

FILE STAMPED
COPY

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
11/20/2009 10:29:50 AM
\$104.00 DLAIRD
20091120001412260



A handwritten signature in cursive script, appearing to read "Stacey Kemp".

After recording, return to:
First Texas Homes
2221 E. Lamar Blvd #960
Arlington, TX 76006

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND
RESTRICTIONS FOR SORANO**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SORANO (this "Declaration") is made and entered by First Texas Homes, Inc., a Texas corporation (the "Declarant").

WHEREAS, Declarant is the owner of certain real property situated in the City of Frisco, Collin County, Texas, as more particularly described on **Exhibit A** attached hereto and incorporated herein by reference for all purposes; and

WHEREAS, Declarant intends that the Property (as hereinafter defined) be developed as a high quality residential Subdivision (as hereinafter defined) and community and that such Property be subject to the covenants, conditions and restrictions set forth in this Declaration in order to establish a plan for the development, improvement and use of the Property with architectural, landscaping and maintenance controls; and

WHEREAS, Declarant intends to create the Association (as hereinafter defined) to have, exercise and perform on behalf of, and as agent for, the Owners (as hereinafter defined), the rights, duties and functions set forth in this Declaration, including but not limited to: (i) the maintenance of certain portions of the Property and improvements thereon; (ii) the assessing, collecting and disbursing of Assessments (as hereinafter defined) provided for herein; and (iii) the appointment of an Architectural Control Committee (as hereinafter defined) to enforce the protective covenants contained herein and to review and approve or disapprove Plans (as hereinafter defined) for improvements and modifications to improvements to be constructed on Lots (as hereinafter defined) within the Subdivision.

NOW, THEREFORE, Declarant adopts, establishes and imposes the following covenants, conditions, restrictions, easements, liens and charges upon the Property and declares that the Property and all portions thereof are and shall be held, transferred, assigned, sold, conveyed and occupied subject to all such covenants, conditions, restrictions, easements, liens and charges.

**ARTICLE I
DEFINITIONS**

Unless otherwise defined in this Declaration, the following words when used in this Declaration (unless the context shall otherwise clearly indicate or prohibit) shall have the following meanings:

- (a) "Annexed Land" shall have the meaning set forth in Article VII hereof.
- (b) "Architectural Control Committee" shall mean any architectural control or review committee appointed by the Declarant or the Board from time to time, although not required hereunder, for the purpose of reviewing and approving or disapproving plans for improvements proposed to be constructed or modified on Lots and otherwise review

architectural or construction compliance with the Declaration.

(c) "Assessment" or "Assessments" shall have the meaning set forth in Section 5.01 hereof.

(d) "Assessment Lien" shall have the meaning set forth in Section 5.08 hereof.

(e) "Association" shall mean the nonprofit corporation to be created under the laws of the State of Texas under the name, "SORANO Homeowners' Association, Inc." or such other name as is selected by Declarant or Declarant's successors.

(f) "Association Documents" shall mean the Certificate of Formation (herein so called) and the Bylaws (herein so called) of the Association, as amended and modified from time to time, and the resolutions and certifications adopted by the Association from time to time.

(g) "Board" shall mean the board of directors of the Association as elected from time to time pursuant to the Association Documents.

(h) "City" shall mean the City of Frisco, Texas.

(i) "Class A Members" shall have the meaning set forth in Section 4.04(a) hereof.

(j) "Class B Control Period" shall mean the period commencing on the date this Declaration is filed in the Real Property Records of the County; and continuing until all Lots planned or approved for the Property has been conveyed to Class A Members other than builders who purchase Lots for construction and sale.

(k) "Class B Member" shall have the meaning set forth in Section 4.04(b) hereof.

(l) "Common Amenities" shall mean the following:

(i) Any and all entry features, Subdivision signage and monuments, landscape areas and screening walls, and all landscape easements, other similar areas within the Subdivision whether or not shown on the Plat, whether within or surrounding or along the boundaries of the Property, including without limitation, the landscape features installed and screening walls constructed in the Entry Areas;

(ii) Any other property or improvements within or immediately surrounding the Subdivision for which the Association is or may hereafter become obligated to maintain, improve or preserve;

(iii) Any and all other fixtures, structures or improvements installed by Declarant or the Association within the Subdivision, and all equipment, accessories, utilities and machinery used in the operation or maintenance of any such Common Amenities, and which are not expressly made the responsibility of the Lot Owner pursuant to the provisions of this Declaration; and

(iv) "Common Amenities" shall specifically and expressly be inclusive of the Green Space Lots shown on the Plat .

(m) "Common Expenses" shall have the meaning set forth in Section 5.02 hereof.

(n) "Common Service" or "Common Services" shall mean such services provided from time to time by Declarant or the Association, or obtained by the Association on behalf of, and for the common benefit of, the Owners which have been approved by the Board and/or by the Members at a meeting at which a Special Quorum is present as provided herein.

(o) "County" shall mean Collin County, Texas.

(p) "Declarant" shall mean FIRST TEXAS HOMES, INC., a Texas Corporation, and its successors, and any assignee of Declarant to whom Declarant, by instrument recorded in the Real Property Records of the County, expressly assigns any or all of Declarant's rights and obligations as Declarant under this Declaration. No Person purchasing one (1) or more Lots shall be considered "Declarant" hereunder, unless Declarant makes the express and specific assignment referenced in the immediately preceding sentence.

(q) "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for SORANO , and all amendments and modifications hereto, including without limitation, any Supplemental Declaration, filed of record in the Real Property Records of the County.

(r) "Default Rate of Interest" shall mean the lesser of: (i) fifteen percent (15%) per annum; or (ii) the maximum allowable contract rate of interest under applicable law.

(s) "Easement Areas" shall mean all easements as shown on the Plat within the Subdivision, or on adjacent property which may now or hereafter benefit or burden the Property and the Subdivision, including without limitation, the berm, wall and landscape maintenance easements, the wall maintenance easements, visibility, access and maintenance easements, utility easements, drainage easements and all other easements

located within the Property and along, over and across various Lots as shown on the Plat, together with all future and proposed easements for the benefit of or burdening the Property and the Subdivision, whether within or outside the Subdivision boundaries, and as may be shown on the Plat or as may be subsequently granted, dedicated and/or conveyed.

(t) "Entry Area" shall mean all of the areas at or near the points of entry into the Subdivision which may include Subdivision monuments, signage, landscaping or similar improvements, including without limitation, those areas as shown on the Plat along, near or adjacent to the Subdivision entrances from National Parkway, including any wall maintenance easements and visibility, access and maintenance easements and any Common Amenities which may be now or hereafter located in, on and adjacent to the Entry Areas.

(u) "Lot" or "Lots" shall mean the 130 buildable single-family residential lots as shown on the Plat, as amended from time to time, and designated as a "Lot" thereon and as shown on the Plat, specifically including, when applicable, all Lots within any Annexed Land which is annexed in accordance with Article VII hereof.

(v) "Member" or "Members" shall mean each Owner of a Lot.

(w) "Member in Good Standing" or "Members in Good Standing" shall have the meaning set forth in Section 4.03 hereof.

(x) "Mortgagee" shall mean any holder of a lien upon or a mortgage of any interest in a Lot.

(y) "Notice of Unpaid Assessments" shall have the meaning set forth in Section 5.08 hereof.

(z) "Owner" or "Owners" shall mean each and every Person who is a record owner of a fee or undivided fee interest in any Lot; provided, however, "Owner" shall not include Persons who hold an interest in a Lot as security for the performance of an obligation.

(aa) "Per-Lot Regular Assessment Amount" shall have the meaning set forth in Section 5.02 hereof.

(bb) "Person" or "Persons" shall mean any natural person, corporation, partnership, trust or other legal entity.

(cc) "Plat" shall mean the Final Plat of SORANO, an Addition to the City of Frisco, Collin County, Texas, as recorded on December 29, 2008, in Cabinet 2008, Slide 716, of the Map or Plat Records of Collin County, Texas, and any and all amendments, modifications, revisions or replats to or of said plat, and any final plat of any Annexed Land expressly annexed and made subject to this Declaration in accordance with the terms of Article VII hereof.

(dd) "Property" shall mean the real property situated in the City of Frisco, Collin County, Texas, as more particularly described on Exhibit A attached hereto, together with any Annexed Land expressly annexed thereto and made subject to this Declaration in accordance with the terms of Article VII hereof.

(ee) "Regular Assessments" shall have the meaning set forth in Section 5.02 hereof.

(ff) "Regular Quorum" shall have the meaning set forth in Section 4.05(c) hereof.

(gg) "Special Member Assessments" shall have the meaning set forth in Section 5.04 hereof.

(hh) "Special Purpose Assessments" shall have the meaning set forth in Section 5.03 hereof.

(ii) "Special Quorum" shall have the meaning set forth in Section 4.05(b) hereof.

(jj) "Subdivision" shall mean the Property as shown on the Plat to be commonly known as "SORANO".

(kk) "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of covenants, conditions, restrictions and easements bringing Annexed Land within the scheme of the Declaration under the authority provided in this Declaration.

(ll) "Violation Fine" shall have the meaning set forth in Section 8.11 hereof.

ARTICLE II

USE OF THE PROPERTY - PROTECTIVE COVENANTS

2.01 **Residential Use.** All Lots(excluding, however, those platted lots on which certain Common Properties may be located) shall be used for residential purposes only. No building or structure shall be erected, altered, placed or permitted to remain on any Lot other than a single family dwelling and a private garage for two(2) or more automobiles. No building or structure on any lot shall exceed two and one-half(2 ½) stories in height.

2.02 **Minimum Floor Space.** Except as hereinafter specified, the total air-conditioned "living" area of the main structure on each Lot shall contain a minimum square footage, exclusive of porches, garages and other outbuildings of 2,000 square feet.

2.03 **Garages.** Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) conventional automobiles. All garages may be front entry. Garage doors shall be closed at all times other than during periods of time when the Owner is going to or from the garage for the purpose of moving vehicles in and out of the garage, working in the garage, or doing other work on such Owner's lot which requires access to and from the garage. Garages originally built on a lot shall be used exclusively for the parking of vehicles and the storage of household goods normally kept in garages but shall not be enclosed for use as residential living quarters or as permanent storage facilities. Notwithstanding the foregoing, the garages in model homes may be used as sales offices until such time as the model home is sold to a consumer or is no longer used as a model home at which time the garage shall be converted to garage use with a garage door installed. All garages shall be maintained in such fashion so that two automobiles may be placed in the garage at any time. All interior garage walls shall be finished with drywall materials and painted or covered with other materials approved by the Committee. No carport shall be visible from a street.

2.04 **Roofs.** All roofs shall be constructed of slate, tile, 220-pound composition shingles or other material first approved by the Committee. The color of such roofing materials shall only be dark gray roofs or other colors approved by the Committee and otherwise are in compliance in all respects with applicable City of Frisco ordinances. The roof pitch elevation of any structure shall be a minimum of six (6) feet by twelve(12) feet except covered porches shall be minimum (4) feet by twelve(12).

2.05 **Building Lines.** All residences or dwellings erected or placed on any Lot shall face the road or street adjacent to the lot as shown on the recorded plat of the property or as prescribed in the deed from Declarant conveying the Lot. No portion of such dwelling or residence shall be nearer to the front property line of said Lot than the building line as designated on the recorded plat of the property.

2.06 **Fences.** No chain link fences or other wire type fences shall be erected or located on any lot so as to be visible from the front, side or rear of the lot. No fence, wall or hedge shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line indicated on the recorded plat on the property other than model lot enclosure fencing used for subdivision marketing. In no case shall a fence that attached to a screening wall be taller than the screening wall. No fence, wall or hedge shall exceed eight (8) feet in height unless otherwise specifically required by the City of Frisco. Wood fencing approved by the Committee will be allowed to extend from the outer perimeter of a home to the side property line, subject to the city ordinances regarding side yard fences. Approval will be subject to thorough consideration of the effect such proposed fencing might have on adjoining lots and/or dwellings. In addition, such wood fencing must be recessed from the front building line of the dwelling a minimum distance of five (5) feet. Any fencing located from the front of the Lot to the back of the Lot (perpendicular to the front property line) may be of wood material:

provided, however, the good side of the fence must face out when the fence faces any street(i.e., not stringers or posts shall be visible from any residential street), (ii) be composed of pine, spruce, cedar or redwood, (iii) have slats which are installed vertically only (not horizontally or diagonally) and (iv) not be painted without the consent of the Committee and (v) if the owner elects to do so, shall be stained or treated with a water repellent solution that is translucent or slightly colored in an earthen tone on any surface which faces a street, alley or adjoining Lot unless otherwise approved by the Committee.

2.07 Signs. No sign or signs shall be displayed to the public view on any Lot except that: (1) any builder, during the applicable initial construction and sales period, may utilize professional signs on each lot for advertising and sales purposes, provided that such sign must be approved as to size and number (including, without limitation, any directional signs) by the Committee: (2) thereafter, a dignified "for Sale" or "for Rent" sign(of not more than nine (9) square feet in size may be utilized by the Owner of the respective Lot for the applicable sale or rent situation: (3) development-related signs owned or erected by Declarant shall be permitted: and (4) signs displaying the name of a security company shall be permitted, provided that such signs are (i) ground mounted, (ii) Limited to two (2) in number (one in the front yard and one in the back yard) (iii) of a reasonable size: and (iv) subject to the prior written approval of the Committee. Signs which are temporary in nature, (i.e. "garage sale" signs) shall only be permitted for a specified period of time upon approval by the Committee of a written request by the individual Lot Owner describing the nature of the sign and the time period for which it will be displayed. Nothing contained in this Section shall be applicable to signs placed by Declarant in, on or around the Property.

2.08 Temporary Structures. No temporary structure of any kind shall be erected or placed upon any Lot. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling. However, any Class B Member may maintain temporary sales or construction offices.

2.09 Vehicles; Parking. Any truck, boat, boat trailer, animal trailer, trailer, mobile home, motorhome, campmobile, camper or any motorized vehicle other than a conventional automobile, pickup truck, van or motorcycle shall be stored, placed or parked within the garage of the appropriate Owner or so as to be completely hidden from view unless otherwise approved by the Committee.

Not more than two (2) vehicles (in addition to the two (2) vehicles located within any garage on a Lot) may be parked within the driveway of any Lot. No vehicles may be parked on any unpaved driveway on any lot. No inoperable vehicles may be parked on any driveway or on any street. No vehicles may be parked in the street in front of any lot for any period in excess of a twenty-four (24) hour period. No variance from this paragraph will be allowed unless first approved in writing by the Committee.

Trucks with tonnage in excess of three-quarters (3/4) ton shall not be permitted to park overnight on the streets, driveways or otherwise within the property.

2.10 Garbage: Weeds. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. All garbage shall be kept in city-approved containers. All garbage containers shall be placed on the street in front of their dwelling on the day of collection, and shall otherwise be in compliance with applicable ordinances of the City of Frisco.

