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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

Anniston Community Association

Harris County, Texas

Declarant: *Friendswood Development Company*

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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CONDITIONS AND RESTRICTIONS FOR
ANNISTON COMMUNITY ASSOCIATION

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for *ANNISTON COMMUNITY ASSOCIATION* (this "Declaration") is made on the date hereinafter set forth by Lennar Homes of Texas Land and Construction, Ltd., d/b/a Friendswood Development Company ("Lennar") and joined herein by FR Beeson, LLC (the "Landowner") for the purposes set forth herein.

W I T N E S S E T H

WHEREAS, Lennar and Landowner are, collectively, the owners of a certain property in Harris County, Texas (the "County") that has been platted into a subdivision known as Anniston Section 2, as recorded at File Number RP-2023-424016 of the Real Property Records of Harris County, Texas, and incorporated herein by reference ("the Property");

WHEREAS, Lennar intends to purchase from Landowner all the "Lots" (as defined in the Option Agreement) in the Property pursuant to that certain Option and Development Agreement by and between Landowner and Lennar, dated as of August 27, 2021 (as amended, collectively, "Option Agreement"), as evidenced by that certain Memorandum of Option and Development Agreement recorded at File Number RP-2021-507959 of the Real Property Records of Harris County, Texas, and incorporated herein by reference; and

WHEREAS, Lennar and Landowner desire to subject the Property to this Declaration so as to provide and adopt a uniform plan of development, improvement, and sale of the Property including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern, control, and preserve the values and amenities of this land for the enjoyment of the Property as a residential and commercial subdivision for the benefit of this land and each owner of any part of this land.

All Restricted and Unrestricted Reserves presently or hereafter subject to this Declaration or subsequently subjected to this Declaration are, however, specifically excepted from Article 10, Restrictions of Use.

It has been deemed desirable, for the efficient preservation of values and amenities in the Property, to create an Association to which shall be delegated and assigned the powers of administering and enforcing the provisions of this Declaration including levying, collecting, and disbursing the assessments.

To exercise these functions, an association has been created under the name Anniston Community Association, a non-profit corporation created under the laws of the State of Texas. The directors of the Association have established By-Laws by which the Association shall be governed.

Lennar declares, joined herein by Landowner, that the Property shall be developed, improved, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions of this Declaration, all of which are adopted for and placed upon the Property; shall run with the Property and be binding on all parties who now or hereafter have or claim any right, title, or interest in the Property or any part of the Property, and on the heirs, executors, administrators, successors, and assigns of such parties, regardless of the source of or the manner in which any such right, title, or interest is or may be acquired; and shall inure to the benefit of each owner of any part of the Property.

ARTICLE 1
DEFINITIONS

1.01 "**Architectural Review Authority**" or "**ARA**" means the authority created pursuant to this Declaration to review and approve or deny plans for the construction, placement, modification, or remodeling of any improvements on a Lot as provided in Article 7 below.

1.02 "**Assessment**" or "Assessments" means assessments imposed by the Association under this Declaration.

1.03 "**Association**" shall mean and refer to Anniston Community Association, a non-profit corporation incorporated under the laws of the State of Texas, and its successors and assigns.

1.04 "**Board**" shall mean the Board of Directors of the Association.

1.05 "**Builder**" shall mean and refer to a department of Declarant or any other entity to which Declarant conveys Lots or Commercial Units for the purpose of constructing homes or other permitted structures thereon.

1.06 "**Commercial Unit**" and "**Commercial Units**" shall include all land areas and reserves other than Lots, Common Areas, and any additional land areas and reserves other than Lots, Common Areas, and acreage that may thereafter be brought within the jurisdiction of the Association. Each Commercial Unit shall contain 10,000 square feet of commercial land or 20,000 square feet of multifamily land and shall be the equivalent of one Lot or a proportional fraction thereof for purposes of membership, voting rights, and assessment in and by the Association.

1.07 "**Common Area(s)**" and "**Common Property**" shall mean any property and facilities owned by the Association or designated by Declarant as Common Area or Common Property, even if fee title or easement rights have not yet been conveyed to the Association. Common Area also includes any property that the Association holds rights or obligations under a lease, license, or an easement in favor of the Association. Some Common Areas may be solely for the common use and enjoyment of the Owners, members of their families, and guests while other portions of the Common Area may be for the use and enjoyment of the Owners and members of the public.

1.08 "**Conveyance**" shall mean and refer to conveyance of a fee simple title to the surface estate of a Lot or Commercial Unit from one Owner to another.

1.09 "**Declarant**" shall mean and refer to Lennar and its successors and assigns, provided that, except as set forth herein, any assignment of the rights of Lennar, as Declarant, must be expressly set forth in writing and recorded. Notwithstanding anything herein to the contrary, if the Option Agreement is terminated prior to Declarant acquiring all of the Lots in accordance with the provisions thereof, Landowner shall automatically become the "Landowner Declarant" under this Declaration for the Lots not acquired by Lennar (the "Landowner Lots"), any and all references to the Declarant under the Declaration shall be a reference to Landowner Declarant, its successors or assigns, only for the Landowner Lots, and the Lennar Declarant shall retain the rights of Declarant arising under this Declaration and any other Governing Documents for all of the Lots acquired by Lennar under the Option Agreement. The Lennar Declarant and the Landowner would act as co-declarants under this Declaration and the Governing Documents, each for their respective portions of the Property. In such event, Landowner shall in no event be liable for any responsibilities, liabilities or obligations of Declarant, as Declarant or otherwise under the Declaration and any other Governing Documents for the Landowner Lots arising prior to the date Landowner partially succeeds to Lennar's rights as the "Declarant" hereunder. In the event that Landowner automatically becomes the "Declarant" pursuant to this paragraph for the Landowner Lots, upon Landowner's request, Lennar shall promptly execute and cause to be recorded in the Real Property Records of Harris County, Texas a partial "Assignment of Declarant Rights" assigning Lennar's rights as Declarant to Landowner for the Landowner Lots in the form reasonably acceptable to Landowner.

1.10 "**Declaration**" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions and any Amendments hereto applicable to the Property, Recorded in the Real Property Records.

1.11 "**Design Guidelines**" means the standards for design, construction, landscaping, and exterior items placed on any Lot by Builders or Owners adopted pursuant to Section 7.02(c), as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Property. At Declarant's option, Declarant may adopt Design Guidelines for the Property or any portion thereof. Notwithstanding anything in this Declaration to the contrary, the Declarant will have no obligation to establish Design Guidelines for the Property or any portion thereof.

1.12 "**Development Period**" shall mean and refer to that period of time beginning on the date when this Declaration has been recorded, and ending eighteen (18) months after the Declarant and Landowner no longer own any portion of the Property, or additional property annexed into the Association. At such time as additional property is annexed into the Association by Declarant or Landowner, as applicable, the Development Period shall, if it had previously terminated, be reinstated and shall apply to all Lots and Commercial Units owned by Declarant or Landowner in the newly annexed portion of the Property. Declarant may terminate the Development Period at any time by an instrument executed by Declarant and recorded; provided that such instrument must also be executed by Landowner if Landowner owns any portion of the Property. The Development Period is defined in Section 209.002(4-a) of the Texas Property Code as the period in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property, and the right to direct the size, shape, and composition of the Property.

1.13 "**Front Yard**" shall mean and refer to (a) as to interior Lots, the front yard area of the residence between the street (on the one hand) and the dwelling exterior and fence (on the other hand) and (b) as to corner Lots, the front yard area of the residence between the street (on the one hand) and the dwelling exterior and fence (on the other hand), and that portion of the side yard area exposed to the street, between the street (on the one hand) and the dwelling exterior and fence (on the other hand), but excluding patios, courtyards and fenced areas, unless otherwise defined by the Board.

1.14 "**Front Yard Maintenance**" shall mean and refer to normal and routine maintenance of Front Yards by the Association, as determined from time to time by the Board, in its sole discretion, which may include but not be limited to (a) mowing and edging Front Yards and line trimming, (b) trimming Front Yards with lawn maintenance equipment and trimming of trees, and cleanup of debris from trimming, (c) fertilizing, and applying insect control chemicals to Front Yards (d) bed maintenance to remove weeds, trim shrubs and weed around landscaping originally installed by a builder or installed by the Owner after ARA approval, and maintain bed edges and (e) application of mulch to beds and tree saucers annually. The term "Front Yard Maintenance" shall not, in any event, include the planting or replacing of shrubbery, grass, trees or other landscaping, installing or maintaining irrigation systems, or other maintenance or service determined by the Board not to be within normal and routine maintenance of Front Yards. What is included or excluded in Front Yard Maintenance may be revised from time to time by the Board, in its sole discretion. Front Yard Maintenance shall also not, in any event, include hanging baskets or potted plants located on the Lot or residence. Owners may not embellish the landscaping, grass and vegetation of a Lot without the prior written approval of the ARA, including but not limited to, the need for ARA approval for Owner installation/replacement of seasonal color. Owners have the obligation to replace dead or diseased trees, landscaping, grass or vegetation after prior written approval of the ARA. If an Owner fails or refuses to replace same, the Association shall have the right, but not the obligation, through its agent, contractors and/or employees, to enter upon said Lot to exercise its self-help remedy to do so, and 110% of the cost of such replacement shall be billed against the respective Lot for which work is performed, such bill to be due upon receipt and if not timely paid, such bill shall be assessed as a Parcel Assessment against such Lot, which Parcel Assessment shall be secured by a lien against such Lot as herein provided. Front Yard Maintenance by the Association is specified in the Declaration, and such Front Yard Maintenance is part of the annual assessment of each Owner.

1.15 "**Governing Documents**" shall mean, collectively, the Declaration, the Bylaws, the Design Guidelines, and rules or regulations adopted by the Board, as any such documents may be amended from time to time. Notwithstanding anything in this Declaration or other Governing Documents to the contrary, so long as Landowner owns a Lot, the adoption, amendment and/or modification of a material nature of any Government Document shall be subject to Landowner's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The adoption, amendment and/or modification of a non-material nature shall not require consent.

1.16 "**Improvement**" means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, tennis courts, swimming pools, garages, driveways, storage

buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, antennae.

1.17 "**Lennar**" shall mean Lennar Homes of Texas Land and Construction, Ltd., d/b/a Friendswood Development Company.

1.18 "**Lot**" and "**Lots**" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Property upon which there has been or may be constructed a single-family residence.

1.19 "**Material**" or of a "**material nature**" shall mean, with respect to a given matter, such matter has a direct or indirect effect of any of the following: (i) affecting a party's voting rights, (ii) imposing any restrictions or rules on use, and/or (iii) imposes costs in an amount greater than fifty thousand dollars ($50,000.00) (either individually or in the aggregate with respect to multiple matters).

1.20 "**Member**" shall mean and refer to those persons entitled to membership as provided in Section 4.01, of this Declaration.

1.21 "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to the surface estate in any Lot or Commercial Unit which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.22 "**Property**" shall mean Anniston and any additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation.

1.23 "**Transfer**" shall mean and refer to the transfer of the surface estate of a Lot or Commercial Unit from one legal entity to any department thereof or to another legal entity whether or not the owner of record changes.

