religious item or display shall be affixed to or displayed on a Lot, and the Architectural Control Committee shall not approve (subject to its discretion to grant a variance pursuant to Section 4.05) any such affixation or display, that: (i) threatens the public health or safety; (ii) violates a law other than a law prohibiting the display of religious speech; (iii) contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content; (iv) is installed on the property within the Subdivision that is (A) owned or maintained by the Association, or (B) owned in common by the Members; (v) violates any applicable building line, right-of-way, setback, or easement; or (vi) is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.

3.29 Mineral Development. No Owner shall be allowed to permit on their own behalf, commercial drilling, mineral development operations, mineral refining, quarrying, mining or water operation of any kind in, on or under any Tract owned by such Tract owner.

3.30 Drainage. All driveway culverts shall be installed prior to building construction. Natural established drainage patterns for drainage will not be impaired by any Tract Owner. Driveway culverts must be installed and shall be of sufficient size to afford proper drainage of ditches without allowing water to pool, back up or be diverted from its natural course. Drainage culvert installation is subject to the inspection and approval of the Architectural Control Committee or Developer (prior to the Control Transfer Date) and shall comply with any applicable governmental rules and regulations. All water retainage structures (ponds, dams and other facilities) not already existing within the Subdivision must be reviewed and approved by the Architectural Control Committee or Developer (prior to the Control Transfer Date) and prior to construction and must comply with all governmental rules and regulations.

3.31 Re-plating and Subdividing. No Tract may be subdivided into smaller Tracts.

3.32 Maintenance and Landscaping of Tracts. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt condition of buildings or grounds on such Tract which would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area. Each Owner shall be required to landscape the area around his home. Occupancy prior to completion of landscaping shall require the written approval of the ACC, shall be for good cause only and shall be no earlier than one hundred twenty days prior to completion of landscaping.

3.33 Animals. Household pets and large animals are allowed in a number permitted by Houston County Zoning Codes if applicable. No swine, pigs, hogs, or peacocks are allowed on any Tract. No potentially dangerous animals are allowed.

3.34 Existing Structures. Tract 26 and Tract 43 both contain existing structures that may not meet the current restrictions for The Ranches at Buckhorn Creek. These existing structures are grandfathered to remain in their existing condition, with no required improvements. Any improvements or new structures constructed on Tract 26 or Tract 43 will need to meet all restrictions and ACC requirements for The Ranches at Buckhorn Creek.

ARTICLE IV **ARCHITECTURAL CONTROL COMMITTEE**

4.01 Basic Control & Applications.

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

(b) Each application made to the Architectural Control Committee or Developer (prior to the Control Transfer Date) for approval, shall contain an application in the form specified by the Architectural Control Committee or Developer (prior to the Control Transfer Date), two sets of professionally drawn Plans and Specifications for all proposed Improvements, showing the location of all Improvements in the Tract and any applicable fees or deposits together with such other reasonable necessary information as the Architectural Control Committee or Developer (prior to the Control Transfer Date) shall request. Plans must be submitted in PDF format to the Developer, or after the Control Transfer Date, to the ACC. A non-refundable fee of \$250.00 is required at time of plan submittal to cover administrative costs involving the home plan approval process. The Architectural Control Committee shall have the right to (a) approve the application with or without conditions, (b) approve a portion of the application and disapprove other portions, or (c) disapprove the application.

4.02 Architectural Control Committee.

(a) All ACC authority is initially vested in the Developer. The ACC authority of the

Developer shall cease upon the appointment of a three (3) member Architectural Control Committee by the Developer. The Developer shall continue to have ACC authority as to any Plans and Specifications or Construction projects submitted to the Developer prior to the initial appointment of the ACC members.