If after ten (10) days of written notice an Owner shall fail to: (i) control weeds, grass and/or other unsightly growth: or (ii) remove trash, rubble, building and construction debris: or (iii) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then Declarant or the Board shall have the authority and right to go onto said Lot for the purpose of mowing and cleaning said Lot and shall have the authority and right to assess and collect for the owner of such Lot a reasonable sum not to exceed Five Hundred Dollars (\$500.00) for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning. The assessments, together with interest(at the highest permitted lawful rate per annum) thereon and any costs of collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made, Each such assessment, together with interest thereon and costs of collection thereof, shall also be the continuing personal obligation to the Owner of such lot at the date when the assessment occurred. The lien securing any such assessment shall be subordinate and inferior to the lien of any mortgage and any renewals or extensions thereof existing Prior to the assessment date.

2.11 Construction Completion Time. Each residence constructed on each lot and any other improvements thereto shall be commenced and completed with due diligence promptly after approval by the Committee of the plans and specifications prepared in connection with such construction. All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character on any Lot and all interior construction shall be complete not later than eighteen months (18) following the commencement of construction. For the purposes hereof, the term "commencement of construction" shall be deemed to mean the date on which the foundation forms are set. In the event that a residence is partially or totally damaged by fire or other causes, the Owner of such residence must either rebuild the residence or completely clear the lot. In the event the Owner desires to rebuild, the construction or restoration of the damaged residence, or portion thereof, must commence within one hundred twenty (120) days after the occurrence causing the damage. No construction or restoration shall commence, however, until plans and specifications have been submitted to the Committee (and are subsequently approved) as required. In the event the Owner does not desire to rebuild, the Owner must clear away all remaining debris and restore the Lot to the condition in which it existed prior to the initial construction of the damaged residence.

2.12 Offensive Activities: Pets. No Noxious or offensive activity shall be conducted on any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance within the property or any portion thereof. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept: provided that they are not kept, bred or maintained for commercial purposes and further provided that all Owners shall comply with the applicable ordinances of the City of Frisco, In addition, not more than two (2) household pets may be kept on any lot and any litters of household pets which would cause the total number of pets on any lot to exceed two (2) must be sold or otherwise disposed of within six (6) months from the birth of any such litter so that the total number of pets shall not exceed two (2) after such six (6) month period.

2.13 Exterior Surfaces. Subject to the City of Frisco's building code standards allowing such provisions, the total exterior surface of all residential dwellings shall be of fire resistant construction having at least eighty percent (80%) of the total exterior walls above grade level, excluding doors and windows, constructed of brick, stone or material or equal characteristics in accordance with the city of Frisco's building code and fire prevention code.

2.14 Antennas and Aerials. Installation of television antennas and other antennas and aerials shall be done according to current local, state and federal laws. It is the preference of the committee that subject to these laws they be located inside the attic or under the roof so as to be completely hidden from view unless otherwise first approved in writing by the Committee. Satellite dishes over 18 inches in diameter shall not be permitted unless specifically approved in writing by the committee as to location, size, height and color. No towers shall be permitted without express written consent from the Declarant or the Committee.

2.15 Landscaping. Each residence shall be landscaped on the front and side yards within one hundred twenty (120) days after the date on which the carpet has been installed in the residence. The Landscaping of each lot shall be principally grass sod or hydromulch as approved by the committee. The owner shall keep the yard sufficiently watered to insure adequate growth of the grass. At least two (2) two-inch (2") diameter trees or other trees by the Committee in writing shall be planted in the front yard area at the completion of construction of the residence.

2.16 Retaining Walls. Retaining walls located in the front yard area and parallel to the street shall be constructed of concrete or other masonry products first approved in writing by the committee and compatible with the exterior of the dwelling. Wood retaining walls may be constructed on side or rear yards if they are not visible from any lot or street.

2.17 Basketball Goals. Basketball goals, backboards and nets shall only be permitted if the committee approves them in writing with reference to their location and material. At no time shall the goal be placed in any street or cul-de-sac or in such a way as to endanger those persons utilizing the goal.

2.18 Gazebos, Greenhouses, Storage sheds, Clotheslines, Etc. No gazebo, greenhouse, storage shed, children's playhouses, tree houses, clothesline or other similar

structure shall be erected, constructed or placed upon any lot without prior written approval by the Committee. Storage shed shall not be taller than 8 (eight) feet measure d from natural ground elevation and shall be placed at a location in the back yard approved by the Declarant and/or committee in writing, and shall be installed subject to any Frisco City ordinance governing their use. They shall be painted a similar color as the house trim.

2.19 Mail Boxes and Street Address Numbers. All mailboxes shall comply with all applicable laws and ordinances and shall be constructed of the same masonry material as the front of the home in front of which it is located, or as otherwise approved by the Committee.

2.20 Pool Equipment. No pool may be erected, constructed or installed without the prior written consent of the Committee. All pool service equipment shall be fenced and located in either (2) a side yard between the front and rear boundaries of the dwelling; or (b) in the rear yard: and shall not be visible from any residential street or alley or any adjoining lot.

2.21 Utility Meters and Air-Conditioning Compressors. All utility meters, equipment, air-conditioning compressors, evaporative coolers and similar items must be located in the areas designated by the Committee. No window unit air-conditioning systems shall be permitted on any home.

2.22 Drying of Clothes. The drying of clothes in public view is prohibited. The owners and occupants of any lots at the intersections of streets or adjacent to parks, playgrounds, open spaces or other facilities where the rear yard is visible to 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.

ARTICLE III

COMMON AMENITIES AND EASEMENTS

3.01 Obligation of Declarant. Declarant has installed and constructed, or caused to be installed and constructed, or will install and construct, various improvements and infrastructure as determined by Declarant in such condition as required by the City in order to obtain approval of the Plat. Declarant shall have no further obligation whatsoever to construct any improvements on the Property or maintain any of same, or otherwise fund or be liable for any matters concerning such improvements or otherwise related to the Subdivision.

3.02 Responsibilities of the Association for Maintenance of the Common Amenities and Easement Areas; Maintenance Reserve Fund. The Association shall, and has the sole responsibility to, maintain the Common Amenities and any Easement Areas and associated improvements and Common Amenities thereon, or for future improvements and Common Amenities for the benefit of the Subdivision which are or may become necessary or desirable in the future on any Easement Areas, including any of the off-site Easement Areas outside the limits of the Subdivision. The Association's costs of maintaining the Common Amenities and such Easement Areas will be collected from the Owners through Assessments as provided in Article V hereof. The Association shall not seek, by either act or omission, to abandon the Association's obligations as established by this Declaration to maintain the Common Amenities and/or any Easement Areas. In order to provide for extraordinary and unanticipated items regarding the maintenance obligations contained herein, the Association may establish a maintenance reserve fund for the maintenance of the Common Amenities and Easement Areas in an amount the Board shall, in its sole and absolute discretion, determine to be sufficient.

3.03 Association's Easement for Maintenance. The Association shall have a maintenance easement on all Lots to the extent reasonably necessary for the purpose of maintaining the Common Amenities and for the removal of any obstruction that may be placed on any Easement Areas that would constitute interference with the Association's use of any such easement.

3.04 Utility Easements. Declarant and providers of utility services to the Subdivision shall have, and are hereby granted easements for installation, maintenance, repair, removal and operation of utilities and drainage facilities on, under and across the Easement Areas and for the removal of any obstruction that may be placed in such Easement Areas that would constitute interference with the use of any such easement, or with the use, maintenance, operation or installation of any such utility. The City or the

utility company exercising such easement rights shall promptly repair any damage to landscaping, sprinkler systems or other improvements resulting therefrom; provided, however, neither the City nor any utility company shall have any obligation to repair any buildings, structures or similar improvements installed in any Easement Areas.

3.05 Other Easements. Declarant and the Association shall have an easement and full right of ingress and egress at all times over and upon the Property for the exercise of any and all rights and functions set out in this Declaration. Any such entry by Declarant and the Association upon a Lot shall be made with as minimum inconvenience as practical to the affected Owner.

3.06 Universal Elements. The Owner of each Lot (including Declarant so long as Declarant is the Owner of any Lot) is hereby granted an easement not to exceed two (2) feet in width over all adjoining Lots and common areas (if any) for the purpose of accommodating any encroachment or protrusion due to engineering errors, errors in original construction, surveying, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of said encroachments, protrusions, settling or shifting; provided, however, that in no event shall an easement for encroachment or protrusion be created in favor of any Owner or Owners as a result of any intentional or willful encroachment or protrusion by such Owner. In addition, the Owner of each Lot is hereby granted an easement for minor encroachments, not to exceed three (3) feet in width by overhanging roofs and eaves as originally constructed over each adjoining Lot and/or common areas (if any) and for the maintenance thereof. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall be appurtenant to each affected Lot and shall pass with each conveyance of said Lot.

3.07 City Easements and Indemnity. The City, and its lawful agents, shall have the right to remove any landscape systems, features or elements which are part of the Common Amenities, that cease to be maintained by the Association in accordance herewith, and the right to perform the responsibilities of the Association hereunder in the event the Association fails to perform its responsibilities hereunder, and to assess to the Association all costs incurred by the City in such event. The Association does hereby indemnify and hold the City, its officers, officials, employees and agents, harmless from any and all costs, expenses, suits or demands arising from or related to the City's performance of the Association responsibilities hereunder.

ARTICLE IV PURPOSE, MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.01 Organization and Purpose of the Association. Declarant has caused or shall cause the formation and incorporation of the Association. The Association is a nonprofit corporation created for the purposes and vested with the powers prescribed by law and/or set forth in its Certificate and Bylaws, or in this Declaration. The Association shall have and exercise the rights, and shall perform the functions of, the Association for the benefit of, and as agent for, the Owners as set forth in this Declaration.

4.02 Membership. Every Owner (including Declarant) shall automatically be and must remain a Member of the Association so long as such Person is an Owner. The membership of a Person in the Association shall terminate automatically whenever such Person ceases to be an Owner, except that such termination shall not release or relieve such Person from any liability or obligation arising under this Declaration during such Person's period of ownership. Any transfer of title to a Lot shall operate automatically to transfer membership in the Association appurtenant to such Lot to the new Owner of such Lot.

4.03 Member in Good Standing. A Member shall be considered to be a "Member in Good Standing" (herein so called) and eligible to vote on Association related matters if such Member:

(a) Has, at least ten (10) days prior to the taking of any vote by the Association, fully paid all Assessments or other charges levied by the Association, as such Assessments or charges are provided for hereunder;

(b) Does not have a Notice of Unpaid Assessments filed by the Association against the Lot owned by such Owner; and

(c) Has discharged all other obligations to the Association as may be required of Members hereunder or under the Association Documents.

The Board shall have the right and authority, in the Board's sole and absolute discretion, to waive the ten (10) day prior payment requirement in Section 4.03(a) hereof and require only that such payment be made at any time before such vote is taken if the Board shall determine, in the Board's sole and exclusive judgment, that extenuating circumstances exist which have prevented prior payment. Any Member not conforming with the provisions of this Section shall be declared by the Board not to be a Member in Good Standing and any such Member shall not be entitled to vote on matters before the Association until such time as Member in Good Standing status is attained and so declared by the Board.

4.04 Voting Rights. The Association shall have the following two (2) classes of voting membership:

(a) CLASS A: "Class A Members" (herein so called) shall be all Members other than Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. If any Lot is owned by more than one (1) Owner, the number of votes attributable to such Lot still shall be one (1), and such one (1) vote may be cast only if all of the Owners owning such Lot, prior to the time of the vote in question, have delivered to the Association a written agreement as to how such vote is to be cast or a written designation of one (1) of such Owners to cast the vote attributable to such Lot. Any Owner who is not an individual must designate, upon request of the Board, a representative to act for such Owner in Association matters and to cast the vote of such Owner, such designation to be made in writing to the Board.

(b) CLASS B: Declarant (and Declarant's successors and assigns in accordance with the terms hereof) shall be the sole "Class B Member" (herein so called). At all times during the Class B Control Period, the Class B Member shall have the sole right to appoint all directors to the Board of Directors of the Association. Control of the Association shall be vested in the Class A Members in accordance with the Bylaws only after the expiration of the Class B Control Period as described above. The Class B Member shall have one hundred (100) votes for each Lot it owns at all times during the Class B Control Period. After expiration of the Class B Control Period, the Class B Member shall be a Class A Member entitled to one (1) vote for each Lot it owns. The provisions in this Section 4.04(b) may not be modified or amended without the express written consent of Declarant or Declarant's transferee, Declarant's becoming a Class A Member, the end of the Class B Control Period or the end of the Class B membership shall not affect or negate the specific rights of Declarant provided elsewhere in this Declaration.

4.05 Quorum, Notice and Voting Requirements. (a) Except as otherwise specifically provided in this Declaration, any action requiring the vote or approval of the Members or the Owners shall require the majority vote of the Members in Good Standing (both classes voting together), represented at a duly called meeting of the Members in person or by a legitimate proxy in form provided in the Association Documents or otherwise approved by the Board, at which a "Regular Quorum" or a "Special Quorum" is present. Written notice of a meeting must be given to all Members not less than ten (10) days nor more than thirty (30) days in advance of any such meeting and shall set forth the purpose(s) of such meeting. No action may be taken at a meeting on any matter that is not described in the applicable meeting notice as being on the agenda for such meeting. Notwithstanding anything herein to the contrary, to the extent permitted by applicable law and in the Association Documents from time to time, any action may be taken by written consent of the Members in lieu of formal meetings.

(b) The quorum (a "Special Quorum") required for any action referred to in Section 5.05(c) (Special Purpose Assessments) hereof or for the approval of any capital improvements or new Common Services shall be as follows:

Members in Good Standing, represented at a duly called meeting of the Members in person or by a legitimate proxy in form provided in the Association Documents or otherwise approved by the Board, entitled to cast fifty-one percent (51%) of all of the votes of Members in Good Standing (both classes of Members taken together) shall constitute a Special Quorum. If the required Special Quorum is not present at such meeting, that meeting may be adjourned, and an additional meeting may be called, subject to the notice requirement set forth herein, with the required Special Quorum

at such second (2nd) meeting being reduced to one-half (1/2) of the required Special Quorum at the preceding meeting; provided, however, that such second (2nd) meeting must be held not later than thirty (30) days after the first (1st) meeting. Further, if the reduced required Special Quorum is not present at such second (2nd) called meeting, the adjournment of the meeting shall be continued, and one (1) additional meeting may be called, subject to the notice requirement set forth herein, with Declarant alone constituting the required Special Quorum at such third (3rd) meeting; provided that such third (3rd) meeting must be held not later than forty-five (45) days after the first (1st) meeting.

(c) The quorum (a "Regular Quorum") required for any action other than the action referred to in Section 4.05(b) hereof shall be as follows: Members in Good Standing, represented at a duly called meeting of the Members in person or by a legitimate proxy in form provided in the Association Documents or otherwise approved by the Board, entitled to cast twenty percent (20%) of all of the votes of Members in Good Standing (both classes of Members taken together) shall constitute a Regular Quorum. If the required Regular Quorum is not present at such meeting, that meeting may be adjourned, and an additional meeting may be called, subject to the notice requirement set forth herein, with the required Regular Quorum at such second (2nd) meeting being reduced to one-half (1/2) of the required Regular Quorum at the preceding meeting; provided, however, that such second (2nd) meeting must be held not later than thirty (30) days after the first (1st) meeting. Further, if the reduced required Regular Quorum is not present at such second (2nd) called meeting, the adjournment of the meeting may be called, subject to the notice requirement set forth herein, with Declarant alone constituting the required Regular Quorum at such third (3rd) meeting; provided that such third (3rd) meeting must be held not later than forty-five (45) days after the first (1st) meeting.