ARTICLE 2
RESERVATIONS, EXCEPTIONS, DEDICATIONS AND CONDEMNATION

2.01 **Incorporation of Plat**. The plat of Anniston, dedicated for use as such, subject to the limitations set forth therein, certain streets and easements shown thereon, and such plat further establishes certain dedications, limitations, reservations, and restrictions applicable to the Property. All dedications, limitations, restrictions, and reservations shown on the plat, to the extent they apply to the Property, are incorporated herein and made a part hereof as if fully set forth herein, and shall be construed as being adopted in each contract, deed, and conveyance executed or to be executed by or on behalf of Declarant, conveying each Lot or Commercial Unit within the Property. The terms of this paragraph shall be understood to apply to any land which may hereafter be made subject to this Declaration and the jurisdiction of the Association, although such land will not be shown on the above referenced plat.

2.02 **Reservation of Minerals.** The Property, and any future land made subject to this Declaration, is hereby subjected to the following reservation and exception: All oil, gas, and other minerals in, on, and under the herein above described Property are hereby excepted or reserved by predecessor or predecessors in title of Declarant and which exception is made in favor of present owner or owners or owners of such minerals as their interests may appear of record.

2.03 **Condemnation.** If all of any part of the Common Area is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Association shall be entitled to participate in proceedings incident thereto at its expense. The expense of participation in such proceedings by the Association shall be borne by the Association and paid for out of assessments collected pursuant to Article 5 hereof. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to such proceedings.

All damages or awards for such taking shall be deposited with the Association. If an action in eminent domain is brought to condemn a portion of the Common Areas, the Association, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto; or to convey such portion of the Property to the condemning authority in lieu of such condemnation proceeding.

ARTICLE 3
PROPERTY RIGHTS

3.01 **Owner's Easements of Enjoyment.** With the exception of set-back areas and landscape easements, every Member shall have a right to an easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot or Commercial Unit, subject to the following provisions:

(a) the right of the Association to grant or dedicate easements in, on, under, or above the Common Areas or any part thereof to any public or governmental agency or authority or to any utility company for any service to the Property of any part thereof;

(b) the right of the Association to prevent an Owner from planting, placing, fixing, installing, or constructing any vegetation, hedge, tree, shrub, fence, wall, structure, or improvement or store any personal property on the Common Areas or any part thereof without the prior written consent of the Association. The Association shall have the right to remove anything placed on the Common Areas in violation of the provisions of this subsection and to assess the cost of such removal against the Owner responsible. Such cost shall be an additional assessment as hereinafter provided for;

(c) the right of Declarant (and its sales agents and representatives) to the non-exclusive use of the Common Areas and the facilities thereof, for display and exhibit purposes in connection with the sale of Lots or Commercial Units within the Property, which right Declarant hereby reserves; provided, however, that no such use by Declarant or its sales agents

or representatives shall otherwise unreasonably restrict the Members in their use and enjoyment of the Common Areas;

(d) the right of the Association to limit the number of guests of Owners utilizing the recreational facilities and improvements owned by the Association and provided upon Common Areas;

(e) the right of the Association to establish uniform rules and regulations and to charge reasonable admission and other fees pertaining to the use of any Common Areas and recreational facilities owned by the Association and regulate the time and circumstances for Members' use of these facilities; and

(f) the right of the Association to suspend the voting rights of an Owner (unless prohibited by law) and the Owner's right to use any recreational facility of the Association during the period the Owner is in default in excess of thirty (30) days in the payment or any maintenance charge assessment against a Lot or Commercial Unit and to suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. The aforesaid rights of the Association shall not be exclusive but shall be cumulative of and in addition to all other rights and remedies which the Association may have by virtue of this Declaration or its By-Laws or at law or in equity on account of any such default or infraction.

3.02 **Delegation of Use.** Owners subject to an easement of enjoyment in and to the Common Areas may delegate their right to or enjoyment of the Common Areas to members of their families, tenants, or contract purchasers who reside in the Owner's residential dwelling or commercial structure.

3.03 **Waiver of Use.** No Owner may be exempt from personal liability for assessments duly levied by the Association, nor release a Lot or Commercial Unit owned from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas thereon or by abandonment of Owner's Lot or Commercial Unit.

3.04 **Easement for Entry**. The Association shall have an easement to enter into any Lot or Commercial Unit for maintenance of owners' property, anything related to the Services provided (including but not limited to the Bulk Service), or the Front Yard maintenance, emergency, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the Property, which right may be exercised by the Association's Board of Directors, officers, agents, contractors, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. It is intended that this right of entry shall include (and this right of entry shall include) the right of the Association to enter a Lot or Commercial Unit (and the improvements thereon) to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition upon request by the Board, and/or the enforcement of any obligation of an Owner for maintenance on its Lot as set forth herein. The easement for entry is also for the benefit of each Owner of a Lot or Commercial Unit, for ingress and egress, over and across the other Lots or Commercial Units (although the easement for Owners does not

extend to the inside of the improvements on a Lot or Commercial Units) for emergency purposes and/or during emergency situations, to allow Owners to remove themselves from danger. EACH OWNER AND RESIDENT WILL RELEASE AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 3.04 (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE, OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

3.05 **Easement for Maintenance**. There are hereby reserved to the Association easements over the Property, Lots, or Commercial Units as necessary to enable the Association to fulfill the Association's landscaping and maintenance responsibilities described in this Declaration. Except as otherwise provided herein, all costs associated with maintenance, repair, and replacement of the Common Areas, private streets and permanent access easements, perimeter fencing, and private utility easements shall be a common expense to be allocated among the Units as part of the annual assessments

3.06 **Indemnification**. The Association and Owners each covenant and agree, jointly and severally, to indemnify, defend and hold harmless Declarant, and its respective officers, directors, parent and/or subsidiary entities, partner(s) and any related persons or corporations, and their employees, professionals and agents from and against any and all claims, suits, actions, causes of action or damages arising from any personal injury, loss of life, or damage to property, sustained on or about the Common Areas or other property serving the Association and improvements thereon, or resulting from or arising out of activities or operations of Declarant or of the Association, or of the Owners, and from and against all costs, expenses, court costs, counsel fees (including, but not limited to, expenses, court costs, counsel fees (including, but not limited to, all trial and appellate levels and whether or not suit be instituted)), expenses and liabilities incurred or arising from any such claim, the investigation thereof, or the defense of any action or proceedings brought thereon, and from and against any orders, judgments or decrees which may be entered relating thereto. The costs and expenses of fulfilling this covenant of indemnification shall be considered operating costs of the Association to the extent such matters are not covered by insurance maintained by the Association. IT IS EXPRESSLY ACKNOWLEDGED THAT THE INDEMNIFICATION IN THIS SECTION PROTECTS DECLARANT AND LANDOWNER (AND/OR THEIR RESPECTIVE OFFICERS, DIRECTORS, PARENT AND/OR SUBSIDIARY ENTITIES, PARTNER(S) AND ANY RELATED PERSONS OR CORPORATIONS, AND THEIR EMPLOYEES, PROFESSIONALS AND AGENTS) FROM THE CONSEQUENCES OF THEIR RESPECTIVE ACTS OR OMISSIONS, INCLUDING WITHOUT LIMITATION, DECLARANT'S AND LANDOWNER'S (AND/OR THEIR RESPECTIVE OFFICERS', DIRECTORS', PARENT AND/OR SUBSIDIARY ENTITIES', PARTNER(S)' AND ANY RELATED PERSONS' OR CORPORATIONS', AND THEIR EMPLOYEES', PROFESSIONALS' AND AGENTS') NEGLIGENT ACTS OR OMISSIONS, TO THE FULLEST EXTENT ALLOWED BY LAW.

3.07 **National Electrical Safety Code Notice**. Center Point Energy has installed high-voltage electrical lines ("Overhead Power Lines") on certain Lots and Reserves on the Property. Owners are advised that applicable State and Federal laws mandate the requirement to maintain safe clearance distances from such Overhead Power Lines (as well as other electrical facilities) as prescribed by O.S.H.A., Chapter 752 of the Texas Health and Safety Code, the National Electric Code, and the National Electric Safety Code.

3.08 **Easement Regarding Association Fences**. Declarant and Landowner hereby reserve for themselves and for the Association a non-exclusive right-of-way and easement for the purpose of constructing, maintaining, operating, repairing, removing, and re-constructing a perimeter fence under, across, and through a 5' strip of the Lots along the perimeter of the Property and such other locations as determined by Declarant and Landowner, on which 5' strips the Association may construct such perimeter fencing. Prior to the construction of the fence, the Declarant, Landowner and/or the Association shall have the right to go over and across the portions of the Lots that are adjacent to such 5' easement strips for the purpose of performing surveys and other such necessary pre-construction work. After the construction of the fence, Declarant, Landowner and/or the Association, from time to time, and at any time, shall have a right of ingress and egress over, along, across, and adjacent to said 5' easement strips for purposes of maintaining, operating, repairing, removing, reconstructing, and/or inspecting the fence. The Owners of the Lots shall have all other rights in and to such 5' easement strip located on each Owner's respective Lot; provided however, such Owner shall not damage, remove, or alter the fence or any part thereof without first obtaining written approval from the Declarant, Landowner and/or the Association with respect to any such action, such approval to be at the Declarant's, Landowner's and/or the Association sole discretion.

ARTICLE 4
MEMBERSHIP AND VOTING RIGHTS

4.01 **Membership**. Each person or entity who is a record Owner of any of the Property, which is subject to assessment by the Association, shall be 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. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land, which is subject to assessment, by the Association.

4.02 **Voting**. The Association shall initially have two tiers of voting membership:

All Owners with the exception of the Declarant (except as hereinafter provided) shall be entitled to one vote for each Lot, or Commercial Unit owned. When more than one person holds an interest in any Lot or Commercial Unit, all such persons shall be members. The vote of such Lot or Commercial Unit shall be exercised as the persons among themselves determine, but in no event shall more than one vote be cast with respect to each Lot or Commercial Unit owned.

Declarant shall be entitled to 2000 votes, for as long as Declarant owns any Lots or Commercial Units. Declarant voting rights shall cease on the earlier of the following dates:

(a) On the date on which the Declarant has sold and conveyed all of the Lots and Commercial Units it owns in the Property (including property hereafter annexed into the jurisdiction of the Association); or

(b) when, in its discretion, the Declarant so determines and records an instrument to such effect in the Real Property Records.

At such time that additional property is annexed into the Association, the voting rights of the Declarant, shall, if they had previously ceased due to one of the conditions listed above in (a) or (b) be reinstated and shall apply to all Lots and Commercial Units owned by Declarant in the newly annexed portion of the Property, as well as to all Lots and Commercial Units owned by Declarant in all other areas of the Property, as set forth above. Such reinstatement is subject to further cessation in accordance with the limitation set forth in the preceding paragraphs (a) and (b) of this Article, whichever occurs first.

ARTICLE 5
COVENANT FOR MAINTENANCE ASSESSMENTS AND FEES[1]

5.01 **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot or Commercial Unit owned within the Property, hereby covenants, and the Owner of any Lot or Commercial Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) regular annual assessments or charges; and

(b) additional assessments and fees as herein provided; and

(c) special assessments, which are to be established and collected as hereinafter, provided.