(b) After the initial members of the ACC are appointed by the Developer, the Developer shall cause an instrument transferring ACC authority to the Association to be recorded in the Official Public Records of Real Property Houston County, Texas. Subsequent appointments of the ACC members shall be by the Board of Directors. The ACC members shall serve staggered terms with the first term ending on the date of the next succeeding annual meeting of Members following the Control Transfer Date. After the Control Transfer Date, each Member of the ACC must be an Owner of a Tract in the Subdivision. Notwithstanding any provision herein to the contrary, after the Control Transfer Date, or sooner as determined by Declarant in its sole discretion, no person may be elected to serve on the ACC if such person is (i) a current member of the Board of Directors, (ii) the spouse of a current member of the Board of Directors, or (iii) a person residing in a household of a current member of the Board of Directors.

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

4.04 Effect of Approval. The granting of an ACC approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the ACC that the proposed Improvement to be erected complies with these Restrictions; and such approval shall not prevent the Association from requiring removal of any Improvement which fails to comply with these Restrictions. Further, no ACC member shall incur any liability by reason of the good faith exercise of the authority granted hereunder.

4.05 Effect of Denial. This Section 4.05 shall only apply with respect to applications or requests to construct Improvements submitted after the Control Transfer Date, or such earlier date as determined by the Declarant in its sole discretion. In the event the Architectural Control Committee denies an application by an Owner as provided herein for the construction of Improvements on the Owner's Lot, the Architectural Control Committee shall deliver a written notice of such denial to the Owner by certified mail, hand delivery, or electronic delivery, which notice shall: (a) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and (b) inform the Owner that the Owner may request a hearing under Tex. Prop. Code § 209.00505 on or before the 30th day after the date the notice was mailed or delivered to the Owner. Failure of the Owner to timely request a hearing shall constitute a waiver of its right to such a hearing, in which case the decision of the Architectural Control Committee denying such Owner's request or application shall be final, binding, and conclusive.

The Board of Directors shall hold a hearing not later than the 30th day after the date the Board

of Directors receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. In no event shall the Owner be entitled to more than one (1) hearing in connection with the Architectural Control Committee's decision denying the Owner's request or application. The Board of Directors or the Owner may request a postponement of such hearing. If requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted only by agreement of the Board of Directors and the Owner. During the hearing, the Board of Directors or the designated representative of the Association and the Owner or the Owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the Owner's application or request for the construction of the Improvements, and the changes, if any, requested by the Architectural Control Committee in the notice provided to the Owner. The Association (or its representatives) and/or the Owner may make an audio recording of the hearing. The Owner's failure to attend a duly-held hearing shall constitute a waiver by the Owner of its right to the hearing, and the decision of the Architectural Control Committee shall be deemed final, binding, and conclusive. The Board of Directors may affirm, modify, or reverse, in whole or in part, any decision of the Architectural Control Committee as consistent with this Declaration, and any such decision by the Board of Directors shall be final, binding, and conclusive.

4.06 Variance. The ACC or the Developer, may on a case-by-case basis, authorize variances from the requirements of the Restrictions if, in the reasonable opinion of the ACC or the Developer, the Restrictions unreasonably restrain the development of a Tract in accordance with the general scheme of the Subdivision. The Developer will retain the right to grant variances after the Control Transfer Date so long as the Developer continues to own Tracts in the Subdivision. All variances shall be in writing and signed by the Developer or if granted by the ACC then it must be signed by at least two (2) members of the ACC. No violation of these Restrictions shall be deemed to have occurred with respect to any matter for which a variance is granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Tract and improvements and the particular provision covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Owner's Tract.

4.07 Construction Deposit. A deposit of \$1,000 must be paid at the time Plans and Specifications are submitted for the construction of a new residence, barn, workshop, or storage building. This deposit will be held for the purpose of securing a Tract Owner's performance, during the construction process, of the obligations imposed by this Declaration, for wear and tear on the Subdivision roads by construction equipment and construction traffic and for damage to the Common Areas. Upon completion of construction, the Tract Owner will be refunded the deposit less any obligations incurred as a result of any uncured violation of this Declaration, any damage to the roads of the Subdivision and any damage to the Common Areas.