(d) As an alternative to the procedure set forth in this Section, any action may be taken without a meeting upon obtaining the assent given in writing and signed by Members in Good Standing who hold more than: (i) fifty-one percent (51%) of the outstanding votes eligible to be cast by Members in Good Standing (both classes of Members taken together) for actions referred to and requiring a Special Quorum as provided in Section 4.05(b) hereof; or (ii) twenty percent (20%) of the outstanding votes eligible to be cast by Members in Good Standing (both classes of Members taken together) for actions referred to and requiring a Regular Quorum as provided in Section 4.05(c) hereof.

(e) Except as set forth in this Section 4.05, the notice, voting and quorum requirements for all action to be taken by the Association shall be as set forth in the Association Documents.

ARTICLE V **ASSESSMENTS**

5.01 Covenants for Assessments. Each Owner, by acceptance of a deed or other conveyance or transfer of legal title to a Lot, whether or not it shall be so expressed in any such deed or other conveyance or transfer, shall be deemed to have covenanted and agreed to pay to the Association, or to an independent entity or agency which may be designated by the Association to receive such monies, the following assessments (collectively, the "Assessments"):

- (a) Regular Assessments as provided in Section 5.02 hereof;
- (b) Special Purpose Assessments as provided in Section 5.03 hereof; and
- (c) Special Member Assessments as provided in Section 5.04 hereof.

All Assessments shall remain the property of the Owner making payment of such Assessments but shall be controlled and expended by the Association on behalf of the Owners only for the specified purposes provided or approved pursuant to this Declaration. No profit, gain or other benefit is to be derived by the Association from the Assessments, but, instead, such funds shall be expended only as agent for the Owners. All services contemplated to be paid from Assessments shall be obtained by the Association on behalf of the Owners. Upon termination of the Association (and not before), all Assessments held at that time by the Association shall be allocated and returned to the

Owners that paid such Assessments. No Assessments shall be levied against the Common Amenities or the Lots owned by Declarant; provided, however that Declarant shall pay the amounts, if any, Declarant expressly agrees to pay pursuant to Section 5.02 hereof.

5.02 Regular Assessments. "Regular Assessments" (herein so called) shall be determined, assessed and expended on a calendar year basis, which shall be the fiscal year of the Association. Regular Assessments shall be used exclusively for the following purposes (collectively, the "Common Expenses"): (a) maintaining, improving and/or operating the Common Amenities, subject to the limitations set forth in Section 6.01 hereof; (b) the payment of taxes and insurance (if any) in connection with the Common Amenities and the Common Services; (c) developing and maintaining replacement and working capital reserves for the Association (including without limitation, the maintenance reserve fund as provided for in Section 3.02 hereof); (d) providing the Common Services; (e) the payment of insurance premiums and costs as provided in Section 6.02 hereof, including without limitation, the premiums for officers', directors' and Architectural Control Committee Members' liability insurance, and the payment of any indemnity costs or costs of other functions of the Board or the Association pursuant to this Declaration; (f) meeting and carrying out all contractual obligations of the Association, including without limitation, the Common Services obligation; and (g) carrying out the duties of the Board and the Association as set forth in this Declaration. Each year while this Declaration is in force, the Board shall set the amount of the Regular Assessments to be levied for the next calendar year, taking into consideration: (i) the Common Expenses for the then current year, and anticipated increases in such expenses during such next calendar year; (ii) a contingency amount [not exceeding ten percent (10%) of the anticipated expenditures for such next year]; (iii) amounts needed for any reserve fund as determined by the Board; and (iv) the number of Lots subject to Assessments. The Regular Assessments for each calendar year shall be set by the Board on or about the first (1st) day of November of the preceding year or as soon thereafter as such determination reasonably can be made by the Board. Should any excess surplus (exclusive of amounts in any reserve fund) exist at the end of any calendar year, the Board may, but shall not be obligated to, reduce the amount required for the next year's Regular Assessments by an amount equal to such surplus. The "Per-Lot Regular Assessment Amount" (herein so called) shall then be determined by the Board such that the sum of the Per-Lot Regular Assessment Amounts payable for each Lot subject to Assessments equals the aggregate Regular Assessments required as set by the Board. The Per-Lot Regular Assessment Amount shall be payable for each Lot which has been conveyed by Declarant to any third party, including but not limited to, any Owner, builder or contractor. Regular Assessments shall commence, and the Per-Lot Regular Assessment (pro-rated for the remaining portion of the fiscal year of the Association) shall become payable immediately upon the conveyance of any Lot by Declarant (or reconveyance in the case of any Lot which is reacquired by Declarant). Notwithstanding anything herein to the contrary, no Regular Assessments shall be payable for Lots owned by Declarant (whether now owned or hereafter acquired or reacquired). During the 2008 calendar year, to the extent that the Regular Assessments are insufficient to cover actual expenses incurred by the Association for the purposes thereof, Declarant agrees to pay any excess actual expenses provided that the amount payable by Declarant shall in no event exceed the Per-Lot Regular Assessment Amount for each Lot which Declarant owns at the time of any such shortfall.

5.03 Special Purpose Assessments. Subject to the provisions of Section 5.05(d) hereof, the Board may, from time to time, levy "Special Purpose Assessments" (herein so called) for the purpose of paying any capital improvements and other unanticipated expenses that normally would have been paid out of Regular Assessments but which were not included in that year's budget for Regular Assessments. Such Special Purpose Assessments shall be assessed on a per Lot basis in the same manner as the Regular Assessments are assessed as set forth in Section 5.02 hereof.

5.04 Special Member Assessments. The Board may levy a "Special Member Assessment" (herein so called) on any Member, to the extent any directly related insurance proceeds (if any) paid to the Association are not sufficient to pay all such costs, for the purpose of:

(a) Paying the cost of any damage or loss requiring maintenance, repairs or replacement of Common Amenities, which damage or loss has been determined by the

Board to have been caused, either directly or indirectly, by the act(s) of such Member, or such Member's agent, employee, occupant or visitor; and/or

(b) Paying the maintenance costs, construction delay damages and Violation Fines or other amounts chargeable to any Owner as otherwise set forth herein.

5.05 Special Provisions Regarding Assessments.

(a) Until and unless otherwise determined by the Board, the annual Per-Lot Regular Assessment Amount shall be **Three Hundred Eighty Five Dollars (\$385.00) per Lot per year for a homeowner and \$200 per year for the builder.** The initial Per-Lot Regular Assessment Amount as established by the Board shall be payable, in whole or in part (as applicable), simultaneously with the sale and conveyance of each Lot by Declarant, and such applicable amount shall be prorated over the remainder of the calendar year from the date of such conveyance.

(b) The Board may establish the maximum annual Regular Assessment and the maximum Per-Lot Regular Assessment Amount for each Lot, provided that the maximum annual Regular Assessment and the maximum Per-Lot Regular Assessment Amount may not be increased more than twenty-five percent (25.0%) above the maximum annual Regular Assessment and the maximum Per-Lot Regular Assessment Amount for the previous year unless approved by a Special Quorum of the Members of the Association as provided in Section 4.05(b) hereof. Notwithstanding the foregoing, in the event that the Board determines that due to unusual circumstances the maximum annual Regular Assessment and the maximum Per-Lot Regular Assessment Amount even as increased by twenty-five percent (25.0%) will be insufficient to enable the Association to pay the Common Expenses, then in such event, the Board shall have the right to increase the maximum annual Regular Assessment and the maximum Per-Lot Regular Assessment Amount by the amount necessary to provide sufficient funds to cover the Common Expenses without the approval of the Members as provided herein; provided, however, the Board shall only be allowed to make one (1) such increase per calendar year without obtaining approval of a Special Quorum of the Members as provided in Section 4.05(b) hereof.

(c) If any Assessment remains unpaid at the expiration of fifteen (15) calendar days from and after the due date established by the Board, a late charge, in an amount determined by the Board to offset administrative costs of the Association resulting from such delinquency, shall be assessed against the non-paying Owner for each month, or portion thereof, that any portion of an Assessment remains unpaid. A service charge of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) or such other amount established by the Board (but in no event exceeding the maximum lawful amount) shall be charged for each check that is returned because of insufficient funds. The amounts of late charges and service charges may be adjusted, from time to time, by the Board, and shall in no event exceed the amounts permitted by applicable law.

(d) Any Special Purpose Assessments for the purpose of paying the cost of the construction of a capital improvement or for the provision of Common Services shall require the affirmative approval of a Special Quorum of the Members as provided in Section 4.05(c) hereof.

(e) The Declarant shall establish an initial maintenance reserve account on or before the time of transfer of control of the Board to the Class A Members, which initial maintenance reserve shall be an amount not less than Regular Assessments at the most recent per-Lot amount, which would accrue in two (2) months on all Lots within the Subdivision.

5.06 Due Date of Assessments. The Regular Assessments provided for herein shall be payable annually within thirty (30) days after an invoice is delivered by the Association to an Owner (and for purposes hereof, delivery shall be deemed to have been made when deposited in the United States mail, postage prepaid, in the ordinary course by the Association or an agent, such as a management company, on behalf of the Association, addressed to the Owner at the address of the Owner shown on the records of the Association); provided, however, the Board shall have the right to require payment of Regular Assessments at other intervals if the Board deems appropriate in the Board's sole and exclusive discretion [but with payment thereof not required any earlier than thirty (30) days after delivery of any such invoice therefor]. The due date of any Special Purpose Assessment or Special Member Assessment shall be fixed in the notice to the Owner or Owners providing for any such Assessment, but will not be sooner than thirty

(30) days after such notice is delivered to the Owner or the Owners thereof. The initial Per-Lot Regular Assessment Amount as established by the Board shall be payable, in whole or in part (as applicable), simultaneously with the sale and conveyance of each Lot by Declarant, and such applicable amount shall be prorated over the remainder of the calendar year from the date of such conveyance.

5.07 Personal Obligation for Payment of Assessments. The Assessments provided for herein shall be the personal obligation of the Owner or Owners of the Lot with respect to which such Assessment is made. The covenants for the payment of Assessments as provided in this Declaration touch and concern each Lot, are covenants running with the land and specifically bind the Owners and their heirs, successors, devisees, personal representatives and assigns. Except for Declarant as expressly provided herein, no Owner, for any reason, may exempt itself from liability for Assessments. In the event that any Assessment (or any part thereof) is not paid when due, the Owner or Owners of such Lot shall be obligated to pay interest on any such unpaid Assessment from such date at the Default Rate of Interest together with the charges made as authorized in Section 5.05(d) hereof and all costs and expenses of collection thereof, including but not limited to, reasonable attorneys' fees. The Board shall have the right to reject any partial payment of any Assessment and demand full payment thereof, or the Board may, in the Board's sole and exclusive discretion, elect to accept any such partial payment on account only, without in so doing waiving any rights established hereunder with respect to any remaining balance due. The obligation of any Owner to pay an Assessment with respect to a Lot made for any period of time that an Owner owns the Lot shall remain such Owner's personal obligation (notwithstanding any future sale or conveyance of such Owner's Lot) and shall also pass to the purchaser(s) of such Lot. However, any lien against a Lot for any unpaid Assessments shall be unaffected by any sale of such Lot and shall continue in full force and effect. In the event of a sale of a Lot, it shall be the obligation of the then Owner of such Lot to disclose to any buyer, assignee, title company designated to handle such transaction, financing entity or any other party to such sale any unpaid Assessments, such notice to be given in writing to all parties to the intended transaction at least fifteen (15) days before the date at which such transaction is to be consummated. A copy of any such notice shall be sent to the Association at the same time. A former Owner shall not be liable for Assessments due with respect to a Lot which accrue for periods after such Person no longer is the Owner of such Lot and the notice required herein has been given.

5.08 Assessment Lien and Foreclosure. THE OBLIGATION TO PAY ASSESSMENTS IN THE MANNER PROVIDED FOR IN THIS ARTICLE, TOGETHER WITH INTEREST FROM SUCH DUE DATE AT THE DEFAULT RATE OF INTEREST, THE CHARGES MADE AS AUTHORIZED IN SECTION 5.05(d) HEREOF, ALL VIOLATION FINES AND THE COSTS OF COLLECTION, INCLUDING BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, IS SECURED BY A CONTINUING CONTRACTUAL LIEN (THE "ASSESSMENT LIEN") AND CHARGE ON THE LOT COVERED BY SUCH ASSESSMENT, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The aforesaid continuing contractual Assessment Lien shall attach to the Lots as of the date of the recording of this Declaration in the Real Property Records of the County, and such Assessment Lien shall be superior to all other liens except as provided in Section 5.10 hereof. Such Assessment Lien shall not encumber or attach to the Common Amenities. The Association shall have the right to subordinate the aforesaid Assessment Lien to any other lien. The exercise of such right shall be entirely discretionary with the Board. Except for a conveyance to a purchaser at a foreclosure sale pursuant to a lien to which the Assessment Lien is subordinate as provided herein or in Section 5.10 hereof, all Lots are conveyed to, and accepted and held by, the Owner thereof subject to the Assessment Lien provided for in this Section. To evidence any unpaid Assessments, the Association may prepare a written notice of unpaid Assessments (the "Notice of Unpaid Assessments") setting forth the amount of the unpaid indebtedness, the name of the Owner of and describing the affected Lot. Such notice shall be signed by one (1) of the officers of the Association and may, at the Board's sole and exclusive discretion, be recorded in the Real Property Records of the County. The Association shall record an appropriate release of any recorded Notice of Unpaid Assessments when the amounts referenced therein have been paid. THE

ASSESSMENT LIEN MAY BE ENFORCED BY FORECLOSURE OF THE ASSESSMENT LIEN UPON THE DEFAULTING OWNER'S LOT BY THE ASSOCIATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS EITHER BY JUDICIAL FORECLOSURE OR BY NONJUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A MORTGAGE ON REAL PROPERTY IN ACCORDANCE WITH THE TEXAS PROPERTY CODE, AS SUCH MAY BE REVISED, AMENDED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. In addition, the Association may institute suit against the Owner personally to obtain a judgment for unpaid Assessments. Furthermore, the Association shall have such other rights and remedies as permitted or allowed by applicable law. In any foreclosure proceeding, whether judicial or nonjudicial, or in any suit or other action against, or pertaining to, the Owner, the Owner shall be required to pay all costs, expenses and reasonable attorneys' fees incurred by the Association. The Association shall have the right and power to buy the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same, subject to any statutory right of redemption.

5.09 Certificate. Upon request by an Owner, the Association shall furnish a certificate setting forth the unpaid Assessments owed by an Owner. Upon the written request of any Mortgagee holding a lien on a Lot, the Association shall report to any said Mortgagee any Assessments which are delinquent and unpaid at the time of the report.