The assessments and fees, together with interest, late fees, penalties, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing and contractual lien upon the Lot or Commercial Unit against which each such assessment is made. Each such assessment or fee, together with interest, late fees, penalty, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot or Commercial Unit at the time when the assessment became due. The personal obligation for delinquent assessments or fees shall not pass to the Owner's successors in title unless expressly assumed by them.

5.02 **Purposes of Assessment.** The assessments levied by the Association shall be used for the purposes of promoting the health, safety, and welfare of the Members of the Association

and for the improvement and maintenance of the Common Areas including the improvements and landscaping thereon as well as the private streets and/or private access easements and private utility easements as noted on any plat of any portion of the Property, and for goods or services contracted for by the Association for the benefit of all of the Members as well as any other purpose determined by the Board of Directors to be in the best interests and/or for the good of the Association, all as may be more specifically authorized from time to time by the Board of Directors. Regular Annual assessments may also be used to fund and accumulate reserves for the repair and/or replacement of improvements and landscaping on Common Areas and other expenditures of a capital nature as needed from time to time. The judgment of the Board of Directors as to expenditures shall be final and conclusive so long as its judgment is exercised in good faith.

5.03 **Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot or Commercial Unit to an Owner, the regular annual assessment shall be the amount set by the Board per Lot or Commercial Unit, unless otherwise adjusted by the Board of Directors during that year.

The initial regular Annual Assessment in Anniston shall be Twenty Two Hundred Dollars ($2200.00) and is effective as of the date hereof. This amount may change as follows:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot or Commercial Unit to an Owner, the maximum regular annual assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership by an amount not to exceed twenty-five percent (25%) over the prior year's regular annual assessment.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot or Commercial Unit to an Owner the maximum regular annual assessment may be increased above the rates specified in this Section 3, Paragraph (a) by a vote of two-thirds (2/3) of each voting tier of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose at which a quorum is present.

(c) In the event the Association becomes indebted to the Declarant in any manner, at the sole option of the Declarant during the Development Period, the Board of Directors will be required to assess the Owners the maximum assessment provided for in this Section 5.03 of Article 5 each year to provide for the repayment to the Declarant until the Declarant has been paid in full. The decision of the Declarant in any given year during the Development Period not to require the Board of Directors to assess the Owners such maximum assessment shall not waive or prejudice the right of the Declarant in any other year or years during the Development Period to require such maximum assessment.

5.04A. **Special Assessments** In addition to the regular annual assessments 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 cost for necessary purposes of the Association, such as the construction, reconstruction, repair or replacement of a capital improvement in the Common Areas, including fixtures and personal property related thereto, or

for counsel fees or the fees of other retained experts. However, in the event that a special assessment is more than one-half (1/2) of the then annual assessment amount, then any such special assessment shall require the assent of two-thirds (2/3) of the total votes of both voting tiers of Members entitled to vote in person or by proxy, at a meeting duly called for this purpose at which a quorum is present.

5.04B. **Capitalization Fee**. Each Owner of a Lot or Commercial Unit other than Declarant or other than a Builder (whether one or more Persons) at the time it purchases a Lot or Commercial Unit, shall be obligated to pay to the Association a fee of one-half of the then annual assessment per Lot or Commercial Unit, at the time of sale, as a Capitalization Fee, beginning for each Lot or Commercial Unit at the point in time when a residence or other permitted structure is constructed on a Lot or Commercial Unit and the Lot and residence or Commercial Unit and permitted structure are sold to the general public. Sales of Lots or Commercial Units prior to such time shall not be subject to a Capitalization Fee. Such funds from the Capitalization Fees collected at each sale shall initially be used to defray initial operating costs and other expenses of the Association, and later used to ensure that the Association shall have adequate funds to meet its expenses and otherwise, as the Declarant (and later the Association) shall determine in its sole discretion (hereinafter "Capitalization Fee"). Such Capitalization Fee shall be non-refundable and shall not be considered an advance payment of any assessments levied by the Association pursuant to this Declaration. The amount of the Capitalization Fee may be changed prospectively (but not retrospectively) by the Association from time to time in its discretion. Such Capitalization Fee will be collected from the Owner directly at the purchase of the Lot or Commercial Unit. If any Lot or Commercial Unit is subdivided and/or platted into multiple Lots or Commercial Units, then the multiple Lots or Commercial Units will thereafter each be subject to the Capitalization Fee at the time of each sale. Such Capitalization Fee shall be deemed an assessment hereunder for collection purposes and may be collected in the same fashion.

5.05 Rate of Assessment. Lots or Commercial Units which are owned by or transferred to a Builder, or which are occupied by residents shall each be subject to a full regular annual assessment beginning on the date described in Section 5.07 below. Lots or Commercial Units which are owned by Declarant shall be assessed at the rate of one-fourth (1/4) of the regular annual assessment beginning on the date described in Section 5.07 below; however, said assessment shall become payable by Declarant only in the event and then only to the extent that assessments from Lots or Commercial Units owned by other than Declarant are not sufficient to meet the operating budget of the Association. The Board of the Association may borrow funds, if needed, for deficit funding, and may instruct officers of the Association to execute promissory note(s) to evidence such borrowed money and the obligation to repay such borrowed money. Declarant may, but is not obligated to, fund such operating deficit. Any deficit funding paid to the Association by Declarant will be treated as a loan. Any deficit funding and loan obligations shall be disclosed as a line item in the annual budget prepared by the Board and reflected on the Association's balance sheet. The advance by the Declarant for a deficit in any given year will not obligate Declarant to continue to deficit fund the Association in future years. Declarant may require the Board (whether the Board is the same as Declarant, their agents, servants, or employees and without being liable for any claim made by any Member of the Association that the Board's fiduciary duty to the other Members of the Association has been breached due to a conflict of interest) to execute promissory notes and/or other instruments evidencing any debt the Association owes the Declarant for monies expended by the Declarant on the Association's behalf or loaned to the Association by Declarant for and on behalf of the Association for obligations of the Association; provided, however, such promissory notes shall not be secured by a lien on any of the Common Area conveyed by

Declarant to the Association. Any promissory note(s) will be payable on demand, will accrue interest on past due amounts at 18% per annum, and may be unilaterally assigned by Declarant as payee to any affiliate or successor of Declarant, with or without consideration. If unpaid when due, the promissory note(s) may be sent to collection or to an attorney for enforcement and the prevailing party will be paid all costs and expenses, including reasonable attorneys' fees and court costs.

As used in this Section 5, the term "Declarant" shall be construed to mean only Lennar d/b/a Friendswood Development Company and its successors and assigns, acting in their capacity as land developers and shall be deemed to include Landowner; and a Lot or Commercial Unit owned, reserved, or held by a home building division or any commercial construction division of Declarant's parent company shall be subject to full assessment as provided herein.

5.06 **Creation of Parcel Assessment**. There are hereby created Parcel Assessments for Common Expenses as may from time to time be authorized by the Board of Directors. Parcel Assessments shall be levied against Lots within particular parcels of the Properties (a "Parcel") for whose benefit expenses are incurred, such as maintaining and operating facilities and amenities within a Parcel reserved for use of the residents within that Parcel, expenses of enforcing all assessments, covenants, and conditions relating to a respective Parcel, and expenses determined by the Board to be for the benefit of a respective Parcel. Further, any damage or destruction caused by an Owner or that Owner's family, guests, contractors or tenants ("Owner Responsible") to any other Owner's property or to any Common Area or to any landscaping or landscaping features, green space, fencing, mechanical equipment such as entry gates, playground equipment or other real or personal property or equipment in the Property shall be billed to the Owner Responsible and if not paid when due, will be deemed a Parcel Assessment against the Owner Responsible and collected in the same manner as other Parcel Assessments. Each Lot within a Parcel shall pay a Parcel Assessment computed in the same manner as such Lot pays an annual assessment. Parcel Assessments established in one Parcel do not need to be equal to Parcel Assessments established in another Parcel. Parcel Assessments shall be collectable and enforceable in the same manner as all other assessments hereunder.

To the extent reserves are accumulated out of the Parcel Assessments, such reserves shall be segregated from any reserves accumulated out of the annual assessments for the Property as a whole, and such reserves from the Parcel Assessments are to be used for large recurring expenses involved in the additional services being provided to the Parcel, and absent some emergency circumstance, are not to be used for the Property as a whole. If such an emergency circumstance should arise, any use of the reserves accumulated from the Parcel Assessments for the Property as a whole shall be considered a loan that must be replenished out of the annual assessments in a timely fashion.

5.07 **Date of Commencement of Annual Assessments**. The full annual assessments due by Builders and Owners provided for herein shall commence on a Lot or Commercial Unit on the first day of the month following the conveyance of the Lot or Commercial Unit by Declarant or Landowner to a Builder or Owner. The first full annual assessment shall be adjusted according to the number of months remaining in the calendar year. The one-fourth annual assessment due by Declarant provided for herein, to the extent payable as set forth above, shall commence on the first day of the calendar year following the initial transfer of a Lot or a Commercial Unit by Declarant to a Builder or Owner within the Lot or Commercial Unit's platted subdivision. For example, if Declarant annexes a new platted, subdivision of Lots and Commercial Units on July

20th and proceeds to transfer the first Lot in that subdivision to a Builder on September 15th, then Builder will pay a prorated full assessment for that year from October through December (i.e. 3 out of 12 months) and the one-fourth annual assessment will be billed from Declarant on all Lots and Commercial Units still owned by Declarant in that subdivision on January 1 st of the following year, to the extent payable as provided above. The Board of Directors shall fix the amount of the annual assessment against each Lot or Commercial Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or authorized agent of the Association setting forth whether or not the assessments on a specified Lot or Commercial Unit have been paid. Notwithstanding anything in this Agreement to the contrary, Landowner shall not have any obligation to pay assessments during the Development Period.