ARTICLE V
THE RANCHES AT BUCKHORN CREEK
PROPERTY OWNERS' ASSOCIATION, INC.

5.01 Non-Profit Corporation. The Ranches at Buckhorn Creek Property Owners' Association, Inc., a non-profit corporation, has been (or will be) organized and it shall be governed

by the Certificate of Formation and Bylaws of said Association; and all duties, obligations, benefits, liens and rights hereunder in favor of the Association shall vest in said corporation.

5.02 Bylaws. The Association has adopted, or may adopt, whatever Bylaws it may choose to govern the organization and operation of the Association, provided that the same are not in conflict with the terms and provisions hereof.

5.03 Membership. Every person or entity who is a record Owner of any Tract shall be a "Member" of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation or those only having an interest in the mineral estate. Memberships shall be appurtenant to and may not be separated from the Tracts. Regardless of the number of persons who may own a Tract, there shall be but one membership for each Tract and one (1) vote for each Tract. Ownership of the Tracts shall be the sole qualification for Membership.

5.04 Voting Rights. The Association shall have two classes of voting memberships. Developer shall be entitled to ten (10) votes for each Tract owned. Each Tract, other than those owned by the Developer, shall have only one vote regardless of the number of Owners of the Tract. In the event that more than one person owns a Tract and the group of Owners do not have a unified vote for purposes hereunder, then the Association shall not recognize the vote for that Tract and such vote shall not be counted when the calculating membership votes. Notwithstanding the foregoing, the presence of any Owner of a Tract at a meeting of Members permits the inclusion of the Tract represented when calculating any necessary quorum.

ARTICLE VI **ASSESSMENTS**

6.01 Assessments. Each Tract Owner by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association the Assessments provided herein. The Assessments shall be a charge on the Tracts and shall be a continuing lien upon the Tract against which each such Assessment is made. Both Annual and Special Assessments must be fixed at a uniform rate for all Tracts subject to assessment and may be collected on a monthly basis or on an annual basis at the discretion of the Board of Directors. An Annual Assessment shall be paid by each of the Tract Owners and the Annual Assessment shall be used to pay all reasonable and necessary operating expenses and reserve requirements of the Association as herein provided. The Annual Assessment for the year of purchase shall be pro-rated as of the purchase date and then shall be paid annually.

(a) The initial amount of the Annual Assessment applicable to each Tract shall be six hundred dollars (\$600.00). The Annual Assessment is payable in advance and is due on the thirty first (31) day of January during each calendar year. All other matters relating to the collection, expenditure and administration of the Annual Assessment shall be determined by the Board of Directors of the Association, subject to the provisions hereof.

(b) The Board of Directors of the Association, by a vote at an open board meeting for which prior notice was given to Members in accordance with Section 209.0051(h) of the Texas

Property Code, shall have the further right at any time to adjust, alter, increase or decrease the Annual Assessment from year to year as it deems proper to meet the reasonable operating expenses and reserve requirements of the Association and to enable the Association to carry out its duties hereunder. However, the Board of Directors shall not increase the Annual Assessment by more than ten percent (10%) from the previous year without the affirmative Vote of the Members.

6.02 Special Assessments. In addition to the Annual Assessment, the Association, upon the Vote of the Members, may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted.

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

6.04 Creation of Lien and Personal Obligation. In order to secure the payment of the Assessments, each Owner of a Tract hereby grants the Association a contractual lien on such Tract which may be foreclosed, pursuant to the provisions of the Texas Property Code (and any successor statute); and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with foreclosure pursuant to the provisions of the Texas Property Code, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the association by means of written instrument executed by the President or any Vice-President of the Association and filed of record in the Official Public Records of Real Property of Houston County, Texas. In the event the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of the foreclosure sale as provided by the Texas Property Code as then amended. Upon request by the Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended and shall convey such Tract to the highest bidder for cash by Trustee's Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with collecting the Assessments and foreclosing on the Tract, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount of the Assessment in default; and third, the remaining balance shall be paid to the Tract Owner or Lien Holder for the benefit of the Tract Owner. Following any such foreclosure, each occupant of a Tract which is foreclosed upon shall be deemed a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action for forcible detainer.