5.10 Subordination of the Assessment Lien. The Assessment Lien provided for herein on a Lot shall be subordinate and inferior to the lien or liens granted by the Owner of such Lot to secure the repayment of a loan made for the purpose of providing purchase money funds for such Lot, funds used at any time to install or construct improvements on such Lot or funds used to pay ad valorem taxes on such Lot; provided, however, that such subordination shall apply only to Assessment Liens which have become due and payable prior to the foreclosure sale, whether public or private, of such Lot pursuant to the terms and conditions of any such mortgage or deed of trust lien. Such foreclosure sale shall not relieve such Lots from any Assessment Lien for Assessments thereafter becoming due.

ARTICLE VI

GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS

6.01 Powers and Duties. The affairs of the Association shall be conducted by the Board. The Board shall be selected in accordance with the Association Documents. The Board, for the benefit of the Owners, shall provide, and shall pay for (if applicable), from Assessments, the following if and to the extent such have been or are hereafter provided by or contracted for by the Association or the Board as the Board determines in the Board's sole and exclusive discretion:

- (a) Operation, care, maintenance, repair and preservation of the Common Amenities and Easement Areas, and the furnishing and upkeep of any desired personal property for use in the Common Amenities and Easement Areas;
- (b) The Common Services;
- (c) Any private trash and garbage collection service and security arrangements;
- (d) Taxes, insurance and utilities, if any, which pertain to the Common Amenities or are otherwise provided for herein which the Board may obtain in its sole discretion;
- (e) The services of a Person or Persons to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Association or by a manager designated by the Board;
- (f) Legal, accounting and other professional services on behalf of the Association;
- (g) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alteration, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in the Board's sole and exclusive opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration; and
- (h) The collection (as a part of the Regular Assessments) and payment of any assessments owed by an Owner or the Association under any other recorded deed

restrictions, if any. The Board shall have the following additional exclusive rights, powers and duties:

- (i) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Amenities owned by the Association;
- (j) To borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners, if the Board sees fit;
- (k) To perform any of the Board's duties under this Declaration by contracting with third parties, to enter into other contracts, to maintain one (1) or more bank accounts and, generally, to have all the powers necessary or incidental to the operation, functions and management of the Association;
- (l) To protect or defend the Common Amenities from loss or damage by suit or otherwise, to sue or defend in any court of law on behalf of the Association and to provide adequate reserves for repairs and replacements;
- (m) To make reasonable rules and regulations for the operation and use of the Common Amenities and the Common Services and to amend them from time to time;
- (n) To own fee simple title, or an easement interest, in the Common Amenities;
- (o) Commencing in the year 2008, to make available to each Owner within ninety (90) days after the end of the year an annual report of the Association;
- (p) To adjust the amount, collection and use of any insurance proceeds;
- (q) To enforce the provisions of this Declaration and any rules and regulations made hereunder and, in the sole and exclusive discretion of the Board, to enjoin and seek damages from any Owner for violation of any such provisions or rules and regulations;
- (r) To appoint members of any Architectural Control Committee; and
- (s) To perform such other duties and functions as are necessary to carry out the rights and obligations of the Board and the Association under this Declaration.

6.02 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 Amenities, Easement Areas, any improvements thereon or appurtenances thereto and the Common Services for the interest of the Association and of all Members thereof, in such amounts and with such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location and use to the Common Amenities and Easement Areas and for services similar to the Common Services. Such insurance may include, but need not be limited to, the following:

- (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, excluding foundation and excavation costs as determined annually by the insurance carrier;
- (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; and
- (d) Officers', directors' and Architectural Control Committee members' liability insurance. The Association and the Members shall use the net insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of insurance paid to the Association 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 Amenities. If the insurance proceeds are insufficient to repair or replace any such loss or damage, the Association may levy Special Purpose Assessment(s) or Special Member Assessment(s) (if applicable) to cover any such deficiency.

6.03 Affiliated Contracts. The Board, acting on behalf of the Association, shall have the full power and authority to contract with any Owner, including without limitation, Declarant, for the performance of services which the Association is obligated or authorized to obtain, such contracts to be at competitive rates then prevailing for such services and upon such other terms and conditions, and for such consideration as the Board may deem advisable in the Board's sole and exclusive discretion and in the best interest of the Association provided that the level of service received is consistent with that available from third parties.

6.04 Liability Limitations. Neither Declarant nor any Member, director, officer or representative of the Association or the Board or the Architectural Control Committee

shall be personally liable for the debts, obligations or liabilities of the Association. The directors and officers of the Association shall not be liable for any mistake of judgment, whether negligent or otherwise, except for their own individual willful misfeasance or malfeasance, misconduct, bad faith, intentional wrongful acts or as otherwise expressly provided in the Association Documents. Declarant and such directors, officers and Architectural Control Committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association, as a Common Expense of the Association, shall indemnify and hold Declarant, such directors, officers and members of any Architectural Control Committee harmless from any and all expenses, loss or liability to others on account of any such contract or commitment (to the extent not covered by insurance proceeds). In addition, each director and each officer of the Association and each member of any Architectural Control Committee shall be indemnified and held harmless by the Association, as a Common Expense of the Association, from any expense, loss or liability to others (to the extent not covered by insurance proceeds) by reasons of having served as such director, officer or Architectural Control Committee member and against all expenses, losses and liabilities, including but not limited to, court costs and reasonable attorneys' fees, incurred by or imposed upon such director, officer or Architectural Control Committee member in connection with any proceeding to which such Person may be a party or may have become involved by reason of being such director, officer or Architectural Control Committee member at the time any such expenses, losses or liabilities are incurred subject to any provisions regarding indemnity contained in the Association Documents, except in cases wherein the expenses, losses and liabilities arise from a proceeding in which such director, officer or Architectural Control Committee member is adjudicated guilty of willful misfeasance or malfeasance, misconduct or bad faith in the performance of such Person's duties or intentional wrongful acts or any act expressly specified in the Association Documents as an act for which any limitation of liability set forth in the Association Documents is not applicable; provided, however, this indemnity does cover liabilities resulting from such director's, officer's or Architectural Control Committee member's own negligence. Any right to indemnification provided herein shall not be exclusive of any other rights to which a director, officer or Architectural Control Committee member, or former director, officer or Architectural Control Committee member, may be entitled. The Association shall have the right to purchase and maintain, as a Common Expense, directors', officers', and Architectural Control Committee members', insurance on behalf of any Person who is or was a director or officer of the Association or an Architectural Control Committee member against any liability asserted against any such Person and incurred by any such Person in such capacity, or arising out of such Person's status as such.

ARTICLE VII ANNEXATION OF ADDITIONAL PROPERTY

7.01 Declarant's Right to Annex Adjacent Property. Declarant hereby reserves for itself and its affiliates and/or any of their respective successors and assigns, the right to annex any or all such real property into the scheme of this declaration as provided in this Article VII. Notwithstanding anything herein or otherwise to the contrary, Declarant and/or such affiliates, successors and/or assigns shall have the exclusive unilateral right, privilege and option (but never an obligation), from time to time and at any time during the period expiring ten (10) years from the date this Declaration is recorded in the Real Property Records of the County, to annex, and subject to the provisions of this Declaration and the jurisdiction of the Association, any additional property located adjacent to or in the immediate vicinity of the Subdivision (collectively, the "Annexed Land"), by filing in the Real Property Records of the County, a Supplemental Declaration expressly annexing any such Annexed Land. Such Supplemental Declaration shall not require the vote of the Owners, the Members of the Association, or approval by the Board or other action of the Association or any other Person. Any such annexation shall be effective upon the filing of such Supplemental Declaration in the Real Property Records of the County. Declarant shall also have the unilateral right to transfer to any other Person Declarant's right, privilege and option to annex Annexed Land, provided that such transferee or assignee shall be the developer of at least a portion of the Annexed Land and shall be expressly designated by Declarant in writing to be the successor or assignee to all or any part of Declarant's rights hereunder.

7.02 Procedure for Annexation. Any such annexation shall be accomplished by the execution and filing for record by Declarant (or the other owner of the property being added or annexed, to the extent such other owner has received a written assignment from Declarant of the right to annex hereunder) of a Supplemental Declaration which must set out and provide for the following:

- (i) A legally sufficient description of the Annexed Land being added or annexed;
- (ii) That the Annexed Land is being annexed in accordance with and subject to the provisions of this Declaration, and that the Annexed Land being annexed shall be developed, held, used, sold and conveyed in accordance with, and subject to, the provisions of this Declaration as theretofore and thereafter amended; provided, however, that if any Lots or portions thereof being so annexed are to be treated differently than any of the other Lots (whether such difference is applicable to other Lots included therein or to the Lots now subject to this Declaration), the Supplemental Declaration should specify the details of such differential treatment and a general statement of the rationale and reasons for the difference in treatment, and if applicable, any other special or unique covenants, conditions, restrictions, easements or other requirements as may be applicable to all or any of the Lots or other portions of Annexed Land being annexed;
- (iii) That all of the provisions of this Declaration, as amended, shall apply to the Annexed Land being added or annexed with the same force and effect as if said Annexed Land were originally included in this Declaration as part of the Initial Property, with the total number of Lots increased accordingly;
- (iv) That an Assessment Lien is therein created and reserved in favor of the Association to secure collection of the Assessments as provided in this Declaration, and as provided for, authorized or contemplated in the Supplemental Declaration, and setting forth the first year Per-Lot Regular Assessment and the amount of any other then applicable Assessments (if any) for the Lots within the Annexed Land being made subject to this Declaration; and
- (v) Such other provisions as the Declarant therein shall deem appropriate.

7.03 Effect of Annexation With Regard to Class B Control Period. If, after the expiration of the Class B Control Period, annexation of additional property by Declarant results in the ownership by Declarant of more than ten percent (10%) of the Lots planned or approved for the Property, the Class B Control Period will be reinstated until one hundred percent (100%) of such Lots is again owned by Class A Members as provided in Section 4.04(b).

7.04 Amendment. The provisions of this Article VII may not be amended without the express written consent of Declarant (and Declarant's successors and assigns in accordance with the terms hereof).

ARTICLE VIII **GENERAL PROVISIONS**

8.01 Binding Effect and Duration. The covenants and restrictions of this Declaration shall run with and bind the Property, shall be binding on all Owners and shall inure to the benefit of and be enforceable by Declarant, the Association, the legal representatives thereof, and their successors and assigns, and shall be and remain in effect for a period of twenty-five (25) years from and after the date of the recording of this Declaration, after which time this Declaration shall automatically be extended for three (3) successive periods of five (5) years each, unless after such twenty-five (25) years an instrument executed and duly acknowledged by Owners owning, in the aggregate, at least seventy-five percent (75%) of the Lots has been recorded in the Real Property Records of the County, abolishing this Declaration.

8.02 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the sole and exclusive opinion of the Board, will best effect the general plan of development as reflected in this Declaration. The Board shall have the right, power and authority to determine all questions arising under or in connection with this Declaration and to construe and interpret the provisions thereof, and any determination, construction or interpretation made by the Board, in the absence of an adjudication by a court of competent jurisdiction that any such action was an abuse of discretion, shall be binding on the Owners. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are

less restrictive. The effective date of this Declaration shall be the date of its filing for record in the office of the County Clerk of the County. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer. The singular wherever used herein shall be construed to mean the plural when applicable and vice versa, and the use herein of any gender shall mean any other gender when applicable. Any and all exhibits referred to herein and attached hereto are made a part hereof by reference. This Declaration shall be construed under, and in accordance with, the laws of the State of Texas.

8.03 No Warranty of Enforceability. While the Declarant has no reason to believe that any of the restrictive covenants or other terms or provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Lot in the Development in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity or enforceability thereof and, by acquiring the Lot, agrees to hold Declarant, the Association and their legal counsel and other professional advisors harmless therefrom. The Declarant shall not be responsible for the acts or omissions of any individual, entity or other Owners.

8.04 Amendments. (a) Until the expiration of the Class B Control Period, Declarant may unilaterally modify and amend this Declaration for any purpose. For so long as the Declarant owns one (1) Lot within the Property for development and sale, Declarant may unilaterally amend this Declaration without the joinder or vote of any other party if such amendment is necessary: (i) to bring any provisions of this Declaration into compliance with any applicable governmental statute, rule, regulation or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to purchase, insure, or guarantee mortgage loans on the Lots; (iv) to satisfy the requirements of any local, state or federal governmental agency; or (v) to correct or clarify errors, omissions, mistakes or ambiguities contained herein as determined in Declarant's sole judgment. No amendment pursuant to this paragraph, however, shall adversely affect the title to any Lot unless the Owner shall consent in writing.

(b) Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended or terminated only by the affirmative vote or written consent, or any combination thereof, of Members (both classes taken together) representing fifty-one percent (51%) of the total Class A votes and Class B votes in the Association, and the consent of Declarant [so long as Declarant owns at least one (1) Lot or any property which hereafter may become subject to this Declaration in accordance with Article IV].

(c) Any and all amendments to or terminations of this Declaration shall be recorded in the Real Property such termination or amendment shall be effective until a document setting forth the amendment or termination has been duly executed and acknowledged Declarant, if required and as applicable, and by Members holding the required votes, or by the Secretary (herein so called) of the Association certifying the required affirmative vote of the Members as required hereinabove, and such document has been recorded in the Real Property Records of the County.

8.05 Enforcement. Declarant, the Association and the Owners shall have the right, but not the obligation, to enforce the covenants and restrictions set out in this Declaration. Enforcement may be made by any proceedings at law or in equity against any Person violating or attempting to violate any part of this Declaration, as such may be amended or modified, to restrain or enjoin violations thereof, to recover damages or to seek such other relief available pursuant to applicable law. Damages shall not be deemed adequate compensation for any breach or violation of any provision of this Declaration, and Declarant, the Association and each Owner shall be entitled to relief by way of injunction, as well as any other remedy either at law or in equity. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs from the non-prevailing party. The rights, powers and remedies

provided in this Declaration shall be cumulative and not restrictive of any other remedies at law or in equity, and the exercise by a Person of any particular right, power or remedy shall not be deemed an election of remedies or to preclude such Person's resort to other rights, powers or remedies available to any such Person.

8.06 No Waiver or Obligation to Enforce. No delay or failure on the part of Declarant, the Association or any Owner to invoke any available right, power or remedy with respect to a breach of this Declaration shall be held to be a waiver by that party (or estop that party from asserting) any right, power or remedy available to such party upon the recurrence or continuance of said breach or the occurrence of a different breach. Neither Declarant, the Association or the Owners, shall be under any obligation to take any action to enforce the terms of this Declaration. The failure by Declarant, the Association or any Owner to enforce any provision of this Declaration shall in no event subject Declarant, the Association or any Owner to any claims, liability, cost or expense; it being the express intent of this Declaration to provide Declarant, the Association or any Owner with the right (such right to be exercised at its sole and absolute discretion), but not the obligation to enforce the terms of this Declaration for the benefit of any Owner(s) of any Lot(s) in the Development.

8.07 Liens/Validity and Severability. Violation of or failure to comply with this Declaration shall not affect the validity of any mortgage, lien or other similar security instrument which may then be existing on any Lot. Invalidation of any one (1) or more of the provisions of this Declaration, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which such other provisions and covenants shall remain in full force and effect.