5.08 **Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessment charged against each Lot and Commercial Unit shall be due and payable, in advance, on the date of the sale of such Lot or Commercial Unit by Declarant for that portion of the calendar year remaining, and on the first (1st) day of each January thereafter, or other such date or dates as determined by the Board. Any assessment which is not paid and received by the Association within thirty-one (31) days after its due date shall be deemed to be delinquent, and, without notice, shall bear interest at the rate of eighteen percent (18%) per annum from the date originally due until paid. Further, the Board of Directors of the Association shall have the authority to impose a monthly late charge on any delinquent assessment. The monthly late charge, if imposed, shall be in addition to interest. Additionally, any Bulk Service provided to the Members by the Association may be suspended or terminated to a Member during any delinquency by such Member in payment of its assessments. To secure the payment of any assessments levied hereunder and any other sums due hereunder (including, without limitation, interest, late fees, fines, attorney's fees or delinquency charges), there is hereby created and fixed a separate and valid and subsisting continuing vendor's lien upon and against each Lot or Commercial Unit and all Improvements thereto for the benefit of the Association, and superior title to each Lot and Commercial Unit is hereby reserved in and to the Association. The lien described in this Section and the superior title herein reserved shall be deemed subordinate to any mortgage for the purchase or improvement of any Lot or Commercial Unit and any renewal, extension, rearrangements, or refinancing thereof, as set forth in Section 5.09 below. The collection of such annual maintenance charge and other sums due hereunder may, in addition to any other applicable method at law or in equity, be enforced by suit for a money judgment, and in the event of such suit, the expense incurred in collecting such delinquent amounts, including interest, administrative charges, delinquency charges, costs, and attorney's fees shall be chargeable to and be a personal obligation of the defaulting Owner. Further, the voting rights of any owner in default in the payment of any assessment, or other charge owing hereunder for which an Owner is liable, and/or any services provided by the Association, may be suspended by action of the Board for the period during which such default exists, unless prohibited by law. Notice of the lien referred to in this paragraph may, but shall not be required to, be given by the recordation in the office of the County's Real Property Records of an affidavit, duly executed, and acknowledged by an officer or authorized agent of the Association, setting forth the amount owned, the name of the Owner or Owners of the affected Lot or Commercial Unit, according to the books and records of the Association, and the legal description of such Lot or Commercial Unit. Each Owner, by acceptance of a deed to his Lot or Commercial Unit, hereby expressly recognizes the

existence of such continuing vendor's lien as being prior to his ownership of such Lot or Commercial Unit and hereby vests in the Association the right and power to bring all actions against such Owner or Owners personally for the collection of such unpaid annual maintenance charge and other sums due hereunder as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including both judicial and non-judicial foreclosure pursuant to Chapters 51 and 209 of the Texas Property Code (as same may be amended or revised from time to time hereafter) and in addition to and in connection therewith, by acceptance of the deed to his Lot or Commercial Unit, each Owner expressly grants, bargains, sells and conveys a power of sale to the President of the Association from time to time serving, as trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot or Commercial Unit, and all rights appurtenant thereto, in trust, for the purpose of securing the aforesaid assessment, and other sums due hereunder remaining unpaid hereunder by such Owner from time to time and grants to such trustee such power of sale. The trustee herein designated may be changed any time and from time to time by execution of an instrument in writing signed by the President or Vice President of the Association and filed in the office of the County's Real Property Records. In the event of the election by the Board to foreclose the lien herein provided for nonpayment of sums secured by such lien, then it shall be the duty of the trustee, or his successor, as hereinabove provided, to enforce the lien and to sell such Lot, and all rights appurtenant thereto, in accordance with the provisions of Chapters 51 and 209 of the Texas Property Code as same may hereafter be amended. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure the occupants of such Lot or Commercial Unit shall be required to pay a reasonable rent for the use of such Lot or Commercial Unit and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and, further, shall be entitled to sue for recovery of possession of such Lot or Commercial Unit by forcible detainer without further notice.

5.09 **Subordination of the Lien to Mortgage**. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot or Commercial Unit pursuant to a decree of foreclosure or a foreclosure by Trustee's sale under a deed of trust or a foreclosure of the assessment lien retained herein. Sale or transfer of any Lot or Commercial Unit shall not affect the assessment lien. However, the sale or transfer of any Lot or Commercial Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Commercial Unit from liability of any assessments which thereafter become due or from the lien thereof. In addition to the automatic subordination provided for above, the Association, in the discretion of its Board of Directors, may voluntarily subordinate the lien securing any assessment provided for herein to any other mortgage, lien, or encumbrance, subject to such limitations, if any, as such Board shall determine. No such voluntary subordination shall be effective unless given in writing by the Association upon a vote of the Board of Directors.

5.10. **Exempt Properties**. Any portion of the Property dedicated to and accepted by a local public authority shall be exempt from the assessments created herein. Local public

authorities include Harris County, Harris County Municipal Utility District No. 539, Katy Independent School District, and like public authorities. Non-profit organizations such as churches and private schools are not exempt from said assessments. Further, no land or improvements devoted to residential dwelling or commercial use shall be exempt from said assessments.

5.11 **Foundation Fee.** In addition to establishing the Association, the Declarant has established a non-profit foundation for the betterment of the Property, the betterment of the surrounding area where the Property is located, and the betterment of the Owners of the Property by the name of Samara Community Foundation, Inc (the "Foundation") by way of donations and grants and scholarships and the like to schools, police stations, fire stations, food banks, and other public services and private organizations. The Foundation will help to create a sense of community through sponsoring programs and events in and around the Property and surrounding areas. Therefore, each Owner of a Lot or Commercial Unit other than Declarant or other than a Builder (whether one or more Persons) at the time it purchases a Lot or Commercial Unit either directly from Declarant or from a Builder or from any other Owner thereof, hereby covenants to and shall be obligated to pay to the Foundation, a fee per Lot, at the time of purchase, as a Foundation Fee, in an amount equal to one-fifteenth of a percent (0.15%) of the gross sales price of the home situated on the Lot or the gross sales price of the improvements situated on the Commercial Unit. Such funds from the Foundation Fee collected at each purchase and sale and resale shall be used for benevolent purposes benefitting the surrounding community, the Property and its Owners, as well as operating expenses of the Foundation, and other purposes as long as consistent with its 501(c)(4) status, as the Foundation shall determine in its sole discretion (hereinafter "Foundation Fee"). Such Foundation Fee shall be non-refundable and shall not be considered an advance payment of any assessments or other fees levied by the Association pursuant to this Declaration. Such Foundation Fee will be collected from the Owner directly at the purchase of the Lot or Commercial Unit. If any Lot or Commercial Unit is subdivided and/or platted into multiple Lots or Commercial Units, then each of the multiple Lots or Commercial Units will thereafter be subject to the Foundation Fee at the time of each purchase. The Foundation Fee is secured by the lien created herein and all remedies for collection herein shall apply to Foundation Fees. In the event that the Foundation Fee fails to be collected at any sale or resale of a home situated on a Lot or the improvements situated on the Commercial Unit, then the Association is authorized to collect such Foundation Fee in the same manner as it collects assessments and other fees hereunder, with all of the remedies at law or contractually contained herein.

5.12 **Applicability to Landowner**. Notwithstanding anything to the contrary in this Declaration, this Article 5 shall not apply to any Lots owned by Landowner unless improved with a dwelling and occupied as a residence. Further notwithstanding anything to the contrary in this Declaration, in no event shall Landowner be obligated to pay any assessments, charges, fees, or other amounts required under this Article 5 or otherwise as set forth in this Declaration.

ARTICLE 6
DECLARANT'S RIGHTS AND RESERVATIONS

6.01. **Declarant's Rights to Use Common Areas.** Declarant reserves the right to reasonable use of the Common Area and of services offered by the Association in connection with the promotion and marketing of land within the boundaries of the Property. Without limiting the generality of the foregoing, Declarant may (a) erect and maintain signs, temporary buildings, and other structures on any part of the Common Area as Declarant may reasonably deem necessary or proper in connection with the promotion, development, and marketing of land within

the Property; (b) use vehicles and equipment within the Common Area for promotional purposes; (c) permit prospective purchasers of land within the boundaries of the Property, who are not Owners or Members of the Association, to use the Common Area at reasonable times and in reasonable numbers; and (d) refer to the services offered by the Association in connection with the development, promotion, and marketing of the Property.

6.02. **Declarant's Rights to Complete Development of the Community**. No provision of this Declaration shall be construed to prevent or limit Declarant's right (or require Declarant to obtain any approval) to (a) complete development of the land within the Property; (b) construct, alter, demolish, or replace improvements on any land owned by Declarant within the Property; (c) maintain storage areas, offices for construction, initial sales, resales, or leasing purposes or similar facilities on any land owned by Declarant or owned by the Association within the Property; (d) post signs incidental to development, construction, promotion, marketing, sales, or leasing of land within the Property; (e) excavate, cut, fill, or grade any land owned by Declarant; or (f) require Declarant to seek or obtain the approval of the Association for any such activities or improvement to land by Declarant on any land owned by Declarant. Nothing in this Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

6.03. **Declarant's Rights to Grant and Create Easements**. Declarant reserves the right to grant or create without the consent of any other Owner or the Association, temporary or permanent easements which benefit the property encumbered by the easement for access, utilities, pipelines, cable television systems, communication and security systems, drainage, water, landscape, and other purposes incident to development, sale, operation, and maintenance of the Property, located in, on, under, over, and across (a) land owned by Declarant, (b) the Common Area, and (c) existing utility easements. Declarant also reserves the right to grant or create without the consent of any other Owner or the Association, temporary or permanent easements for access over and across the streets and roads within the Property for the benefit of owners of land adjacent to the Property or owners of any other land, regardless of whether the beneficiary of the easements own land which is now or hereafter made subject to the jurisdiction of the Association.

ARTICLE 7
ARCHITECTURAL CONTROL

The overall plan for the development of Anniston contemplate centralization of architectural control to enhance, ensure, and protect the attractiveness, beauty, and desirability of the area while at the same time permitting compatible distinctiveness of individual neighborhoods and homes within the community. For this purpose, Declarant hereby reserves and retains the right of architectural control to itself or its assignee as hereinafter provided during the Development Period. Until Declarant has delegated its right to appoint and remove all members of the Architectural Review Authority (the "ARA") to the Board as provided in Section 7.02 (a) below, the ARA will be acting solely in Declarant's interest and will owe no duty to any other owner or the Association.

7.01 **Construction of Improvements**. No Improvement may be erected, placed, constructed, painted, altered, modified, or remodeled on any Lot, and no Lot may be re-subdivided or consolidated with other Lots or Property, by anyone other than Declarant without

the prior written approval of the Architectural Review Authority (the "ARA"). No shrubbery, grass, trees, or other landscaping (including seasonal color) may be placed, installed, altered, modified or replaced on any Lot without the prior written approval of the ARA. No Lot may be re-subdivided. No building, fence, wall, or other structure shall be commenced, erected, or maintained, and no landscaping shall be installed, upon the Property, nor shall any exterior addition to or change or alternation to such structure or the color thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same shall have been submitted to and approved in writing by the ARA. The ARA shall have the right to require any Owner to remove or alter any structure or landscaping which has not received approval or is built or installed other than in accordance with the approved plans. The requirement of this Article is in addition to any approvals or permits required by any appropriate governmental entity. The Declarant is exempt from the architectural review process.

7.02 **Architectural Review Authority**.

(a) Composition. The ARA will be composed of not more than five (5) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. Declarant will have the right to appoint and remove (with or without cause) all members of the ARA and during the Development Period, the members of the ARA may be all or some of the same persons then serving as directors on the Board of Directors or spouses of such directors or persons living in the household of such directors. After the Development Period, no member of the ARA shall be a member of the Board of Directors nor a spouse of a member of the Board of Directors nor a person living in the household of a member of the Board of Directors. Any vacancy shall be filled by a successor appointed by Declarant; until such successor(s) shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications, and plot plans submitted to or designate a representative with like authority. Declarant retains the exclusive right to review and approve or disapprove all plans and specifications for original construction of the Property. Declarant may assign its right to appoint all members of the ARA to the Association by written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the ARA. Declarant's right to appoint all members of the ARA will automatically be assigned to the Association upon the expiration of twenty-four (24) months after the expiration of the Development Period. The ARA will have the right to employ consultants and advisors as it deems necessary or appropriate. Declarant shall have the right but shall have no obligation, to delegate or assign initial and/or modification improvement authority to another party. Initial or modification improvements shall include but are not limited to, initial home building plans and modification improvements as outlined in Article 10 or any other area of the Builder Guidelines or Residential Improvement Guidelines. Declarant may assign this authority with written instrument.