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

It is the intent of the Provisions of this 6.05 to comply with the provisions of the Texas Property Code relating to non-judicial sales by power of sale. In the event of the amendment of the

Texas Property Code, the Association, acting without joinder of any Owner or Mortgagee, may, by amendment to this Declaration, file any required amendments to this Declaration so as to comply with said amendments to the Texas Property Code or any other statute applicable to foreclosures.

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

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

6.06 Liens Subordinate to Mortgages. The lien described in this Article VI shall be deemed subordinate to any lien in favor of any bank, mortgage company, real estate lending establishment, financial institution, insurance company, savings and loan association or any other third party lender, including the Developer, who may have advanced funds, in good faith, to any Tract Owner for the purchase, improvement, equity lending, renewal, extension, rearrangement or refinancing of any lien secured by a Tract, provided that any such lien holder has made due inquiry as to the payment of any required assessments at the time the lien is recorded. Any consensual lien holder who obtains title to any Tract pursuant to the remedies provided in a deed of trust or mortgage or by judicial foreclosure shall take title of the Tract free and clear of any claims for unpaid Assessments or other charges against said Tract which accrued prior to the time such holder acquired title to such Tract. No such sale or transfer shall relieve such holder from liability for any Assessments or other charges or assessments thereafter becoming due. Any other sale or transfer of a Tract shall not affect the Association's lien for Assessments or other charges or assessments. The Association shall make a good faith effort to give each such mortgage sixty (60) days advance written notice of the Association's foreclosure of an Assessment lien, which notice shall be sent to the nearest office of such mortgage by prepaid United State registered or certified mail, return receipt requested and shall contain a statement of delinquent Assessment or other charges or assessments upon which the said action is based, provided however, the Association's failure to give such notice shall not impair or invalidate any foreclosure conducted by the Association pursuant to the provisions of this Article VI.

6.07 Purpose of the Assessments. The Annual Assessments and Special Assessments shall be used exclusively for the purpose of promoting the health, safety, security and welfare of the Subdivision and the maintenance of the Common Areas. In particular, the Assessments shall be used for any Improvement or services in furtherance of these purposes and the performance of the

Association's duties described herein, including the maintenance of any drainage easements, Common Areas, Common Area Expenses, the enforcement of this Declaration and the establishment and maintenance of reserve funds. The Assessments may be used by the Association for any purpose which, in the judgment of the Association's Board of Directors, is necessary or desirable to maintain the property value of the Subdivision, including but not limited to, providing funds to pay all taxes, insurance, repairs, utilities and any other expense incurred by the Association. Except for the Association's use of the Assessments to perform its duties as described in this Declaration, the use of the Assessments for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Board of Directors as to the expenditure of Assessments shall be final and conclusive so long as such judgment is exercised in good faith.

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

6.09 Developer Exemption. Notwithstanding anything to the contrary contained herein, in consideration of Developer's installation of the Subdivision infrastructure, the Developer shall be exempt from the payment of all Assessments.

ARTICLE VII

DEVELOPER'S RIGHTS AND RESERVATIONS

7.01 Period of Developer's Rights and Reservations. Developer shall have, retain and reserve certain rights as set forth in these Restrictions with respect to the Association from the date hereof, until the earlier of the date the Developer gives written notice to the Association of Developer's termination of the rights described in this Article VII or the Control Transfer Date. Notwithstanding the foregoing, the Developer rights set forth in Sections 7.02, 7.03 and 7.04 shall not be released until such time as a document relinquishing said rights is filed of record or the Developer no longer holds record title to any Tracts in the Subdivision. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance by the Developer whether or not specifically stated therein. The rights, reservations and easements set forth herein shall be prior and superior to any other provisions of this Declaration and may not, without Developer's prior written consent, be modified, amended, rescinded or affected by any amendment to this Declaration. Developer's consent to any amendment shall not be construed as consent to any other amendment.