8.08 Notices. Except as otherwise expressly provided herein, any notice required to be given to Declarant, the Association or any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when actually delivered by hand-delivery or three (3) days after any such notice has been deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed: (a) for notice to an Owner to the address of the Owner as shown on the records of the Association at the time of such mailing; and (b) for notice to Declarant or the Association to 2221 E. Lamar Boulevard, Suite 960, Arlington, Texas 76006, Attn: Randall Van Wolfswinkel, or at such other address specified by Declarant or the Association from time to time.

8.09 Mortgagees. No default by an Owner of a Lot under any provision of this Declaration shall affect any existing lien or mortgage on that Lot. A Mortgagee shall not be liable for Assessments made with respect to a Lot during any period in which its only interest in the Lot is that of a Mortgagee.

8.10 Approvals. No approval by Declarant, the Association or any Architectural Control Committee pursuant to the provisions hereof shall be effective unless in writing, except as otherwise expressly provided herein.

8.11 Imposition of Violation Fines. In the event that any Person fails to cure (or fails to commence and proceed with diligence to complete the work necessary to cure) any violation of this Declaration within ten (10) days after receipt of written notice from the Board designating the particular violation, the Board shall have the power and authority to impose upon that Person a fine for any such violation (herein referred to as a "Violation Fine") not to exceed FIVE HUNDRED AND NO/100 DOLLARS (\$500.00). There shall be no limit to the number or the aggregate amount of Violation Fines which may be levied against a Person for the same violation. The Violation Fines, together with interest at the Default Rate of Interest and any costs of collection, including but not limited to, reasonable attorneys' fees, shall be part of any such Violation Fine. Violation Fines shall be Special Member Assessments.

8.12 Residential Construction Liability Act. Without waiving any rights under law or equity, all Owners acknowledge, covenant and agree that residential construction defect claims regarding any residence against the Declarant or any homebuilder in Texas are controlled by the Texas Residential Construction Liability Act (Tex. Prop. Code Section 27.001 et seq., as amended) which preempts the Texas Deceptive Trade Practices Act (Tex. Bus. & Com. Code Section 17.41 et seq., as amended) and any other law.

8.13 Notice and Hearing. (a) Prior to the imposition of any Violation Fine or the levying of any Special Member Assessment on an Owner, the Association will give notice to the Owner in compliance with Section 209.006 of the Texas Property Code (the "Property Code"), as the same may be hereafter amended. Such notice shall be as follows:

(i) Notice will be delivered by certified mail return receipt requested.

(ii) The notice must describe the violation or property damage that is the basis for the Violation Fine or Special Member Assessment, and state any amount due the Association from the Owner.

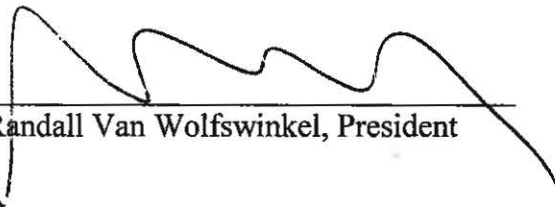
(iii) The notice must inform the Owner that the Owner is entitled to a reasonable time to cure the violation and avoid the Violation Fine or Special Member Assessment and that the Owner may request a hearing under this Section 8.13 and Section 209.007 of the Property Code on or before the thirtieth (30th) day after the Owner receives the notice. (b) In compliance with Section 209.007 of the Property Code, if the Owner submits a written request for a hearing, the Association shall hold a hearing not later than the thirtieth (30th) day after the date the Board receives the Owner's request, and shall notify the Owner of the date, time and place of the hearing not later than the tenth (10th) day before the date of the hearing. The Board or the Owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. If the hearing is to be held before a committee appointed by the Board, the notice described in Section 8.13(a) hereof shall state that the Owner has the right to appeal the committee's decision to the Board by written notice to the Board.

REMAINDER OF PAGE LEFT BLANK - SIGNATURE PAGE FOLLOWS

EXECUTED as of September 30, 2008.

DECLARANT:

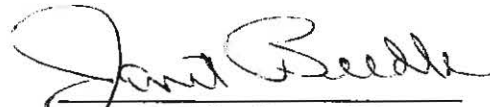
FIRST TEXAS HOMES, INC., a Texas Corporation

By: 
Randall Van Wolfswinkel, President

STATE OF TEXAS §

§
COUNTY OF Tarrant §

This instrument was acknowledged before me on the 30 day of September, 2008, by 9-30
Randall Van Wolfswinkel, President of FIRST TEXAS HOMES, INC., a Texas corporation, known to me to be the person who executed this agreement in the capacity and for the purposes therein stated.


Notary Public, State of Texas

[SEAL]

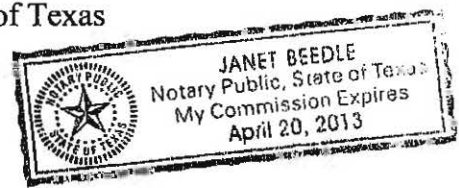


EXHIBIT A

BEING all of the following 130 buildable single-family residential Lots as shown on the Final Plat of SORANO, an Addition to the City of Frisco, Collin County, Texas, as recorded on 12/29/08, in Volume 2008, Page 716, of the Map or Plat Records of Collin county. County, Texas (the "Plat"):

LOT / BLOCK

1-9 A
1-28 B
1-33 C
1-27 D
1-3 E
1-17 F
1-13 G

And the following Green Space Lot:

LOT / BLOCK

1 X
2 X
3 X
4 X
5 X

EXHIBIT A - Solo Page

EXHIBIT A

DESCRIPTION OF PROPERTY

Being a tract of land situated in the J. T. Johnson Survey, Abstract No. 490, City of Frisco, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to Melinda Sue Partee and Stan Partee, Co-Trustees of the Lindley Cole Turner Trust, according to the deed recorded in Volume 4347, Page 3145 of the Deed Records of Collin County, Texas (DRCCT);

BEGINNING at a 1/2 inch iron pin found with a yellow cap stamped "DAS" found at the Northwest corner of subject tract, same being the Southwest corner of a tract of land conveyed to Florence Ann Milton Lake, according to the deed recorded in Volume 4882, Page 806 (DRCCT), said point further being in the East line of a tract of land conveyed to Bluebonnet Ranch Investments, LP, according to the deed recorded in Volume 5717, Page 1587 (DRCCT), from which a 3/8 inch iron pin found bears North 00 degrees 31 minutes 10 seconds East 1456.88 feet;

THENCE South 89 degrees 40 minutes 30 seconds East, along the South line of said Lake Tract, a distance of 2619.73 feet to an "X" set in the corner of a concrete "Y" inlet in the West ROW line of Independence Parkway, (a 120 foot ROW);

THENCE South 00 degrees 04 minutes 28 seconds West, along the West line of said Independence Parkway, a distance of 817.38 feet to a 1/2 inch iron pin with a red cap stamped Tipton Eng. Inc. set at the Northeast corner of a tract of land conveyed to Brazos Electric Power Corp., Inc. according to the deed recorded in Volume 2843, Page 389 (DRCCT)

THENCE North 89 degrees 40 minutes 30 seconds West, passing the Northwest corner of said Brazos Electric tract at a distance of 813.02 feet and continuing a total distance of 2623.70 feet to a 1/2 inch iron pin found at the Southwest corner of the subject tract, from which a 1/2 inch iron pin found bears South 00 degrees 21 minutes 04 seconds East, a distance of 168.92 feet;

THENCE North 00 degrees 21 minutes 10 seconds East, along the East line of said Bluebonnet Ranch Tract, a distance of 817.38 feet to the PLACE OF BEGINNING with the subject tract containing 2, 142, 917 square feet or 49.1946 acres of land.

Filed and Recorded
Official Public Records
Stacey Kemp, County Clerk
Collin County, TEXAS
12/29/2008 04:01.35 PM
\$132.00 DLAIRD
20081229001454700

AFTER RECORDING RETURN TO:

Michael D. Hesse
HESSE & HESSE, L.L.P.
1518 Legacy Drive
Suite 250
Frisco, Texas 75034



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
SORANO**

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

KNOW ALL MEN BY THESE PRESENTS:

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SORANO (herein referred to as the "**Declaration**"), is made on the date set forth on the signature page hereof by LHD TURNER, LTD., a Texas limited partnership (herein referred to as the "**Declarant**").

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property in the City of Frisco, Collin County, Texas, which is described in **Exhibit A** attached hereto and made a part hereof (herein referred to as the "**Property**"); and

WHEREAS, Declarant desires to create an exclusive planned community known as SORANO on the Property and such other land as may be added thereto pursuant to the terms and provisions of this Declaration;

NOW, THEREFORE, the Declarant declares that the Property, and any additional property which is approved in accordance with **Article VIII** below, shall be held, sold and conveyed subject to the restrictions, covenants and conditions contained in this Declaration, which shall be deemed to be covenants running with the land and imposed on and intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
DEFINITIONS

1.1 **AMENITY CENTER.** "**Amenity Center**" shall mean the swimming pool, pavilion and all other improvements to be constructed on Lot 4, Block X on the Plat of the Property.

1.2 **ASSOCIATION.** "**Association**" shall mean and refer to SORANO (FRISCO) HOMEOWNER'S ASSOCIATION, INC., a Texas nonprofit corporation established for the purposes set forth herein, its successors and assigns.

1.3 **BOARD.** "**Board**" shall mean the Board of Directors of the Association.

1.4 **BUILDER.** "**Builder**" shall mean any person, firm or entity constructing a Residence on a Lot.

1.5 **CITY.** "**City**" shall mean the City of Frisco, Texas.

1.6 **COMMON AREA.** "**Common Area**" shall mean any and all real and personal property and easements and other interests thereon, together with the improvements located thereon, if any, now or hereafter owned by the Association for the common use and enjoyment of the Owners, including, but not limited to, the following:

(a) Lots 1, 2, 3, 4 and 5, of Block X, of the Subdivision;

(b) The Amenity Center; and

(c) Any areas of land, improvement or other property rights in the Property which are intended for or devoted to the common use or enjoyment of the members of the Association and which are designated as Common Areas by the Association together with any and all improvements which are now or may hereafter be constructed thereon.

1.7 **DECLARANT.** "**Declarant**" shall mean LHD TURNER, LTD., a Texas limited partnership, and its successors and assigns. Any successor or assignee who shall acquire for development or sale all or a portion of the remaining undeveloped or unsold portions of the Property and is designated as the "Declarant" hereunder in a recorded instrument executed by the immediately preceding Declarant, shall succeed to all the rights and obligations of "Declarant". It is understood that there shall be only one "Declarant" hereunder at any given time.

1.8 **DECLARATION.** "**Declaration**" shall mean this Declaration of Covenants, Conditions and Restrictions for Sorano.

1.9 **DESIGN GUIDELINES.** "**Design Guidelines**" shall mean the guidelines and restrictions that may be adopted from time to time by the Architectural Review Committee described in Article V below.

1.10 HOME, RESIDENCE OR DWELLING. "Home", "Residence" or "Dwelling" shall mean a single-family residential unit constructed on a Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which the Home, Residence or Dwelling is located.

1.11 LIENHOLDER OR MORTGAGEE. "Lienholder" or "Mortgagee" shall mean the holder of a first mortgage lien, encumbering a Home and/or the Lot upon which the Home is located.

1.12 LOT. "Lot" shall mean and refer to a portion of the Property designated as a Lot on the Subdivision Plat of the Property, excluding streets, alleys and any Common Area. Where the context requires or indicates, the term Lot shall include the Home and all other improvements which are or will be constructed on the Lot.

1.13 MANAGEMENT COMPANY. "Management Company" shall mean and refer to every third-party the Association enters into a management agreement with in connection with the operation and management of the Development and the performance of the Associations obligations hereunder.

1.14 MEMBER. "Member" shall mean and refer to every person or entity who holds membership in the Association. The Declarant and each Owner shall be a Member in the Association.

1.15 OWNER. "Owner" shall mean and refer to the record Owner, other than Declarant, whether one (1) or more persons or entities, of a fee simple title to any Lot, and shall include the Builder, but shall exclude those having such interest merely as security for the performance of an obligation. However, the term "Owner" shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot which is a part of the Property, through deed in lieu of foreclosure or through judicial or nonjudicial foreclosure.

1.16 PROPERTY, PREMISES, COMMUNITY, SUBDIVISION OR DEVELOPMENT. "Property", "Premises", "Community", "Subdivision" or "Development" shall mean or refer to that certain real property known as SORANO and described in Exhibit A hereto, together with any additional property which is hereafter made subject to this Declaration in accordance with Article VIII.

1.17 SUBDIVISION PLAT. "Subdivision Plat" shall mean or refer to the map or plat which has been or will be filed with respect to the Property in the Map or Plat Records of Collin County, Texas, as same may be amended from time to time.

ARTICLE II ASSOCIATION FUNCTION, MAINTENANCE RESPONSIBILITY AND PROPERTY RIGHTS

2.1 FUNCTION OF ASSOCIATION. The Association shall be the entity responsible for management, maintenance, operation and control of the Common Area. The Association

shall be responsible for enforcement of this Declaration and such reasonable rules regulating use of the Lots and Common Area as the Board may adopt. The Architectural Review Committee established pursuant to Article V below shall be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and the Design Guidelines, if any. The Association shall perform its functions in accordance with this Declaration, the Bylaws, the Articles and Texas law.

2.2 MAINTENANCE RESPONSIBILITY. The Association shall maintain and keep the Common Area in good repair. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Area including, without limitation, any recreational facilities situated thereon. The Association shall also maintain, repair and replace, if necessary: (a) all entry features and monuments for the Property including the expenses for water and electricity, if any, provided to all such entry features; and (b) all landscaping (including sprinkler systems) located on the Common Area or public right-of-way within the Common Area. Moreover, the Association shall have the right to maintain property not owned by the Association, whether within or outside the Property including, without limitation, publicly-owned property and property dedicated to public use, where the Board has determined that such maintenance is necessary or desirable to maintain the standards of the Community.

2.3 USE OF COMMON AREA. The Association shall have the following rights with regard to the Common Area:

(a) the right to dedicate or transfer all of any part of the Common Area to any public agency or authority subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument of agreement to such dedication or transfer, signed by Members holding not less than two-thirds (2/3) of the outstanding votes (determined pursuant to Section 3.2 hereof) is properly recorded, in the appropriate records of Collin County, Texas, and a written notice of proposed action under this Section 2.1 is sent by registered letter to every Owner (including Lienholders or Mortgagees) not fewer than thirty (30) days, nor more than sixty (60) days in advance of said action;

(b) the right to borrow money to be secured by a lien against the Common Area; however, the rights under such improvement mortgage shall be subordinate and inferior to the rights of the Owners hereunder; and

(c) the right to enter upon and make rules and regulations relating to the use of the Common Area.

2.4 TITLE TO THE COMMON AREA. The Declarant shall dedicate and convey to the Association (at such time as Declarant shall deem appropriate) without consideration, the fee simple title or other interest to the Common Area owned by Declarant free and clear of monetary liens and encumbrances other than those created in this Declaration.