(b) Submission and Approval of Plans and Specifications. All plans and specifications shall be submitted in writing over the signature of the Owner of the Lot or the Owner's authorized agent. Construction plans and specifications or, when an Owner desires to consolidate Lots, a proposal for such consolidation, will be submitted in accordance with the Design Guidelines, if any, or any additional rules adopted by the ARA together with any review fee which is imposed by the ARA in accordance with Section 7.02(c) to the ARA at such address

as may hereafter be designated in writing from time to time. No consolidation will be made, nor any Improvement placed or allowed on any Lot until the plans and specifications have been approved in writing by a Majority of the members of the ARA. The ARA, in reviewing such plans and specifications will consider the harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The ARA may postpone its review of any plans and specifications submitted for approval pending receipt of any additional information or material which the ARA, in its sole discretion, may require. The ARA may refuse to approve plans and specifications for proposed Improvements or for the consolidation of Lots on any grounds that, in the sole and absolute discretion of the ARA, are deemed sufficient, including, but not limited to, purely aesthetic grounds. Notwithstanding anything to the contrary herein, the Board of Directors shall have the absolute authority to affirm, modify, or reverse any decision, in whole or in part, of the ARA that it determines is not in keeping with the Association's governing documents or community-wide standard based on the business judgment rule. Any such modification or reversal shall be communicated in writing to the ARA and to the applicable Owner prior to the commencement of any site preparation for, or installation of, the proposed Improvement if reasonably possible but shall be binding on such Owner regardless of when communicated.

(c) Design Guidelines. Declarant shall have the right but shall have no obligation, to adopt Design Guidelines and, during the Development Period, amend, modify, or supplement the Design Guidelines, if any. Upon expiration or termination of the Development Period, or assignment of rights to the Association to appoint the ARA, the Association, will have the power from time to time, to adopt, amend, modify, or supplement the Design Guidelines. Any approvals granted by the Declarant or the ARA may not be revoked by future changes to the Design Guidelines. In the event of any conflict between the terms and provisions of the Design Guidelines, if any, and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. The ARA will have the power and authority to impose a fee for the review of plans, specifications, and other documents and information submitted to it pursuant to the terms of this Declaration. The ARA also may charge and collect such other fees, fines, or deposits as are reasonable and necessary, including but not limited to inspection fees, fines for noncompliance or violation of any Design Guidelines or this Declaration, deposits against damage to other Owners' property(ies) and/or Common Area, and deposits to secure completion of work being done. All fees, fines, and deposits are subject to change by the ARA without prior notice. Such charges will be held by the ARA and used to defray the administrative expenses incurred by the ARA in performing its duties hereunder. The ARA will not be required to review any plans until a complete submittal package, as required by this Declaration and the Design Guidelines, is assembled and submitted to the ARA. The ARA will have the authority to adopt such additional procedural and substantive rules and guidelines as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(d) Actions of the ARA. The ARA may, by resolution, designate one or more of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the ARA, except the granting of variances. In the absence of such designation, the vote of a Majority of the members of the ARA taken at a duly constituted meeting will constitute an act of the ARA.

(e) Failure to Act. In the event, the ARA, or its designated representative, fails to approve or disapprove such design and location within sixty (60) days after said plans and

specifications have been received by it, rejection of such plans will be presumed. Any failure of the ARA to act upon a request for a variance will not be deemed a consent to such variance, and the ARA's written approval of all variances will be required.

(f) Variances. The ARA may grant variances, in its sole and absolute discretion, from compliance with any provision of the Design Guidelines, if any. The ARA may not grant variance to the restrictions in Articles 10.01, 10.02, 10.04, 10.07, 10.08, 10.18, 10.19, 10.28, or 10.29 of the Declaration. All variances must be by the vote or written consent of a majority of the members thereof. If the Design Guidelines are recorded, each variance must also be recorded; provided however, that failure to record a variance will not affect the validity thereof or give rise to any claim or cause of action against the ARA, including the Declarant or its designee, the Association, or the Board. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration or the Design Guidelines for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration or the Design Guidelines. All such variances shall be in keeping with the general plan for the improvement and development of the Property. Variances contained in plans that are inadvertently approved by the ARA as part of the proposed improvements shall not be considered as having been approved unless specifically approved by the ARA in accordance with the provisions of this Section.

(g) **No Liability. NEITHER DECLARANT, THE ASSOCIATION, ITS BOARD OF DIRECTORS, THE ARCHITECTURAL REVIEW AUTHORITY, THEIR CONSULTANTS NOR ANY MEMBER THEREOF WILL BE LIABLE TO ANY OWNER FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL REVIEW AUTHORITY'S DUTIES UNDER THIS DECLARATION.**

Every person who submits plans or specifications to the ARA for approval agrees that no action or suit for damage will be brought against Declarant, the Association, its Board of Directors, the ARA, or any of the members thereof.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Property; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be made on the basis of aesthetic considerations only, and the ARA shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for the material used, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners, nor for ensuring that the improvements are fit for their intended purpose.

Declarant, the Association, the Board, any group of members, or any member of any of the foregoing shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a

Builder; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Board, the ARA, and the members of each shall be defended and indemnified by the Association as provided in the By-Laws.

(h) Prosecution of Work After Approval. After approval of any proposed Improvement, the proposed Improvement shall be accomplished as promptly and diligently as possible and in strict conformity with the description of the proposed Improvement in the materials submitted to the ARA. Failure to complete the proposed Improvement within nine (9) months after the date of approval or such other period of time as shall have been designated in writing by the ARA (unless an extension has been granted by the ARA in writing) or to complete the Improvement in strict conformity with the description and materials furnished to the ARA, shall be a breach of the obligations of the Owner under this Declaration and shall operate automatically to revoke the approval by the ARA of the proposed Improvement. No Improvement shall be deemed completed until the exterior fascia and trim on the structure have been applied and finished and all construction materials and debris have been cleaned up and removed from the site and all rooms in the residence, other than attics, have been finished. Removal of materials and debris shall not take in excess of thirty (30) days following completion of the exterior. It shall be a violation of the approval of any proposed Improvement if any other Owner's property or any Common Area is damaged or destroyed during the preparation for and the installation of any approved proposed Improvement by the Owner (or any contractor of such Owner), and such Owner will be liable to any such other Owner or the Association for the damages caused. If such damages are not repaired by the Owner causing same, then the amount(s) to repair such damage will be deemed to be a Parcel Assessment and shall be subject to collection from such Owner as such.

ARTICLE 8
DUTIES AND MANAGEMENT OF THE ASSOCIATION

8.01 **Duties and Powers.** In addition to the duties and powers enumerated in its Certificate of Formation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Own and/or accept easement rights over, maintain, and otherwise manage all Common Areas and all facilities, improvements, and landscaping thereon, and all other property acquired by the Association either by deed, easement, or specific agreement, including but not limited to any private utility easements, and any perimeter fencing around the Property.

(d) Pay any real and personal property taxes and other charges assessed against the Common Areas owned by the Association.

(e) Have the authority to obtain, for the benefit of all of the Common Areas, all water, gas, and electric services and refuse collection.

(f) Grant easements where necessary for utilities and sewer facilities over the Association-owned Common Areas to serve the Common Areas and the Property in general.

(g) Maintain such policy or policies of insurance as the Board of Directors of the Association may deem necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members.

(h) Have the authority to contract with a management company for the performance of maintenance and repair and for conducting other activities on behalf of the Association provided that such contract shall be limited to a duration of (1) year, except with the approval of a majority of the Members entitled to vote. Any such management agreement shall provide that it will be terminable by the Association with or without cause upon thirty (30) days' written notice.

(i) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Directors of the Association.

(j) Have a duty to maintain the Improvements upon the Common Areas, if any, and the duty to maintain the perimeter walls or fences located at entrances to the Property, Common Areas, greenbelt buffers, parks, and fencing and walls located on portions of Lots or Commercial Units.

(k) To enter into such contracts and agreements concerning the Property as the Board deems reasonably necessary or appropriate to maintain and operate the Property in accordance with the Declaration, and to assume any contracts and agreements concerning the Property entered into by the Declarant, including without limitation, the right to enter into agreements with adjoining or nearby property owners or governmental entities on matters of maintenance, trash pick-up, repair, administration, security, traffic, streets, telecommunication services or other matters of mutual interest.

(l) To take any and all actions, and to cause to be taken any and all actions which are the responsibility of the Association and the Board pursuant to this Declaration and the By-Laws, including but not limited to duties relating to electing Directors, creating budgets, delegating power, establishing and collecting assessments, the enforcement of all of the obligations of the Owners, to receive complaints and make determinations about violations of this Declaration, the By-Laws, the rules and regulations and policies, the holding of annual and special meetings, the management and maintenance of Common Property, the performance of all maintenance obligations of the Association hereunder and the payment of all costs and expenses to be paid by the Association hereunder.

(b) To have all rights and powers conferred on property associations by applicable law, in effect from time to time, ***provided, however, that the Association shall not have the power to institute, defend, intervene in, settle, or compromise proceedings in the name of any Owner or Member. Notwithstanding anything to the contrary in Section 12.03 hereof, any proposed amendment to this Section 8.01(k) shall be adopted only upon an affirmative vote of Members holding 100% of the total votes of the Association and the affirmative vote of the Declarant during the Development Period.***

8.02 **Litigation**. Except as provided below, the Association shall not commence any judicial or administrative proceeding without the approval of seventy-five percent (75%) of the total eligible Association vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration and/or any rules or policies (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 5; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

ARTICLE 9
UTILITY BILLS, TAXES AND INSURANCE

9.01 **Obligations of Owners.**

(a) Each Owner shall have separate electric, gas, and water meters and shall directly pay for all electricity, gas, water, sanitary sewer service, telephone service, security systems, cable television, and other utilities used or consumed by Owner.

(b) Each Owner may directly render for taxation Owner's Lot or Commercial Unit and improvements thereon, and shall at Owner's own cost and expense directly pay all taxes levied or assessed against or upon Owner's Lot or Commercial Unit.

9.02 **Obligation of the Association.**

(a) The Association shall pay, as a common expense of all Owners, for all water, gas, electricity, and other utilities used in connection with the enjoyment and operation of the Common Areas or any part thereof, regardless of whether the Association holds fee title to the Common Areas.

(b) The Association may render for taxation and, as part of the common expenses of all Owners, shall pay all taxes levied or assessed against or upon the Common Areas and the improvements and the property appertaining thereto, regardless of whether the Association holds fee title to the Common Areas.

(c) The Association shall have authority to obtain and continue in effect, as a common expense of all Owners, a blanket property insurance policy or policies to insure the structures, improvements, and facilities in the Common Areas and the contents thereof and the Association against risks of loss or damage by fire and other hazards as are covered under standard extended coverage provisions, in such amounts as the Association deems proper, and said insurance may include coverage against vandalism and such other coverage as the Association may deem desirable, regardless of whether the Association holds fee title to the Common Areas.