7.02 Developer's Rights to Grant and Create Easements. Developer shall have and hereby reserves the right, without the consent of any Owner or the Association, to grant or create temporary or permanent easements throughout the Subdivision, for ingress, egress, utilities, cable and satellite television systems, communication and security systems, drainage, water and other purposes incidental to the development, sale, operation and maintenance of the Subdivision. The rights reserved to the Developer under this Section 7.02 apply to the entire Subdivision, including Tracts previously sold by the developer.

7.03 Developer's Rights to Convey Common Areas to the Association. Developer shall

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

7.04 Annexation of Additional Areas. Developer may cause additional real property to be annexed into Subdivision, by causing a written Annexation Declaration confirming the annexation thereof, to be recorded in the Official Public Records of Real Property of Houston County, Texas. No consent shall be required of the Association or any Member thereof, each Owner being deemed to have appointed the Developer as his agent and attorney-in fact to affect this Annexation, which power hereby granted to the Developer is and shall be a power coupled with an interest. Thereafter, the Association shall be the Association for the entirety of the Development, including the annexed property.

7.05 Developer Control of Association and ACC. Until such time Developer elects to establish the Association and the ACC all authority and powers reserved to the Association, the Board of Directors or the ACC shall be held and exercised by the Developer. The Developer may elect to transfer control of the Association or the ACC at the same time or at different times in which case the Control Transfer Date may be different for the Association and the ACC. The initial Board of Directors of the Association, shall be designated by the Developer. Notwithstanding any provision in this Declaration to the contrary, Declarant will have the sole right to appoint and remove all members of the Board until the date one hundred twenty (120) days after the date seventy-five percent (75%) of the Lots that may be created and made subject to this Declaration are conveyed to Owners other than Declarant or a builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed dwellings built on the Lots (the "Initial Control Expiration Date"), or such earlier date as the determined by the Declarant in its sole discretion. Upon the Initial Control Expiration Date, or sooner as determined by Declarant in its sole discretion, the Board must hold a meeting of Members of the Association for the purpose of electing one-third ($\frac{1}{3}$) of the members of the Board (the "Initial Member Election Meeting"), which Board member(s) must be elected by Owners other than the Declarant. Declarant shall continue to have the sole right to appoint and remove two-thirds ($\frac{2}{3}$) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Control Transfer Date.

ARTICLE XIII

DUTIES AND POWERS OF THE PROPERTY OWNERS' ASSOCIATION

8.01 General Duties and Powers of the Association. The Association has been formed to further the common interest of the Members. The Association, acting through the Board of Directors or through persons to whom the Board of Directors has designated such powers (and subject to the provisions of the Bylaws), shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interest of the Members and to improve and enhance the attractiveness, desirability and safety of the Subdivision. The Board of Directors shall minimally be composed of three (3) individuals serving three (3) year staggered terms, with the titles of President, Vice-President, and Secretary/Manager, being assigned annually by the board of Directors.

8.02 Duty to Accept the Property and Facilities Transferred by Developer. The Association

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

8.03 Other Insurance Bonds. The Association shall obtain such insurance as may be deemed necessary or desirable by the Board or by law, including but not limited to, comprehensive liability and casualty insurance, worker's compensation insurance, fidelity and indemnity insurance, officers and director's liability insurance, as well as such other insurances or bonds as the Association shall deem necessary or desirable.

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

8.05 Duty to Levy and Collect Assessments. The Association shall levy, collect and enforce the Assessments as provided in this Declaration.

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

8.07 Duties with Respect to Architectural Approvals. The Association, through the ACC, shall perform the ACC duties described in this Declaration.

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

8.09 Power to Adopt Rules and Regulation. The Association shall have the power to make reasonable rules and regulations regarding the use of the Common Areas. The rules and regulations may be enforced in the same manner as any other provision of this Declaration.