2.5 **RULES.** The Association, through its Board, may make and enforce reasonable rules governing the use of the Lots and the Common Area including, but not limited to, imposing a schedule of monetary fines. Such rules shall be binding upon all Owners, occupants, invitees and licensees.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

3.1 **MEMBERSHIP.** Declarant, during the time it owns any Lots and each person or entity, including any successive buyer(s), who is a record Owner of a fee or undivided fee interest in any Lot shall automatically and mandatorily become a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Transfer of ownership, either voluntarily or by operation of law, shall terminate such Owner's membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to assessments which have accrued prior to such transfer.

3.2 **VOTING RIGHTS.** The Association shall have two (2) classes of voting membership:

(a) **Class "A".** The Class "A" Members shall be all Owners. The Class "A" Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event more than one (1) person or a corporation or partnership holds an interest in any Lot, then any such group of persons, or any such corporation or partnership shall deliver a certificate to the Association indicating the name of the person authorized to cast the vote with respect to the Lot in question.

(b) **Class "B".** The Class "B" Member shall be Declarant. The Declarant shall be entitled to ten (10) votes for each Lot it owns and ten (10) votes for each 1,160 square feet of unplatted land within the Property it owns; provided however that Declarant shall cease to be a Class "B" Member and shall become a Class "A" Member entitled to one (1) vote per Lot upon the earlier to occur of the following events:

(i) the date upon which the total votes outstanding in the Class "A" membership equals the total votes outstanding in the Class "B" membership, or

(ii) upon the expiration of fifteen (15) years from the recording date of this Declaration in the appropriate records of Collin County, Texas.

3.3 **NO CUMULATIVE VOTING.** At all meetings of the Association, there shall be no cumulative voting. Prior to all meetings, the Board, acting through itself or through its

Management Company, shall determine the total number of votes outstanding and Members entitled to vote.

3.4 NOTICE AND QUORUM. Written notice of any meeting called for the purpose of taking any action authorized herein shall be sent to all Members, or delivered to their residences, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of Members or of proxies of voting representatives entitled to cast ten percent (10%) of all the votes of all Members of the Association 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 such subsequent meeting shall be sixty percent (60%) of the quorum requirement for such prior meeting. The Association may call as many subsequent meetings as may be required to achieve a quorum (the quorum requirement being reduced for each such meeting). No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

3.5 SUSPENSION. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any Assessments duly established pursuant to Article IV or is otherwise in default hereunder or under the Bylaws or rules and regulations of the Association.

ARTICLE IV COVENANT FOR ASSESSMENTS

4.1 CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, covenants and agrees to pay to the Association annual assessments or charges, and special assessments for capital improvements. Such assessments (herein collectively referred to as the "Assessments") are to be fixed, established and collected as provided herein. Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be secured by a continuing lien which is hereby created and granted to and for the benefit of the Association, and impressed upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest costs and reasonable attorney's fees shall also constitute a personal obligation of the person or entity who was the record Owner of such Lot at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by such successors; however, the lien upon the Lot shall continue until paid.

4.2 PURPOSE OF ASSESSMENTS. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the owners of the Lots, the improvement and maintenance of the Common Area and any other property owned by the Association or bound by a maintenance agreement, and the performance and/or exercise of the rights and obligations of the Association arising hereunder. Assessments shall include, but not be limited to, funds to cover actual Association costs for all taxes, insurance, repair, replacement, maintenance and other activities as may from time to time be authorized by the Board; legal and accounting fees, and any fees for management services;

expenses incurred in complying with any laws, ordinances or governmental requirements applicable to the Association or the Property; and may include reasonable replacement reserves and the cost of other facilities and service activities, including, but not limited to, mowing grass, grounds care, sprinkler system, landscaping, and other charges required or contemplated by this Declaration and/or that which the Board shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein (which may be established at the Board's sole option). The reserve fund is to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the Association's responsibility.

4.3 BASIS OF ANNUAL ASSESSMENTS; MAXIMUM AMOUNT.

(a) Until the first (1st) day of January of the year following the year in which the first Lot is conveyed to an Owner, the regular maximum annual Assessment shall be \$900.00 per Lot.

(b) From and after the first (1st) day of January of the year following the year in which the first Lot is conveyed to an Owner, the maximum regular annual Assessment may be increased by an amount up to twenty five percent (25%) over the preceding year's regular annual Assessment solely by vote of the Board of Directors. Any increase over and above twenty five percent (25%) of the previous year's regular annual Assessment shall be done only by the prior approval of thirty three and one-third percent (33.33%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members or by representatives holding proxies at a meeting at which a quorum is present.

(c) In addition to the regular annual assessment, each and every time a Lot in the Development is sold an additional assessment of \$200.00 and the prorata share of annual assessments due on such Lot shall be paid to the Association by the purchaser of the Lot at the closing of each sale of said Lot.

4.4 SPECIAL ASSESSMENTS. In addition to the regular annual Assessment authorized above, the Association may levy, in any assessment year, a special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the costs incurred by the Association pursuant to the provisions of this Declaration, provided that any such Assessment shall have received the prior written approval of thirty three and one-third percent (33.33%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members or by representatives holding proxies at a meeting at which a quorum is present. Any Special Assessments shall be prorated based on the period of time the Owner owns the Lot during such year.

4.5 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.3 AND 4.4. Written notice of any meeting called for the purpose of taking any action authorized or required by Sections 4.3 and 4.4 hereunder shall be given to all Members not fewer than ten (10) days nor more than twenty (20) days in advance of such meeting. At such meeting, the presence of Members or of proxies entitled to cast fifty percent (50%) of all

the votes entitled to be cast by the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. The necessary approval may also be obtained by a canvas of the Members as set forth in the Bylaws.

4.6 UNIFORM RATE OF ASSESSMENT. Both the regular annual and special Assessments shall be fixed at a uniform rate for all Lots, and shall commence and be due in accordance with the provisions of Section 4.7 hereof. Each Owner shall pay one hundred percent (100%) of the established Assessment for each Lot he or it owns.

4.7 DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES.

(a) The Assessments shall be due on such payment dates as may be established by the Board. Assessments shall be due and payable on an annual basis unless otherwise designated by the Board.

(b) As long as Declarant is a Class "B" Member pursuant to Section 3.2 hereof, Declarant shall have the right (but not the obligation) to pay any resulting deficiency in the event the cost of maintenance exceeds the amount of the Assessments received from the Owners; provided, however, in such event, Declarant shall not otherwise be required to pay Assessments with respect to portions of the Property owned by Declarant; and further, provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established Assessment for each Lot it owns. Declarant, in its sole discretion, may cause the Association to borrow any deficiency amounts from a lending institution at the then prevailing rate for such a loan in Collin County, Texas.

(c) The annual Assessments for the first Assessment year shall be fixed by the Association prior to the sale of the first Lot to an Owner. Except for the first Assessment year, the Association shall fix the amount of the annual Assessment at least thirty (30) days in advance of each Assessment year, which shall be the calendar year; provided, however, that the Association shall have the right to adjust the regular annual Assessment upon thirty (30) days written notice given to each Owner, as long as any such adjustment does not exceed the maximum permitted pursuant to Section 4.3 hereof. Written notice of the regular annual Assessment shall be given as soon as is practicable to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed either by the President, Vice President, Treasurer, the Management Company or authorized agent of the Association setting forth whether the annual and special Assessments on a specified Lot have been paid and the amount of any delinquency. A reasonable charge may be made for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(d) No Owner may exempt himself from liability for Assessments by waiver of the use or enjoyment of any portion of the Development or Common Area or by abandonment of his/its Home.

4.8 EFFECT OF NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.

(a) All payments of the Assessments shall be made to the Association as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has any dispute with Declarant, the Association, any other Owner or any other person or entity regarding any matter to which this Declaration relates or pertains. Payment of the Assessments shall be both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Property.

(b) Any Assessment provided for in this Declaration which is not paid when due shall be delinquent. If any such Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear interest from the date of delinquency, until paid, at the rate of eighteen percent (18%) per annum or the maximum rate allowed by law, whichever is the least. The Association may, at its option, bring an action at law against the Owner personally obligated to pay the same; or, upon compliance with the notice provisions hereof, foreclose the lien against the Lot as provided in Subsection 4.8(d) hereof. There shall be added to the amount of such Assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with costs of action. Each owner vests in the Association or its assigns, the right and power to bring all actions at law or in equity foreclosing such lien against such Owner, and the expenses incurred in connection therewith, including interest, costs and reasonable attorney's fees shall be chargeable to the Owner in default. Under no circumstances, however, shall Declarant or the Association be liable to any Owner or to any other person or entity for failure or inability to enforce or attempt to enforce any Assessments.

(c) No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided sooner than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner of the Lot against which such action is to be taken, and a copy thereof is recorded by the Association in the appropriate records of Collin County, Texas. The notice of claim must recite a good and sufficient legal description of the Lot, the record Owner or reputed owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment at the maximum legal rate, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name and address of the Association.

(d) Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust as set forth in Section 51.002 of the Property Code of the State of Texas, or in any other manner permitted by the then applicable law. Each Owner, by accepting a deed to a Lot,

expressly grants to the Association a power of sale as set forth in said Section 51.002 of the Property Code, in connection with the Assessment lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

(e) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed the actual cost of preparing and filing or recording the lien and the release.

(f) The Assessment lien and the right to foreclosure sale hereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including the right of suit to recover a money judgment for unpaid Assessments, as above provided.

4.9 SUBORDINATION OF THE LIEN TO FIRST MORTGAGES. The lien securing the Assessments provided for herein shall be subordinate to the lien of any first lien mortgage granted or created by the Owner on the Lot to secure the payment of monies advanced and used for the purpose of purchasing and/or improving such Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot which is subject to a first lien mortgage, pursuant to a decree of foreclosure or a non-judicial foreclosure under such first lien mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due, in accordance with the terms herein provided, or from the lien therefor.

4.10 MANAGEMENT AGREEMENTS. The Association shall be authorized to enter into management agreements with a Management Company in connection with the operation and management of the Development and the performance of its obligations hereunder. A copy of all such management agreements shall be available for review by each Owner at the office of the Management Company upon written request within thirty (30) days after receipt of such notice at the offices of the Association. The Association may, at its discretion, assume self management of the Development by the Association.

4.11 INSURANCE REQUIREMENTS. The Association, through its Board of Directors, or its duly authorized agent, shall obtain commercial general liability insurance, policies covering the Common Area and covering all damage or injury caused by the negligence of the Association, any of its employees, officers, directors and/or agents, directors and officers liability insurance, and such other insurance as the Association may from time to time deem necessary or appropriate.

4.12 FAILURE TO ASSESS. Failure of the Board to fix the annual Assessment amount or rate or to deliver or mail each Owner a notice of annual Assessment notice shall not be deemed a waiver, modification or a release of any Owner from the obligation to pay such

assessments. In such event, each Owner shall continue to pay annual Assessments on the same basis as for the last year for which an Assessment was made, if any, until a new Assessment is made, at which time the Association may, without limitation, retroactively assess any shortfalls in collections or reimburse any excess in collections.

ARTICLE V **ARCHITECTURAL STANDARD**

5.1 **GENERAL.** No structure shall be placed, erected or installed upon any Lot, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements and planting or removal of landscaping materials) shall take place except in compliance with this Article and the Design Guidelines, if any, and upon approval of the Architectural Review Committee (herein referred to as the "**ARC**") as required herein.

Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. No approval shall be required to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Property shall be designed by and built in accordance with the plans and specifications of a licensed architect and shall conform to all applicable laws, codes and ordinances.

This Article shall not apply to improvements to the Common Area by or on behalf of the Association.

5.2 **ARCHITECTURAL REVIEW COMMITTEE.** Responsibility for administration of the design requirement set forth herein, the Design Guidelines, if any, and review of all applications for construction and modifications under this Article shall be handled by an ARC consisting of not less than three (3) nor more than five (5) persons.

So long as the Declarant owns any property for development and/or sale in the Community, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration of this right, the Board, acting through itself or through its Management Company, shall appoint the members of the ARC, a majority of whom shall be Board members. The remaining members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review.

5.3 **GUIDELINES AND PROCEDURES.** The ARC may amend the Design Guidelines adopted from time to time and may adopt and amend application and review procedures which shall apply to all construction activities within the Community. Any amendments to the Design Guidelines, if adopted, shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to nor require

modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The ARC shall make any adopted Design Guidelines available to Owners and contractors who seek to engage in construction within the Community and all such Persons shall conduct their activities in accordance with such Design Guidelines, if any.

5.4 SUBMISSION OF PLANS AND SPECIFICATIONS.

(a) No construction or improvements shall be commenced, erected, placed or maintained on any Lot, nor shall any exterior addition, change or alteration be made there to, until the plans and specifications (herein referred to as the "Plans") showing, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout, screening and estimated time schedules for commencement and completion of construction have been submitted to and approved in writing by the ARC or appropriate subcommittee. A complete copy of the final Plans shall be submitted at least thirty (30) days prior to the construction of improvements. The Plans shall show the nature, kind, shape, height, materials and improvements including, but not limited to, elevations and floor plans on each house intended to be built, square footage, roof pitch and percentage of brick or other material to be used as siding. Samples of proposed construction materials shall be delivered promptly to the ARC upon request. At such time as the Plans meet the approval of the ARC, the ARC shall send written authorization to proceed and will retain the Plans. If disapproved by the ARC, the Plans shall be returned marked "Disapproved" and shall be accompanied by a statement of the reasons for disapproval, which statement shall be signed by a representative of the ARC. Any modification of the approved set of Plans must again be submitted to the ARC for its approval. The ARC's approval or disapproval, as required herein, shall be in writing. In no event shall the ARC give verbal approval of any Plans. If the ARC fails to approve or disapprove such Plans within thirty (30) days after the date of submission, written approval of the matters submitted shall not be required and compliance with this Section 5.4 shall be deemed to have been completed. In case of a dispute about whether the ARC responded within such time period, the person submitting the Plans shall have the burden of establishing that the ARC received the Plans. The ARC's receipt of the Plans may be established by a signed certified mail receipt or by a signed delivery receipt. The ARC shall consider pre-approval of standard Builder plans and landscaping specifications for each home planned for construction in the subdivision. Each Builder shall provide to the ARC the following information for the preapproval process: (a) elevations of all home sides, (b) floor plan of first and second floors; and (c) landscaping standard specifications. The ARC may authorize certain types of modifications and improvements to be made without the necessity of applying for approval hereunder, provided they are made in strict compliance with the design requirements set forth herein and the Design Guidelines, if any.

(b) In reviewing each submission, the ARC may consider visual and environmental impact, ecological compatibility, natural platforms and finish grade

elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life, among other things.

(c) Once the ARC has approved a set of final Plans submitted by a Builder for a house to be constructed on a Lot, that Builder may use such Plans for other homes it will construct in the Community without subsequent ARC approvals and those plans shall be deemed a "master set" of plans. Any material changes to the master set of plans must be approved by the ARC.

(d) If construction does not commence on a project for which Plans have been approved within sixty (60) days of the estimated commencement date set forth in such approved Plans, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans to the ARC for reconsideration.