The Association shall also have the authority to obtain comprehensive general liability insurance in such amounts as it shall deem desirable, insuring the Association, its Board of Directors, agents, and employees, and each Owner (if coverage for Owners is reasonably available) from and against liability in connection with the Common Areas, regardless of whether the Association holds fee title to the Common Areas.

(d) All costs, charges, and premiums for all utility bills, taxes, and any insurance to be paid by the Association as hereinabove provided shall be paid as a common expense of all Owners and shall be paid out of the assessments.

ARTICLE 10
RESTRICTIONS OF USE

10.01 **Single Family Residential Construction.** Subject to Sections 10.02 and 10.11 of this Article, each Lot shall be used only for single-family residence purposes. No building shall be erected, altered, or permitted to remain on any Lot other than one single-family detached residential dwelling, and a private garage, which structure shall not exceed the main dwelling in height or number of stories. No such residence shall be constructed on less than the equivalent of one full Lot as defined in this Declaration or that may appear on any recorded plat or re-plat approved by Declarant or its assignee.

10.02 **Prohibition of Offensive or Commercial Use.** No professional, business, or commercial activity shall be conducted on any Lot, except an Owner or Member may conduct business activities incidental to residential use so long as: (i) such activity complies with all the applicable zoning ordinances; (ii) the business activity is conducted without the employment of persons other than the residents of the home constructed on the Lot; (iii) the business activity does not involve customers, contractors, clients, or the general public visiting the residence to conduct activities related to the business; (iv) the existence or operation of the business activity is not apparent or detectable by sight (including, but not limited to, signs advertising the business), sound, or smell from outside the residence; (v) the business activity does not involve door-to-door solicitation within the Property; (vi) the business does not, in the Board's sole judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vii) the business activity, in the Board's sole judgment, is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property; and (viii) the business does not require the installation of any machinery other than that customary to normal household operations. For the purpose of obtaining any business or commercial license, neither the residence nor Lot will be considered open to the public. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

Notwithstanding any provision in this Declaration to the contrary, until the expiration or termination of the Development Period:

(a) Declarant and/or its licensees may construct and maintain upon portions of the Common Area and any Lot owned by the Declarant such facilities and may conduct such activities which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single-family residences constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its licensees shall have an

easement over and across the Common Area for access and use of such facilities at no charge; and

(b) Declarant and/or its licensees will have an access easement over and across the Common Area for the purpose of making, constructing, and installing Improvements upon the Common Area.

(c) No activity which may be offensive or becomes an annoyance or nuisance to the neighborhood or which shall in any way unreasonably interfere with the quiet enjoyment of each Owner of such Owner's Lot or which shall degrade property values or distract from the aesthetic beauty of the Property shall be conducted thereon. No repair work, dismantling, or assembling of boats, motor vehicles, or other machinery shall be done in any driveway or adjoining street. Notwithstanding the above, Declarant, its successors or assigns, or Builders may use the Property for model homes display and sales offices and construction offices during the Development Period, or until all new homes on the Property have been sold.

10.03 **Building Materials.** The predominant exterior materials of the main residential structure, garage, ancillary buildings, or other structures, whether attached or detached, shall be masonry (brick, stucco, natural stone, or manufactured stone), wood, or fiber cement. No single-family construction, private garage, or any other structure located on the Property shall be permitted to have a heating or cooling device located in a window or any other opening which can be viewed from any portion of the Property. Heating and cooling devices may be used in windows or other openings of any structure used by Declarant or a Builder during the completion and sale of all construction of this subdivision.

10.04 **Location of Improvements upon the Lots.** No building, defined for the purposes of this section as a permanent vertical structure, shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plat or as defined in this Declaration subject to the following provisions:

(a)Building Setbacks. Building locations must conform to the plat of Anniston Section 2, as recorded at File Number RP-2023-424016 of the Real Property Records of Harris County, Texas, which shows building setback lines, and any subsequent plats, that the given Lot in question is a part of; easements dedicated by separate instruments; and all applicable government ordinances. In some cases, additional setbacks may be enforced by deed restrictions, neighborhood architectural guidelines, and/or the ARA for aesthetic reasons. Developer reserves the right to modify setback requirements.

Front yard building setback lines will be in accordance with the recorded plat.

The side yard building setbacks shall be the greater of five feet (5') on each side or the building setback shown on any recorded plat. Corner lot building lines are the greater of ten feet (10') from the side street property line or the building setback shown on any recorded plat.

The rear yard building setback shall be the greatest of i) seven feet (7'); ii) the width of the utility easement; or iii) the building setback shown on any recorded plat. No building shall be located nearer than the greatest of i) seven feet (7'); ii) the width of the utility easement; or iii) the building setback shown on
any recorded plat from the rear property line. Encroachment by residential structures and garages is prohibited in utility easements. All setbacks shall be measured to the edge of building walls and not to the edge of the respective overhangs.

(d) Corner Lots. Garages and driveways on corner lots shall be located adjacent to the interior property line, not the property line adjacent to the side street. "Side out" garages to a side street are prohibited.

(e) Driveways. Driveways must be a minimum of 3 feet from the side property line.

10.05 **Deviations.** Declarant, at its sole discretion, is hereby permitted to approve deviations in these restrictions on building area, location of improvements on the Lots, and building materials in instances where in its judgment, such deviation will not adversely affect the development of the Property as a whole. Such approvals must be granted in writing and when given will automatically amend these restrictions for that lot only.

10.06 **Composite Building Sites.** Any Owner of one or more adjoining Lots (or portions thereof) may consolidate such Lots or portions into one (1) building site, with the privilege of placing or constructing improvements on such resulting site, in which event setback lines shall be measured from the resulting side property lines rather than from the lot lines as indicated on the recorded plat. Any such composite building site must have a frontage at the building setback line of not less than the minimum frontage of lots in the same block on the applicable recorded plat of the respective section of Anniston. Any revision of lot sizes is subject to all applicable regulations and laws for the State of Texas and the County.

10.07 **Utility Easement.** Easements for installation and maintenance of utilities are reserved as shown on the recorded plat, and no structure shall be erected on any of such easements. Neither Declarant, the Association nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees or contractors to shrubbery, trees, flowers, or improvements located on the land covered by such easements.

10.08 **Electrical Distribution Service.** An electric distribution system will be installed in the Property, in a service area that will embrace all of the lots which are platted in the Property. In the event that there are constructed within the Property structures containing multiple dwelling units such as townhouses, duplexes, or apartments, then the underground service area shall embrace all of the dwelling units involved. The Owner of each lot containing a single dwelling unit, or in the case of multiple dwelling unit structure, the Owner or developer, shall, at its own cost, furnish, install, own, and maintain (all in accordance with the requirements of local governing authorities and the National Electrical Code) the underground service cable and appurtenances from the point of the electric company's metering at the structure to the point of attachment at such company's installed transformers or energized secondary junction boxes, the

point of attachment to be made available by the electric company at a point designated by such company at the property line of each lot. The electric company furnishing service shall make the necessary connections at said point of attachment and at the meter.

Declarant has either by designation on the plat or by separate instrument granted necessary easements to the electric company providing for the installation, maintenance, and operation of its electric distribution system and has also granted to the various homeowners reciprocal easements providing for access to the area occupied by and centered on the service wires of the various homeowners to permit installation, repair, and maintenance of each homeowner's owned and installed service wires. In addition, the Owner of each lot containing a single dwelling unit, or in the case of a multiple dwelling unit structure the Owner and developer thereof, shall at its own cost, furnish, install own, and maintain a meter loop (in accordance with the then-current standards and specifications of the electric company furnishing service) for the location and installation of the meter of such electric company for each dwelling unit involved. For so long as this service is maintained in the Property, the electric service to each dwelling unit shall be underground, uniform in character, and exclusively of the type known as single phase, 120/240 volt, three wire, 60 cycle, alternating current.

Easements for the underground service may be crossed by driveways and walkways provided the Lot Owner makes prior arrangements with the utility company furnishing any utility service occupying the easement and provides and installs the necessary conduit of approved type and size under such driveway or walkways prior to construction thereof.

Such easement for the underground service shall be kept clear of all other improvements, including buildings, patios or other paving, and neither Declarant nor any utility company using the
easements shall be liable for any damage done by either of them or their assigns, their agents, employees
or servants, to shrubbery, trees, flowers or other improvements (other than crossing driveways or walkways providing conduit has been installed as outlined above) of the Lot Owner located on the land covered by such easements.

10.09 **Bulk Internet Service**. The Association has entered into one or more agreements with one or more companies, including FisionX, which is an affiliate of the Declarant, for the installation of communications facilities (the "Facilities") and the provision of communications services (the "Services") at the Property. The Services may include, among other things internet, video, and telephone services, as well as other communications technologies.

Some of the Services may be delivered by one or more communications providers (each "Provider") to Members on a bulk basis, whereby one or more of the Services are delivered to the homes in the Property by the Provider. In the Property, the internet service is being provided as a bulk service by FisionX (the "Bulk Service"), and FisionX bills the Association for the provision of the Bulk Service each month for the Bulk Service delivered to all homes in the Property, and the Association assesses a monthly Bulk Service fee to individual Members which is included as part of the annual assessments. The terms of any Bulk Service arrangement are set forth in the Bulk Service Agreement between the Association and a Provider. The Declarant and the Association shall not have any liability for and are hereby released from, any cost, expense,

loss, damage, liability, or claim suffered by any Member as a result of any failure or interruption of the Bulk Internet Service to the Members.

To the extent any Bulk Service is delivered to the Property, each Member acknowledges that he or she must agree to the Provider's services subscriber agreement terms and acceptable use policy with the Provider to receive the Bulk Service and, except as provided by applicable law, the failure of a Member to agree to the Provider's services a subscription agreement and acceptable use policy with the Provider will not relieve a Member from the obligation to pay the Bulk Service fee attributable to Member's home. For any other Services not delivered on a bulk basis at the Property, a Member must individually subscribe with Provider for any such additional Services that the Member desires for Provider to deliver to Member's home and make payment arrangements directly with the Provider to pay for such additional Services. FisionX does provide additional Services which are not bulk services and for which a Member shall make arrangements for payment directly with FisionX.

All Members, by virtue of their ownership of a home in the Property, agree to be bound by all such easements or agreements for the installation of Facilities and provision of Services (including any Bulk Service), along with any amendments, renewals, and replacements thereof.

Failure of any Member to pay its annual assessments may result in, among other remedies for nonpayment, suspension, or termination of the Bulk Service. Therefore, delinquent annual assessments can be the basis for suspension or termination of the internet Bulk Service to a home until the delinquency and all amounts owing have been paid in full or a payment plan has been entered into and stays current. Additionally, FisionX has the contractual authority to charge a fee to reconnect any internet Bulk Service that has been suspended or terminated, in the amount of $50.00, which if charged must be paid to establish the reconnection.

10.10 **Temporary Structures**. No structures of a temporary character, nor any recreational vehicle, mobile home, trailer, basement, tent, shack, garage, barn, playhouse, or other outbuilding shall be constructed, erected, altered, placed, or permitted to remain on any Lot at any time as a residence. Notwithstanding the foregoing, Declarant reserves the exclusive right to erect, place and maintain, and permit builders to erect, place, and maintain, such facilities in and upon the Property as in its sole discretion may be necessary or convenient during the period of and in connection with the sale of Lots, construction and sale of homes and construction of other improvements on the Property.