8.10 Enforcement of Restrictions. The Association (or any Owner if the Association fails

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

8.11 Remedies. In the event a Tract Owner violates any of these Restrictions beyond the applicable notice and cure periods in accordance with Texas Property Code Section 209.0064, the Association, or its authorized representatives, may take any one or more of the following actions:

(a) Assess a charge of \$50.00 per day against any Owner and/or his Tract, with a single notice and opportunity for hearing pursuant to this Section, until the violating condition is corrected. The Violation charge may be increased by the Association by a vote of the Board at an open meeting in accordance with Texas Property Code Section 209.0051(h) with increases in the National Consumer Price Index using 2021 as a base year. Failure to pay such assessment by the violating Owner within the applicable notice and cure periods in accordance with Texas Property Code Section 209.0064 will result in a lien against the Tract with the same force and effect as the lien for Annual or Special assessments;

(b) File suit in order to enforce the above remedies and/or pursue any other remedy which may be available at law or in equity.

Unless, as specified below, the Association is not required to send a notice of violation to an Owner, the Association shall not impose any of the above remedies unless and until it gives written notice by verified mail to the Owner at the Owner's last known address (as shown in the Association's records), specifying: (i) the alleged violation and the amount due the Association; (ii) the action required to cure the violation (if the violation is "curable" as defined below); (iii) a reasonable time period during which the violation may be cured, if curable, which cure will allow the Owner to avoid a charge, fine or other enforcement; (iv) that the Owner may request a hearing, not later than thirty (30) days after the date the Owner receives the notice, and if such hearing is to be held before a committee, the notice must state that the Owner has the right to appeal the committee's decision by written notice to the Board of Directors; (v) that the Owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. App. Section 501, et seq.), if the Owner is serving on active military duty; and (vi) that the Association may collect from such Owner reimbursement of reasonable attorney's fees and other reasonable costs incurred by the Association relating to collecting amounts, including damages, due the Association for enforcing the terms of this Declaration, Bylaws, or other governing documents as the case may be. Notwithstanding any provision herein to the contrary, after a Owner receives the foregoing notice of a violation of this Declaration, the violating Owner shall not be entitled to any further notice of the same violation if it occurs within a six (6) month period.

For purposes hereof, a violation is "curable" if the violation is of a curable nature, as

reasonably determined by the Board of Directors, and does not pose a threat to public health or safety. A violation is considered a threat to public health or safety if the violation could materially affect the physical health or safety of an ordinary resident. For purposes of this Section, a violation is considered uncurable if the violation has occurred but is not a continuous action or a condition capable of being remedied by affirmative action. For the avoidance of doubt, the non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy. Uncurable violations include, but are not limited to, (A) an act constituting a threat to health or safety, (B) an ongoing nuisance or noise violation, and (C) property damage, including the removal or alteration of landscape.

If the Owner is entitled to an opportunity to cure the violation, the Owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before a committee appointed by the Board of Directors or before the Board of Directors if the Board of Directors does not appoint a committee. The Association shall hold a hearing not later than thirty (30) days after the date the Board of Directors receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than ten (10) days before the date of the hearing. The Board of Directors or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. The Owner or the Association may make an audio recording of the meeting. If an Owner requests a hearing pursuant to this Section 8.11, in accordance with Section 209.007 of the Texas Property Code, the Association shall provide the requesting Owner with a packet containing all the documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing no later than ten (10) days before the scheduled hearing. If such packet is not provided to the requesting Owner within the time frame herein provided, the Owner shall be entitled to an automatic postponement of the hearing for a period no shorter than fifteen (15) days. During a hearing as herein contemplated, a member of the Board of Directors or designated representative of the Association shall first present the Association's case against the Owner and thereafter the Owner, or the Owner's designated representative shall be entitled to present the Owner's information and issues relevant to the dispute. An Owner is not liable for attorney's fees incurred by the Association relating to a matter described in this paragraph if the attorney's fees are incurred before the conclusion of the hearing or, if the Owner does not request a hearing, before the date by which the Owner must request a hearing. On written request from the Owner, the Association shall provide copies of invoices for attorney's fees and other costs relating only to the matter for which the Association seeks reimbursement of fees and costs. The above notice and hearing provisions do not apply if the Association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action.