5.5 NO WAIVER OF FUTURE APPROVALS. Each Owner acknowledges that the members of the ARC will change from time to time and that interpretation, application and enforcement of the design requirements set forth herein and the Design Guidelines, if any, may vary accordingly. Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

5.6 VARIANCE. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the cost of compliance, or the terms of any financing shall not be considered a hardship warranting a variance.

5.7 LIMITATION OF LIABILITY. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and not for engineering, structural design or quality of materials. Neither the ARC nor the Declarant shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for reviewing drainage plans or ensuring the effectiveness thereof, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARC, nor any member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Lot, nor for any defect in any structure constructed from approved Plans.

NEITHER THE DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND AGENTS OF ANY OF THEM, SHALL BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND

SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS, BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS AND EVERY OWNER AGREES THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND AGENTS OF ANY OF THEM, TO RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, PROMISES, QUITCLAIMS AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

5.8 **ENFORCEMENT.** Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board, acting through itself or through its Management Company, or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees, including, but not limited to, the Management Company, if any, shall have the right to enter the Lot, remove the violation and restore the Lot to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against such Lot and collected in accordance with Article VII below.

Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and any Design Guidelines may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers, nor its directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARC.

5.9 **NOTICE.** To evidence any violation of this Declaration, the Bylaws, rules or or any Design Guidelines by any Owner or Occupant, the Board of Directors, acting through itself or through its Management Company, may file, but is not required to file, in the deed records of Collin County, Texas, a notice of violation setting forth (i) the violation, (ii) the name of the Owner and Lot, and (iii) a sufficient legal description of the Lot. Such notice shall be signed and acknowledged by an officer or duly authorized agent or attorney of the Association. The cost of preparing and recording such notice shall be assessed against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing pursuant to Article VII below.

ARTICLE VI
CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS

6.1 **RESIDENTIAL USE.** The Property shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single family residence, which residence shall comply with the zoning and building ordinances of the City.

6.2 **SINGLE-FAMILY USE.** Each Home shall be limited to residential use by the Owner, his and/or her immediate family, guests, tenants and invitees.

6.3 **GARAGE REQUIRED.** Each residence shall have an enclosed garage suitable for parking a minimum of two (2) standard size automobiles, which garage shall conform in design and materials with the main structure and any Design Guidelines. If a garage is constructed so that it is facing the front of the Lot, the garage shall be constructed so that the garage door is situated at least eighteen feet (18') from the front building line of the Lot. Notwithstanding the foregoing, each garage door shall be a Carriage type garage door and shall be approved by the ARC.

6.4 **RESTRICTIONS ON RESUBDIVISION.** No Lot shall be subdivided into smaller Lots.

6.5 **DRIVEWAYS.** Except for the driveway apron, all driveways shall be surfaced with exposed aggregate concrete or similar substance approved by the ARC. The driveway apron only shall be surfaced with concrete and a broom swept finish and shall conform to the minimum property standards of the City.

6.6 **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) shall be permitted on any Lot except that a Builder may have temporary improvements (such as a sales office and/or construction trailer) on a specifically permitted Lot during construction of the Residence on that Lot. Unless Declarant has given its written approval, and subject to the provisions of the applicable development codes and local ordinances of the City, no building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence, and then such material shall be placed totally within the property lines of the Lot upon which the improvements are to be erected.

(b) No boat, trailer, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any Residence or parked on any public street on the Property, nor shall any such vehicle or equipment be parked for

storage in the side or rear yard of any residence unless properly concealed from public view. 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 while in use for the construction, maintenance or repair of a Residence in the immediately vicinity.

(c) Trucks with tonnage in excess of one and one-half (1.5) tons and any commercial vehicle with painted advertisement shall not be permitted to park overnight on the Property except those used by a Builder during the construction of improvements.

(d) No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street except passenger automobiles, passenger vans, motorcycles, pick-up trucks (including those with attached bed campers) that are in operating condition and have current license plates and inspection stickers and are in current use.

(e) No structure of a temporary character, such as a trailer, tent, shack, barn, underground tank or structure or other out-building shall be used on the Property at any time as a Residence; provided, however, that any Builder may maintain and occupy model houses, sales offices and construction trailers during the construction period, but not as a Residence.

(f) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in or on the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any part of the Property. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on the Property.

(g) No animals, livestock or poultry of any kind shall be raised, bred or kept on the Property except that dogs, cats or other domesticated animals may be kept as household pets. 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 on any portion of the Property cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the peace and quiet and health and safety of the Community. No more than four (4) pets will be permitted on each Lot. Pets must be restrained or confined to the homeowner's rear yard within a secure fenced area or within the Residence. It is the pet owner's responsibility to keep the Lot clean and free of pet debris or odor noxious to adjoining Lots. All animals must be properly registered and tagged for identification in accordance with local ordinances.

(h) No Lot or other area of the Property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers for the storage or other disposal of such material shall be kept

in clean and sanitary condition. Materials incident to construction of improvements may only be stored on Lots during construction of the improvement thereon.

(i) No individual water tower or other independent source of water supply shall be permitted on any Lot.

(j) No individual sewage disposal system shall be permitted on any Lot.

(k) No garage, garage house or other out-building (except for sales offices and construction trailers during the construction period) 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 or otherwise in public view. No air-conditioning apparatus shall be attached to any front wall or window of a Residence or otherwise in public view. No evaporative cooler shall be installed on the front wall or window of a Residence or otherwise in public view.

(m) No television, radio, or other electronic towers, aeriels, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S Section 1.4000 (or any successor provision) promulgated under the Telecommunications Act of 1996, as amended from time to time or satellite dishes or devices under twenty inches (20") in diameter as long as they comply with the installation and other requirements set forth below. The Association shall be empowered to adopt rules governing the types of antennae that are permissible hereunder and establishing reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that reception of an acceptable signal would not be impaired, an antenna permissible pursuant to rules of the Association may only be installed in a side or rear yard location, not visible from the street, and integrated with the dwelling and surrounding landscape. Antennae shall be installed in compliance with all state and local laws and regulations, including zoning, land-use, and building regulations.

(n) No Lot or improvement thereon shall be used for a business or for professional, commercial or manufacturing purposes of any kind. No business activity shall be conducted on the Property which is not consistent with single family residential purposes. No noxious or offensive activity shall be undertaken on the Property, 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/construction office for so long as such Builder is actively engaged in construction on the Property. Nothing in this subparagraph shall prohibit an Owner's use of a Residence for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities (i) do not materially increase the number of cars parked on the street, (ii) do not interfere with adjoining homeowners' peaceful use and enjoyment of

their residences and yards, (iii) are not apparent or detectable by sight, sound or smell from outside the Residence, (iv) the activity does not involve regular visitation of the Lot by clients, customers, suppliers or other business invitees or door-to-door solicitation of Residences, and (v) the activity is consistent with the residential character of the Community and does not constitute a nuisance or hazardous or offensive use or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. Notwithstanding the above, the leasing of the Lot shall not be considered a business or trade within the meaning of this section. This section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Community or its use of any Lots which it owns within the Community.

(o) No fence, wall, hedge, shrub planting or other obstructions to view in excess of two feet (2') in height, except trees pruned high enough to permit unobstructed vision to automobile drivers, shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines, or in the case of a rounded property corner, from the intersection of the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within any area that is ten (10) feet from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a minimum height of six (6) feet above the adjacent ground line.

(p) 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 on the Property.

(q) Within those easements on each Lot as designated on the Subdivision Plat of the Development, no improvement, structure, planting or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water through drainage channels.

(r) The general grading, slope and drainage plan of a Lot as established by the approved development plans may not be altered without the approval of the City and/or other appropriate agencies having authority to grant such approval.

(s) No sign of any kind or character shall be displayed to the public view on any Lot except for (i) one (1) professionally fabricated sign of not more than five (5) square feet advertising the property for rent or sale, (ii) signs used by Declarant or a Builder to advertise the property during the construction and sales period, and (iii) political signs advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs shall not be erected more than a reasonable period of time (in no event to exceed thirty (30) days in advance of the election to which they pertain) and are removed within fifteen (15) days

after the election. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal.

(t) Outdoor clothes lines and drying racks visible to adjacent Lots are prohibited. Owners or residents of Lots where the rear yard is not screened by solid fencing or other such enclosures, shall construct a suitable enclosure or screening to shield from public view yard maintenance equipment and/or storage of materials.

(u) Except within fireplaces in the main residential dwelling and equipment for outdoor cooking, no burning of anything shall be permitted anywhere on the Property.

(v) All exterior mechanical equipment, including, but not limited to, HVAC equipment, shall be located on the side or rear yard of each Lot and shielded from public view from any adjacent street.

(w) All utilities shall be installed underground. No gas meter shall be set nearer the street than the front or side of the Residence unless the meter is designed for and installed underground.

(x) No above-ground swimming pools shall be erected, constructed or installed on any Lot. Jacuzzis, whirlpools or spas approved pursuant to Article V shall not be considered an above-ground pool for the purposes of this section.

(y) Except for traditional holiday decorative lights, which may be displayed for two (2) months prior to and one (1) month after any commonly recognized holiday for which lights are traditionally displayed, all exterior lights must be approved in accordance with Article V of this Declaration.

(z) No artificial vegetation or permanent flag poles shall be permitted on the exterior of any porch in the Development. No exterior sculpture, fountains, flags and temporary flag poles, birdhouses, bird baths, other decorative embellishments, or similar items shall be permitted unless approved in accordance with Article V of this Declaration, with the exception of flagpoles in model homes.

(aa) No person shall engage in picketing on any Lot, easement, right-of-way, Common Area within or adjacent to the Development, nor shall any vehicle parked, stored or driven in or adjacent to the Development bear or display any signs, slogans, symbols, words or decorations intended to create controversy, invite ridicule or disparagement, or interfere in any way with the exercise of the property rights, occupancy or permitted business activities of any Owner, Declarant or any Builder.

6.7 MINIMUM FLOOR AREA. 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 the minimum floor area as specified by the City.

6.8 BUILDING MATERIALS.

(a) General. Except as otherwise provided in Section 6.8(c) below regarding the Brick Masonry Restricted Lots, the total exterior wall area (excluding windows, doors and gables) of each residence constructed on a Lot other than a Brick Masonry Restricted Lot shall be the minimum percentage as established by the City by ordinance or building code requirement of brick, brick veneer, stone, stone veneer, or other masonry material approved by the ARC. Brick or other masonry shall only be constructed with "buff" or "white" colored mortar and no other mortar color shall be permitted within the Subdivision. No gray or white colored brick shall be permitted on any Home within the Subdivision and only earth tone colored brick shall be permitted. Windows, doors, other openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from calculation of total exterior wall area.

(b) Roofing. All roofing shall be dimensional type shingles or better in "Weathered Wood" or other ARC approved color. All main residences shall have a minimum side to side roof pitch of 8/12 on the major portions of the building.

(c) Brick Masonry Restricted Lots. All eastern walls facing Independence Parkway of the Homes constructed on Lot 1, Block A; on Lots 1 and 28, Block B; and on Lot 4, Block C; and the entire Homes constructed on Lots 1, 2 and 3, Block C (said lots described in this paragraph being collectively referred to as the "Brick Masonry Restricted Lots"); shall be constructed entirely of brick or a combination of brick and stone and the brick color shall be limited to the following brick colors/ manufacturers:

<u>Manufacturer</u>	<u>Color/Style</u>
Acme	Old Colonial Ole Orleans Texas Used Old Dominion Autumn Lane Old St. Louis
Hanson	Ole Country Lafayette

Notwithstanding the foregoing, all brick and stone colors must be approved by the ARC prior to construction of the Residence.

6.9 SIDE LINE AND FRONT LINE SETBACK REQUIREMENTS. No Residence shall be located on any Lot nearer to the front lot line or nearer to the side lot line than the minimum setback lines shown on the Subdivision Plat or as required by the City.

6.10 WAIVER OF FRONT SETBACK REQUIREMENTS. With the prior written approval of the ARC, any building may be located farther back from the front property line of a Lot than provided in Section 6.9 where, in the opinion of the ARC, the proposed location of the building will enhance the value and appearance of the Lot and will not negatively impact the appearance of adjoining Lots.

6.11 FENCES.

(a) General. Except as otherwise permitted herein, all fences and walls shall be eight feet (8') tall and shall be constructed of cedar with steel posts or other materials approved by the ARC and erected in accordance with this Declaration, any Design Guidelines adopted by the ARC, and the applicable development codes and ordinances of the City. No fence or wall on any Lot shall extend nearer to any street than the front of the residence thereon. Except as otherwise specifically approved in writing by the ARC, all streetside side yard fencing on corner Lots shall be set no closer to the abutting side street than the Property line as shown on the Subdivision Plat. All wood fences shall be stained a uniform standard subdivision color approved by the ARC. Fences may only be less than eight feet (8') at those areas of a fence that is connecting to a subdivision perimeter wall and/or fence and the transition from eight feet (8') to the height of subdivision perimeter wall and/or fence is spread throughout a distance of ten feet (10') from the point of connection to the subdivision perimeter wall and/or fence.

(b) Key Lots. In addition to the requirements of Section 6.11(a) above, the following lots (herein collectively referred to as the "Key Lots") shall be subject to the special fencing requirements described below:

<u>Block</u>	<u>Lots</u>
B	1, 15, 16 and 28
C	1, 8, 9, 14, 15, 21 and 29
D	7, 15, 16, 23 and 24
E	1 and 3
F	1, 8, 9 and 17

All side yards of the Key Lots that are adjacent and parallel to public right-of-way shall be fenced with fences meeting the following special requirements: the fences shall be constructed eight feet (8') tall, board on board, cedar with a cap and with steel posts and finished with a medium stain as specified by the ARC. The steel posts shall be located so that they are not exposed to the public right-of-way but toward the interior of the Key Lots. The fence panels are to be installed between stone columns measuring 18" square, eight feet (8') tall, made of cream luders stone, or other such stone approved by the ARC. The columns are to be placed at intervals of 12'-0" on center with the fence panels between the stone columns. Furthermore, on the street side of the fences, a Dwarf Burford Holly Hedge, spaced 2' to 3' apart, shall be planted along the length of the required fence. Said fence shall not be continued beyond the front face of the house.

(d) Southern Cul-de-Sac Fencing Zone. In addition to the requirements of Section 6.11(a) above, **Lots 18 and 19, of Block C** of the Subdivision shall be subject to special fencing requirements relating to the portion of the southern boundary of these Lots located between the front of the Home constructed on each Lot and the front boundary line of each Lot (herein collectively referred to as the "Southern Cul-de-Sac Fencing Zone"). In addition to the fence requirements for the Lots, the Southern Cul-de-Sac Fencing Zone shall require fences constructed eight feet (8') tall, board on board, cedar with a cap and with steel posts and finished with a medium stain as specified by the ARC. The steel posts shall be located so that they are not to be exposed to the cul-de-sac. The fence panels are to be installed between stone columns measuring 18" square, eight feet (8') tall, made of cream luders stone, or other such stone approved by the ARC. The columns are to be placed at intervals of 12'-0" on center with the fence panels between the stone columns. Furthermore, on the cul-de-sac side of the fences, a Dwarf Burford Holly Hedge, spaced 2' to 3' apart, shall be planted along the length of the required fence.