10.11 **Outbuildings**. Outbuildings, defined as structures not connected to the residence on a lot including but not limited to storage buildings or sheds, or similar structures, whether temporary or permanent, are limited to only one (1) per lot. Outbuildings shall not exceed one hundred (100) square feet and eight (8) feet in height measured from grade. The standard, type, quality, and color of the materials used in the construction of the outbuilding shall be harmonious with those of the main residence. Building materials, including siding and roofing must be consistent with these Guidelines. Metal or vinyl buildings are not approvable. Outbuildings must conform to the building front and side setback restrictions set forth in the Declaration. No outbuilding shall impede drainage from the Lot or cause water to flow onto an adjacent lot. Outbuildings must be installed in the backyard, not installed within any easements, and **may not be visible from any public area**. Outbuildings visible from any street, lake, or other public space are not permitted and will not be approved by the ARA. There will be no variances approved. Outbuildings on lake or greenbelt lots that will NOT be visible from public view will be considered by the ARA for approval on a case-by-case basis depending on the proposed location of the outbuilding on said lot. All outbuildings are subject to approval by the ARA. Outbuildings may

not be placed nearer than ten (10) feet to the rear property line and shall meet the side lot setback criteria set forth in Section 10.04 of this Declaration, as modified for future land annexed into the Association and made subject to this Declaration.

10.12 **Play Structures.** One (1) free-standing play structure is permitted on a Lot with the prior written approval of the ARA; provided that, in no event shall a permitted play structure exceed ten (10) feet in height, measured from the ground to the highest point of the play structure, and in no event shall a platform of a play structure extend above the ground by more than five (5) feet. The canopy of a play structure, if any, shall be a solid color approved in writing by the ARA; a multi-colored canopy is not permitted. A play structure on a Lot must be located within the rear yard of the Lot and in accordance with the applicable side and rear building setbacks. The ARA shall have the authority to require a play structure on a Lot adjacent to a Common Area to be located farther from the rear or side property line than the applicable building setbacks to minimize the visibility of the play structure. A play structure on a corner lot shall not be located nearer to the side property line adjacent to the side street than twenty (20) feet. A free-standing play structure shall not be deemed to be an outbuilding for purposes of Section 10.11, above.

10.13 **Basketball Goals**. A pole-mounted basketball goal shall not be installed on a Lot without the prior written approval of the ARA. Upon reviewing an application for a pole-mounted basketball goal, the ARA is expressly authorized to consider, in addition to all other factors, the location of the proposed basketball goal in relation to the residential dwelling on the adjacent Lot with regard to noise. Wall or roof-mounted basketball goals are not approvable. Basketball goals may be regulation height.

Type and Quality: Basketball goals must be mounted on a rigid steel or aluminum pole. Goals on the garage or home structure are not permitted. The poles/posts shall be black or gray. White poles are not permitted. The backboard material must be fiberglass or safety glass. The backboard color must be clear (safety glass) with the exception of the white, black, orange, or red manufacturer's outline markings. The rim should be of heavy gauge steel and white, black, or orange in color. The net must be maintained in good condition as determined by the ARA. The pole must have a manufacturer's weather-resistant finish or be painted black.

One Per Lot: Only one basketball goal is permitted on a lot.

Location: Permanent/pole-mounted basketball goals may be located in the rear yard or in the front yard. Front yard permanent basketball goals must be located at least half the way up the driveway measured from the edge of the sidewalk or curb, as applicable, nearest to the house. A permanent/pole-mounted goal must not be within ten (10) feet of an adjacent Lot owner's amenities (air conditioning unit, shrubbery, gas meter, driveway, etc.). No permanent/pole-mounted goals will be allowed along the neighbor's adjoining side of a driveway if the neighbors' first-story windows) are exposed.

Portable Basketball Goals: Portable basketball goals must be stored out of view from any street in the subdivision when not in use (if used during the day they are to be stored away at night) and are not approvable for permanent installation. Portable basketball goals should be located at least half the way up the driveway measured from the edge of the sidewalk or curb, as applicable,

nearest to the house when in use. Portable basketball goals may not be utilized within any common area or public right of way (including greenbelts, sidewalks, streets, or cul de sacs).

Impact: Front yard and rear yard basketball goals must be located to minimize the visual and functional impact to the adjoining properties. The Architectural Review Committee or its designee may consider alternate locations to limit impact of adjacent properties. Additional screening and or fencing may be required.

Repair and Maintenance: Basketball goals, poles, rims, nets, supports, etc. must at all times be properly maintained, painted, and in good repair, as determined by the ARA. A basketball goal may not have a torn net, a bent rim, bent or broken supports, a deteriorated or discolored backboard, a rusted or discolored pole, or a leaning pole. A basketball goal which does not comply with these maintenance requirements may be required to be removed by the direction of the ARA.

10.14 **Animals – Household Pets. Animals - Household Pets**. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Property (as used in this paragraph, the term "domestic household pet" does not mean or include non-traditional pets such as **pot-bellied pigs, miniature horses, chickens, exotic snakes or lizards, ferrets, monkeys or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words.** No Owner or Occupant may keep on a Lot more than three cats and dogs, in the aggregate, without prior written consent of the Board. No animal may be allowed to make an unreasonable amount of noise or to become a nuisance, and no domestic pets will be allowed on the Property other than within the residence, or the fenced yard space associated therewith, unless confined to a leash. The Board may restrict pets to certain areas on the Property. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches, or other outside areas of the Lot. All pet waste will be removed and appropriately disposed of by the owner of the pet in a timely manner. All pets must be registered, licensed, and inoculated as required by Applicable Law. All pets not confined to a residence must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Property. If the animal owner fails to remove the animal from the Lot after the Board's request, the Board may remove the animal, in addition to imposing such other sanctions as are authorized by the Declaration and the Bylaws."

10.15 **Walls, Fences, and Hedges**. All walls, fences, planters, and hedges shall be controlled strictly for compliance with this Declaration and architectural standards established and promulgated by the Declarant or the ARA.

(a) Any and all walls, fences, planters, or hedges shall be installed and maintained in a manner such that drainage between, across, through, or from lots shall not be obstructed or altered from original intent as shown in the approved grading plans for the section in question.

(b) No wall, fence, or hedge in excess of six feet (6') in height shall be erected and maintained on a side lot line from a point located three feet (3') back from the front exterior corner of the main residential structure, backward to the rear property line on a Lot. ARA reserves the right to review this clause on a case-by-case basis, where special conditions exist due to topography.

(c) On corner lots, side yard fences must be set back from the side property line one-half ($^1/_2$) of the side building line setback shown on the plat.

(d) Perimeter fencing on all Lots shall be maintained to a fence standard equivalent to original construction and all fencing must be consistent with this Declaration and architectural standards established and promulgated by Declarant or the ARA.

(e) Fences of wire or chain link construction are prohibited, and the design and materials of all fences shall be approved by the ARA prior to construction.

10.16 **Antennas.** No television, radio, or other electronic towers, aerials, antennae, satellite dishes, or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall be erected, constructed, placed or permitted to remain on any Lot or Commercial Unit or upon any improvements thereon, except that this prohibition shall not apply to those antennae specifically covered by the regulations promulgated under the Telecommunications Act of 1996, as amended from time to time or any future federal or state regulation promulgated regarding high definition antennae The ARA is empowered to adopt rules governing the types of antennae that are permissible in the Property and to establish reasonable, non-discriminatory restrictions relating to safety, location and maintenance of antennae. To the extent that receipt of an acceptable signal would not be impaired, antennae permissible pursuant to the rules of the ARA may only be installed on the roof to the rear of the improvements on the Lot or Commercial Unit, and integrated with the dwelling. Antennae shall be installed in compliance with all state and local laws and regulations. The location must be approved by the ARA. Preferable mounting locations are on the back of the home below the roof peak, so as to not be readily visible from the street.

10.17 **Visual Screening.** All clotheslines, equipment, garbage cans, service yards, woodpiles, refuse containers, or storage piles and household projects such as equipment repair and construction projects shall be screened by adequate planting or fencing so as to conceal them from view of neighboring lots, streets, parks, and public areas. All rubbish, trash, and garbage shall be kept in sanitary refuse containers with tightly fitting lids and shall be regularly removed from the lots and not allowed to accumulate thereon.

All stack vents and attic ventilators shall be located on the rear roof slopes perpendicular to the ground plane. They shall be placed in a location least visible from public areas and adjoining property.

10.18 **Visual Obstructions at the Intersections of Public Streets.** No object or thing which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways within the triangular area formed by the junction of street curb lines and a line connecting them at points twenty-five feet (25') from the junction of the street curb lines (or extensions thereof) shall be placed, planted or permitted to remain on any corner lots.

10.19 **Lot Maintenance.** All Lots shall be kept at all times in a sanitary, healthful, and attractive condition, and the Owner or occupant of all Lots shall eradicate all weeds and keep all grass thereon cut, neatly maintained, and regularly fertilized. Owner, at all times, shall be responsible for prompt removal and replacement of dead or dying trees, bushes, and bedding plants. In no event shall Owner use, or allow any Lot or Commercial Unit to be used, for storage of material and equipment except for normal residential purposes or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash, or rubbish of any kind thereon, and shall not burn any garbage, trash or rubbish. Any and all Improvements located on a Lot or Commercial Unit shall be maintained in good working order and repair.

10.20 **Storage of Non-Passenger Vehicles & Restrictions on Street Parking.** Except as otherwise specifically provided in this Declaration, no Owner, lessee, tenant or occupant of a Lot (including all persons who reside with such Owner, lessee or occupant on the Lot, and any guests), shall park, keep, or store any vehicle for any duration on any Lot or street if the vehicle is visible from any street or any neighboring Lot in the Subdivision (including, but not limited to, boats, trailers, modified trailers, ATVs, Recreational Vehicles/RV's, motorhomes, motor bus, motorcycles, bicycles, commercial vehicles [as defined by the Texas Administrative Code, a motor vehicle, other than a motorcycle or moped, designed or used primarily for the transportation of property, including any passenger car that has been reconstructed to be used, and is being used, primarily for delivery purposes, with the exception of a passenger car used in the delivery of the United States mail, must be registered as a commercial vehicle], construction equipment, lawn mowers, lawn tractors and similar equipment, and non-operational vehicles). This prohibition does not include a passenger vehicle or light truck, provided the passenger vehicle or light truck is parked on the driveway for a period not exceeding forty-eight (48) consecutive hours, and is not parked overnight on any street in the Subdivision. No vehicle shall be parked, kept, or stored, for any duration, in a manner that blocks, or partially blocks, any sidewalk within the Property or on any Lot.

For purposes of these restrictions, the term "passenger vehicle" is limited to any vehicle that displays a passenger vehicle license plate issued by the State of Texas or which, if displaying a license plate issued by another state, would be eligible to obtain a passenger vehicle license plate from the State of Texas, and is used primarily for the personal transportation of passengers and not transportation of passengers or goods for compensation or transportation of passengers or goods or equipment in connection with business use. The term "passenger vehicle" does not include vehicles that, in the sole discretion of the Board, have been adapted or modified for commercial use or that were intended for use as a residence. Such commercial modifications may include, but are not limited to, business signage on the vehicle, removal of passenger seating, or any other conversions that limit the passenger vehicle's ability to transport passengers.