The Association reserves the easement across each Owner's Tract for the purpose of correcting or removing conditions in violation of this Declaration, and in doing so, shall have no liability for trespass or other tort in connection therewith, or arising from such correction or removal of a violating condition. The Association shall further have the right to have any vehicle or other property stored or used in violation of this Declaration removed from the Owner's Tract at the expense of the Owner and stored at the expense of the Owner.

8.12 Remedies Not Requiring Notice. The Board of Directors may take the following actions to obtain compliance with this Declaration, Bylaws, and other governing documents if

applicable without prior notice or a hearing:

- (a) to the extent permitted by applicable law, suspend a Member's right to vote in the Association if a Member is more than ninety (90) days delinquent in paying any Assessment;
- (b) exercise self-help or take action to abate a violation on a Lot in any situation which requires prompt action to avoid potential injury, threat to public health or safety, or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of this Declaration);
- (c) exercise self-help or take action to abate a violation occurring on the Common Areas, under any circumstances;
- (d) require an Owner, at its own expense, to perform maintenance or to remove any structure or Improvement on such Owner's Lot that is in violation of this Declaration, the Bylaws, or other governing documents as applicable and to restore the property to its previous condition;
- (e) enter a Lot and exercise self-help to remove or cure any violating condition if an Owner fails to take action as required pursuant to subsection 8.12(d) above, within ten (10) days after receipt of written notice to do so, and any such entry shall not be deemed a trespass;
- (f) to the extent permitted by applicable law, bring a suit at law for monetary damages or in equity, or both, to stop or prevent any violation of this Declaration, the Bylaws, or other governing documents as applicable.

8.13 Application of fees and charges. Except as provided in Section 6.04 and 6.05 of these Restrictions, a payment received by the Association from the Owner of a Tract shall be applied to the Owner's debts in the following order of priority in accordance with Texas Property Code Section 209.0063(a):

- (a) any delinquent Assessment;
- (b) any current Assessment;
- (c) any reasonable attorney's fees or reasonable third party collection costs incurred by the Association solely with Assessments or any other charge that could provide the basis for foreclosure;
- (d) any reasonable attorney's fees incurred by the Association that are not subject to Section 8.13(c);
- (e) any reasonable fines assessed by the Association; and
- (f) any other reasonable amount owed to the Association.

ARTICLE IX
GENERAL PROVISIONS

9.01 Term. The provisions hereof shall run with the land and shall be binding upon all Owners, their guests and invitees and all other persons claiming under them for a period of forty (40) years from the date this Declaration is recorded. This Declaration shall be automatically extended for successive periods of twenty (20) years each time unless this Declaration is cancelled by a two-thirds (2/3) majority Vote of the Members and an appropriate document is recorded evidencing the cancellation of this Declaration.

9.02 Amendments. Except for any amendment affecting any existing Improvements, this Declaration may be amended or changed, in whole or in part, at any time by a two-third (2/3) majority Vote of the Members. Copies of any records pertaining to such amendments shall be retained by the Association permanently.

9.03 Amendment by the Developer. The Developer shall have and reserve the right at any time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record so long as the Developer owns at least one Tract of land and provided that any such amendment shall be consistent with and is furtherance of the general plan and scheme of development of the Subdivision and evidenced by this Declaration.

9.04 Severability. Each of these provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

9.05 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

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

9.07 Effect of Violation on Mortgages. No violation of the provisions herein contained or any portion thereof, shall affect the lien of any mortgage or deed of trust presently or hereafter placed of record or otherwise affect the rights of the mortgage under any such mortgage, the holder of any such lien or beneficiary of any such mortgage, lien or deed of trust may, nevertheless, be enforced in accordance with its terms, subject, nevertheless, to the provisions herein contained.

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