(e) Northern Cul-de-Sac Fencing Zone. In addition to the requirements of Section 6.11(a) above, **Lots 19 and 20, of Block D** of the Subdivision shall be subject to special fencing requirements relating to the portion of the northern boundary of these Lots located between the front of the Home constructed on each Lot and the front boundary line of each Lot (herein collectively referred to as the "Northern Cul-de-Sac Fencing Zone"). In addition to the fence requirements for the Lots, the Northern Cul-de-Sac Fencing Zone shall require fences constructed eight feet (8') tall, board on board, cedar with a cap and with steel posts and finished with a medium stain as specified by the ARC. The steel posts shall be located so that they are not to be exposed to the cul-de-sac. The fence panels are to be installed between stone columns measuring 18" square, eight feet (8') tall, made of cream luders stone, or other such stone approved by the ARC. The columns are to be placed at intervals of 12'-0" on center with the fence panels between the stone columns. Furthermore, on the cul-de-sac side of the fences, a Dwarf Burford Holly Hedge, spaced 2' to 3' apart, shall be planted along the length of the required fence.

(f) Restricted Real Fencing Lots. In addition to the requirements of Section 6.11(a) above, **Lots 1, 2 and 3, of Block E** of the Subdivision shall be subject to special fencing requirements relating to the rear boundary of these Lots located adjacent to the Lot on which the Amenity Center is situated (herein collectively referred to as the "Restricted Rear Fencing Lots"). In addition to the fence requirements for the Lots, the fences constructed along the rear boundary of the Restricted Rear Fencing Lots shall be constructed eight feet (8') tall board on board, cedar with a cap and with steel posts and finished with a medium stain as specified by the ARC. The steel posts shall be located so that they are not exposed to the Amenity Center but toward the interior of the Restricted Real Fencing Lots. The fence panels are to be installed between stone columns measuring 18" square, eight feet (8') tall, made of cream luders stone, or other such stone approved by the ARC. The columns are to be placed at intervals of 12'-0" on center with the fence panels between the stone columns. Furthermore, on the Amenity Center side of the fences, a Dwarf Burford Holly Hedge, spaced 2' to 3' apart, shall be planted along the length of the required fence.

(g) Retaining Walls. To the extent any retaining walls are required to be constructed on any Lot, the retaining walls shall be constructed of stone as specified by the ARC.

6.12 SIDEWALKS. All walkways along public rights-of-way shall be surfaced with concrete and a broom swept finish and shall conform to the minimum property standards of the City. Sidewalks located on a Lot not located along a public right-of-way shall be surfaced with exposed aggregate concrete or similar substance approved by the ARC.

6.13 MAILBOXES. Mailboxes shall be constructed of a material and design approved by the ARC (unless gangboxes are required by the U.S. Postal Service).

6.14 WINDOWS. Windows, jambs and mullions shall be composed of anodized aluminum, vinyl or wood. All front elevation windows shall have baked-on painted aluminum divided light windows (no mill finish).

6.15 LANDSCAPING.

(a) General. As to any improvement by a person or entity other than Declarant, landscaping of each Lot shall be completed within thirty (30) days, subject to extension for delays caused by inclement weather, after the Residence construction is completed and shall include sodded front, rear and side yards with a fully functional sprinkler system and shrubs and trees that meet the minimum planting standards set forth herein or in any Design Guidelines.

(b) Permitted Trees. No other species of trees shall be permitted on any Lot except for Red Oak or any species approved by the ARC. The size of any trees shall be in accordance with the laws, rules and/or ordinances of the City.

6.16 GENERAL MAINTENANCE

(a) Following conveyance of the Residence upon any Lot, each Owner shall maintain and care for the Residence, all improvements and all trees, foliage, plants, and lawns on the Lot and otherwise keep the Lot and all improvements thereon in good condition and repair and in conformity with the general character and quality of properties in the immediate area, such maintenance and repair to include but not be limited to: the replacement of worn and/or rotted components; the regular painting of all exterior surfaces, provided that if the colors change, the change shall be approved by the ARC; the maintenance, repair and replacement of roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, drives, parking areas and other exterior portions of the improvements to maintain an attractive appearance; and regular mowing and edging of lawn and grass areas. Upon failure of any Owner to maintain a Lot owned by him/it in the manner prescribed herein, the Declarant or the Association, or either of them, at its option and discretion, but without any obligation to do so, but only after ten (10) days written notice to such Owner to comply herewith, may enter upon such Owner's Lot and undertake to maintain and care for such Lot to the condition required hereunder and the

Owner thereof shall be obligated, when presented with an itemized statement, to reimburse said Declarant and/or Association for the cost of such work within ten (10) days after presentment of such statement. This provision, however, shall in no manner be construed to create a lien in favor of any party on any Lot for the cost or charge of such work or the reimbursement for such work.

(b) The Association shall operate, maintain, repair and replace all improvements including landscaping, irrigation systems and fencing in the Common Area.

ARTICLE VII GENERAL PROVISIONS

7.1 **EASEMENTS.** Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Subdivision Plat. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the Lot lines to the Residences. Declarant reserves the right to make changes in and additions to the above easements for the purpose of most efficiently and economically installing improvements.

7.2 **ENFORCEMENT.** In the event of any default by any Owner under the provisions of this Declaration, the Bylaws or rules and regulations of the Association, the Declarant and/or the Association shall have each and all of the rights and remedies which may be provided for in this Declaration, the Bylaws and said rules and 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 payment of money and collection thereof, or for any combination of 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 of the Declarant and/or the Association in connection with any such actions or proceedings, including court costs and attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law, from the due date until paid, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his/its Assessment (to the same extent as the lien provided herein for unpaid Assessments), upon the Lot and upon all of his/its additions and improvements thereto, and upon all of his/its 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 Declarant and/or the Association.

7.3 **SEVERABILITY.** Invalidation of any one (1) of the covenants or restrictions by judgment or court order shall in no wise affect any other covenants, restrictions or other provisions of this Declaration which shall remain in full force and effect.

7.4 **TERM.** This Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant (during the time it owns any Lots), the Association, or the Owner of any Lot subject to this Declaration, their respective legal

representatives, heirs, successors and assigns, for a term of twenty five (25) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote, the then owners of sixty seven percent (67%) of the Lots agree in writing to terminate or change this Declaration in whole or in part and such writing is recorded in the appropriate records of the county clerk(s) of the county or counties in which the Property is located.

7.5 AMENDMENT. This Declaration may be amended or modified upon the express written consent of at least sixty seven percent (67%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by Members at a meeting at which a quorum is present. Any and all amendments, if any, shall be recorded in the appropriate records of Collin County, Texas. Notwithstanding the foregoing, Declarant shall have the right to execute and record amendments to this Declaration without the consent or approval of any other party if the sole purpose of the amendment is to correct technical errors or for purposes of clarification.

7.6 GENDER AND GRAMMAR. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.

7.7 NOTICES TO MEMBER/OWNER. Any notice required to be given to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered forty eight (48) hours after deposited in the United States Mail, postage prepaid, certified or registered mail, and addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

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

7.9 FORMATION OF ASSOCIATION; INSPECTION OF DOCUMENTS, BOOKS AND RECORDS. The Association shall be formed by Declarant as a nonprofit corporation in accordance with the laws of the State of Texas. Management and governance of the Association shall be implemented and/or undertaken in accordance with its Certificate of Formation, in accordance with this Declaration, and in accordance with the Bylaws which shall be adopted by the Association following its formation. The Association shall make available copies of the Declaration, Bylaws, Certificate of Formation, and rules and regulations governing the Association, as well as the books, records and financial statements of the Association for inspection by Owners or any Mortgagee during regular business hours or other reasonable times.

7.10 INDEMNITY. THE ASSOCIATION SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE DECLARANT, THE BOARD, THE ARC AND EACH DIRECTOR, OFFICER, EMPLOYEE AND AGENT OF THE DECLARANT, THE BOARD AND THE ARC FROM ALL ACTIONS, SUITS, PROCEEDINGS, JUDGMENTS, PENALTIES (INCLUDING EXCISE AND SIMILAR TAXES), FINES, SETTLEMENTS AND REASONABLE EXPENSES (INCLUDING ATTORNEYS' FEES) INCURRED BY SUCH INDEMNIFIED PERSON UNDER OR IN CONNECTION WITH THIS DECLARATION OR

THE PROPERTY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SUCH INDEMNITY TO INCLUDE MATTERS ARISING AS A RESULT OF THE SOLE OR CONCURRENT NEGLIGENCE OF THE INDEMNIFIED PARTY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, BUT SUCH INDEMNITY IS NOT INTENDED TO INCLUDE INDEMNIFICATION OF THE INDEMNIFIED PARTY FOR ACTS OF WILLFUL MISCONDUCT OR BAD FAITH.

7.11 CONFLICTS. In the event of conflict between the terms of this Declaration and the Certificate of Formation, Bylaws or rules or regulations of the Association, this Declaration shall control.

ARTICLE VIII ANNEXATION AND WITHDRAWAL OF PROPERTY

8.1 ANNEXATION WITHOUT APPROVAL OF MEMBERSHIP. The Declarant shall have the unilateral right, privilege and option, from time to time at any time until the Declarant no longer owns property for development and/or sale in the Development or until December 31, 2020, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association any property within a one (1) mile radius of the perimeter boundaries of the Development.

Such annexation shall be accomplished by filing a supplemental declaration annexing such property in the County Clerk official records of Collin County, Texas. Such supplemental Declaration shall not require the consent of members but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such supplemental declaration unless otherwise provided therein.

8.2 WITHDRAWAL OF PROPERTY. The Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Development pursuant to Section 8.1 without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Development then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Development desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property.

8.3 ADDITIONAL COVENANTS AND EASEMENTS. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by supplemental declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through assessments. Such additional covenants and easements shall be set forth in a supplemental declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

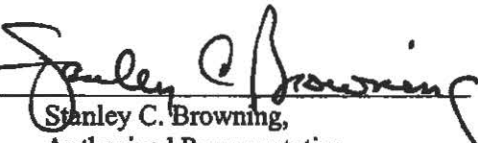
8.4 AMENDMENT. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property in the Development.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration to be effective as of December 29, 2008.

DECLARANT:

LHD TURNER, LTD.,
a Texas limited partnership

By: LHD Turner GP, LLC,
a Texas limited liability company
Its: General Partner

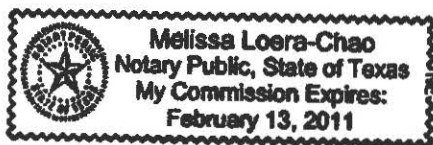
By: 
Stanley C. Browning,
Authorized Representative

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared Stanley C. Browning, the Authorized Representative of LHD Turner GP, LLC, a Texas limited liability company, the General Partner of LHD Turner, Ltd., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity as therein stated and as the act of said partnership.

Given under my hand and seal of office this 29 day of December, 2008.





NOTARY PUBLIC, STATE OF TEXAS
Printed Name: Melissa Loera-Chao
My Commission Expires: Feb. 13, 2011

EXHIBIT A

DESCRIPTION OF PROPERTY

Being a tract of land situated in the J. T. Johnson Survey, Abstract No. 490, City of Frisco, Collin County, Texas, the subject tract being a portion of a tract of land conveyed to Melinda Sue Partee and Stan Partee, Co-Trustees of the Lindley Cole Turner Trust, according to the deed recorded in Volume 4347, Page 3145 of the Deed Records of Collin County, Texas (DRCCT);

BEGINNING at a 1/2 inch iron pin found with a yellow cap stamped "DAS" found at the Northwest corner of subject tract, same being the Southwest corner of a tract of land conveyed to Florence Ann Milton Lake, according to the deed recorded in Volume 4882, Page 806 (DRCCT), said point further being in the East line of a tract of land conveyed to Bluebonnet Ranch Investments, LP, according to the deed recorded in Volume 5717, Page 1587 (DRCCT), from which a 3/8 inch iron pin found bears North 00 degrees 31 minutes 10 seconds East 1456.88 feet;

THENCE South 89 degrees 40 minutes 30 seconds East, along the South line of said Lake Tract, a distance of 2619.73 feet to an "X" set in the corner of a concrete "Y" inlet in the West ROW line of Independence Parkway, (a 120 foot ROW);

THENCE South 00 degrees 04 minutes 28 seconds West, along the West line of said Independence Parkway, a distance of 817.38 feet to a 1/2 inch iron pin with a red cap stamped Tipton Eng. Inc. set at the Northeast corner of a tract of land conveyed to Brazos Electric Power Corp., Inc. according to the deed recorded in Volume 2843, Page 389 (DRCCT)

THENCE North 89 degrees 40 minutes 30 seconds West, passing the Northwest corner of said Brazos Electric tract at a distance of 813.02 feet and continuing a total distance of 2623.70 feet to a 1/2 inch iron pin found at the Southwest corner of the subject tract, from which a 1/2 inch iron pin found bears South 00 degrees 21 minutes 04 seconds East, a distance of 168.92 feet;

THENCE North 00 degrees 21 minutes 10 seconds East, along the East line of said Bluebonnet Ranch Tract, a distance of 817.38 feet to the PLACE OF BEGINNING with the subject tract containing 2, 142, 917 square feet or 49.1946 acres of land.

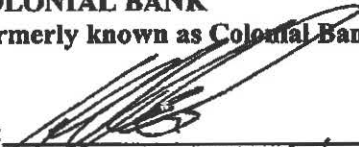
CONSENT AND SUBORDINATION BY LENDER

The undersigned, **COLONIAL BANK** (formerly known as Colonial Bank, N.A.), is the holder of a first lien deed of trust and security agreement on the Property, and joins in the execution of this Declaration solely for the purposes of (a) evidencing its consent to the terms, conditions and provisions of the Declaration, and (b) subject to Section 4.9 of the Declaration, subordinating all of its liens on the Property to the Declaration, and agreeing that if its said liens are foreclosed against the Property, that such foreclosure shall not affect this Declaration which shall continue in full force and effect thereafter; provided that a foreclosure shall extinguish a lien for payment of Assessments which became due prior thereto as set forth in Section 4.9 of the Declaration.

Execution and delivery of this instrument by the undersigned shall constitute the Association's receipt of notice of the following name and address of the Lienholder or Mortgagee with respect to the Property:

Colonial Bank
Attention: Jeff Kesler
15150 Preston Road at Beltline
Dallas, Texas 75248
Fax: (469) 791-4507

COLONIAL BANK
(formerly known as Colonial Bank, N.A.)

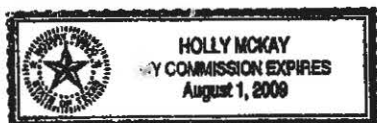
By: 
Printed Name: Jeff Kesler
Title: Area President

ACKNOWLEDGMENT

STATE OF TEXAS §
COUNTY OF Dallas §

BEFORE ME, the undersigned authority, on this day personally appeared Jeff Kesler, the Area President of Colonial Bank (formerly known as Colonial Bank, N.A.), known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity as therein stated and as the act of said banking association.

Given under my hand and seal of office this 29th day of December, 2008.



Holly McKay
NOTARY PUBLIC, STATE OF TEXAS
Printed Name: _____
My Commission Expires: _____