The term "light truck" is limited to a pickup truck, sports utility vehicle, or van. A "light truck" may not exceed one (1) ton capacity and does not include RVs, motorhomes, or motor buses. The term "light truck" does not include vehicles that, in the sole discretion of the Board, have been adapted or modified for commercial use or that were intended for use as a residence. Such commercial modifications may include but are not limited to, business signage on the vehicle, removal of passenger seating, installation of storage for tools or other trade items, or any other conversions that limit the light truck's ability to transport passengers.

All streets and/or roads within the Property are subject to the restrictions and covenants contained within this Declaration, and all conveyances of streets and/or roads, whether by easement or in fee-simple, are specifically made subject to the restrictions and covenants contained within this Declaration, and any amendments thereto.

10.21 **Signs, Advertisements and Billboards.** No sign, advertisement, billboard, or advertising structure of any kind shall be displayed to the public view on any portion of a Lot or Common Areas except for one sign for each Lot of not more than twenty-eight (28) inches by thirty-eight (38) inches solely advertising the Lot for sale or rent, and except signs used by Declarant or a Builder to advertise the Lot during the construction and sales period. The Declarant and the Association shall have the right to remove any signs, advertisements billboards, or structure which is placed on said Lot or Common Areas, in violation of this section and in so doing shall not be subject to any liability for trespass or other tort in connection therewith or arising from such removal. An Owner or Resident will be permitted to post a "no soliciting" and "security warning" sign near or on the front door to their residence, provided, that the sign may not exceed twenty-five (25) square inches. The Design Guidelines approved by the Board may permit school spirit subject to the conditions relating to size and period of display as contained in the guidelines.

10.22 **Removal of Soil and Trees.** The digging of soil or the removal of soil from any Lot is expressly prohibited except as necessary in conjunction with the landscaping of or construction on said Lot. No trees shall be cut except to provide room for construction of improvements or to remove dead or unsightly trees and then only following the obtaining of written approval for such cutting by Declarant or the ARA, given in their sole discretion.

10.23 **Roofing Material.** Roofing materials must have a minimum warranty period of 25 years. Composition shingle roofs shall be comparable in color to weathered wood. Colors for slate, clay, or concrete tile roofs shall be approved individually by the Declarant or its assignee. Any other type or classification roofing material shall be permitted only at the sole discretion of the Declarant or its assigns upon written request, as may be further supplemented by Board resolution.

10.24 **Landscaping.**

(a) The landscaping plan for each Lot shall be submitted to the ARA for review and approval before commencing installation. The landscape plan shall be in compliance with guidelines published and promulgated by the ARA.

(b) All landscaping for a Lot shall be completed in accordance with the landscaping plan approved by the ARA no later than thirty (30) days following the issuance of a certificate of occupancy for the residential dwelling situated thereon.

(c) All front, back, and side yards of each Lot shall, unless otherwise approved by the ARA, be sodded with St. Augustine grass. The Owner of each Lot shall plant and maintain St. Augustine grass between the boundary of their Lot and the paved right of way adjacent to their Lot.

(d) No hedge or shrubbery planting which obstructs sight lines of streets and roadways shall be placed or permitted to remain on any Lot where such hedge or shrubbery interferes with traffic sight lines for roadways within the subdivision. The determination of whether any such obstruction exists shall be made by the ARA, whose determination shall be final, conclusive, and binding on all Owners.

(e) No rocks, rock walls, or other substances shall be placed on any Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of such Lot or to otherwise impede or limit access to the same. Bird baths, foundations, reflectors, statues, lawn sculptures, artificial plants, rock gardens, rock walls, free-standing bird houses, or other fixtures and accessories are discouraged from use in the front or side yards of any Lot, but shall ultimately be subject to ARA review and approval.

(f) No vegetable, herb, or similar gardens or plants shall be planted or maintained in the front or side yards of any Lot or in the rear (back) yard of any Lot if visible from any street.

(g) The ARA may from time to time establish and promulgate rules and regulations adopting an approved list of plant life which may be utilized on any Lot, which rules and regulations may prescribe that a minimum dollar amount be established and utilized as the landscaping budget for each Lot.

(h) No Owner shall allow the grass on this Lot to grow to a height in excess of six (6) inches, measured from the surface of the ground.

(i) Seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall be removed from each Lot or residential dwelling within a reasonable period of time after such holiday passes. The ARA shall have the sole discretion to determine what is a reasonable period of time for seasonal or holiday decorations to exist after the holiday passes and its determination shall be final.

(j) Each Owner shall be responsible for maintaining and replacing, if necessary, the front yard and street trees in accordance with Guidelines published and promulgated by the ARA.

(k) Declarant or the ARA shall have the right to modify or establish landscape requirements for any additional land or lots annexed into the Association and made subject to this Declaration and shall establish landscape requirements for uses other than single-family residential on a case-by-case basis.

(l) The Association will perform the Front Yard Maintenance.

(m) All grass, shrub, trees, flower beds, vegetation and all other landscaping, (all of which must be natural; artificial landscaping is not allowed) on each Lot which is not maintained by the Association must be maintained by the Owner of each Lot at all times, in accordance with the seasons and as reasonably necessary to obtain and maintain on a consistent and continuing basis the prevailing community standards and landscaping minimum standards as established in the Residential Improvement Guidelines for Homeowners, including as reasonably necessary to maintain on a consistent and continuing basis a sanitary, healthful and attractive condition and appearance and to eliminate any condition which may create any unsanitary condition or become a harborage for rodents, vermin or other pests. Owners may not embellish the landscaping, grass and vegetation of a Lot without the prior written approval of the ARA. Any changes in the existing landscaping installed by the builder or later installed by an Owner with approval must have prior written approval from the ARA. Owners have the obligation to replace dead or diseased trees, landscaping, grass or vegetation after prior written approval of the ARA. If an Owner fails or refuses to replace same, the Association shall have the right, but not the obligation, through its agent, contractors and/or employees, to enter upon sail Lot to exercise its self-help remedy to do so, and 110% of the cost of such replacement shall be billed against the respective Lot for which work is performed, such bill to be due upon receipt and if not timely paid, such bill shall be assessed as a Parcel Assessment against such Lot, which Parcel Assessment shall be secured by a lien against such Lot as herein provided. Owners are responsible for all maintenance of the Front Yard not performed by the Association and understand and agree that Front Yard Maintenance may not cover all items in need of routine maintenance in the Front Yard and that the Owner of the Lot is responsible for such maintenance.

10.25 **Swimming Pools and Other Water Features.** No swimming pool, outdoor hot tub, reflecting pond, sauna, whirlpool, lap pool, and other water feature shall be constructed, installed, and maintained on a Lot without the prior written approval of the ARA. The ARA shall have the right to adopt Guidelines governing the construction of swimming pools, outdoor water features, and other amenities on Lots within the Subdivision. Permanent, above-ground swimming pools are not permitted. Swimming pools, decking, waterfalls, or any other feature associated with the pool may not encroach into any utility easement, a platted building line, or within five (5) feet of any property line.

10.26 **Drainage**. Texas law requires that the Owner of a Lot ensure that the placement of any improvement or landscaping on the Owner's Lot does not halt or materially impede drainage flowing off of a neighboring Lot and does not redirect the flow or significantly increase the amount of water flowing onto a neighboring Lot. The drainage from each Lot should be directed to the street where possible. A Lot cannot block drainage from an adjacent Lot that naturally flows across that Lot on a path to a drainage swale, stream, or outlet. A three (3) foot drainage easement shall be located on each side lot line. The three (3) foot drainage easement is required on both lots of common side property lines and shall be used for drainage. Enforcement of this requirement is by the affected Lot Owner(s).

10.27 **Solar Panels**. A Solar Panel (or Solar Module) is a packaged interconnected assembly of solar cells, also known as photovoltaic cells. The Solar Panel can be used as a component of a

larger photovoltaic system to generate and supply electricity to individual residences on a Lot. To be approved as a Solar Panel, the installation must produce alternating current for the use on a Lot or single-family residence on the Lot. All other solar energy devices are prohibited during the Development Period. It is expressly recognized that the Solar Panels may generate excess electricity which may be sold by the Owner back to their electrical provider. The proposed location of the Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring must be submitted to the ARA for prior written approval.

(a) ARA Approval Required. Any installation of Solar Panels is subject to ARA approval pursuant to Article 7. The ARA reserves the right to determine the size, shape, number, color, and location of any Solar Panels permitted to be installed on a Lot.

(b) Mounting Location. The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring must be located to the rear one-half (1/2) of the lot, must not be visible from the frontage street or adjoining streets, and must serve only improvements on the particular lot in which it is located unless an alternate location on the roof increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten (10%) percent. In such instance, the Solar Energy Device and any mast shall be placed in the least visible location where an acceptable level of annual energy production is still possible. Solar Panels may not be mounted on any pergola or outbuilding. In no case may any Solar Panel be mounted on any roof surface parallel to the front street (i.e. the street of address) of any residence. The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring shall not extend above the roofline of the house or other structure upon which the Solar Energy Device is located. The slope of the Solar Energy Device and any brackets must conform to the slope of the roof and must have a top edge that is parallel to the roofline.

(c) General Product Specification. Solar Panels mounted on the roof of a residence are to be black in color, with a low-profile mount allowing no more than four inches (4") between the roof shingles and the base of the Solar Panel. The ARA reserves the right to maintain a list of approved Solar Panels for roof installation. Typical installation shall be a single array on one roof surface. In cases where a residence may have limited southern exposure, two separate arrays may be employed.

(d) Obstructions to Sunlight. Although an Owner's intent may be that Solar Panels shall be installed on the Owner's Lot with unrestricted access to direct sunlight, Owner may only control those obstructions on Owner's Lot. Neither Owner, nor installer may enter onto adjacent common area or adjacent Lots to remove any actual or perceived obstructions to sunlight on those adjacent properties, nor may they demand that such obstructions be removed for their benefit. It is recognized by all parties that natural growth from trees planted on the Lot, on adjacent Lots, and on adjacent common areas may in time obstruct sunlight to the Solar Panel.

(e) Maintenance. Solar Panels shall be maintained to a standard equivalent to original construction. In the event the Solar Panels are no longer functioning, Owner or Occupant shall remove the Solar Panels and restore the roof of the residence to a "like new" condition.

(f) Solar Shingles. Solar Shingles are solar cells designed to look like conventional asphalt shingles. Solar Shingles are approvable for installation subject to the restrictions of use for Solar Panels. The ARA reserves the right to approve colors for Solar Shingles.

(g) Owner's Liability. Owner shall indemnify and hold harmless the Association, and the ARA, and the Declarant, and their respective officers, directors, members, agents, and employees from any claims arising from or related to, in whole or in part, the installation, use or presence of Solar Panels or Solar Shingles on such Owner's Lot, whether installed by or at the request of such Owner or otherwise.

(h) The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring must not threaten the public health or safety as adjudicated by a court or violate the law as adjudicated by a court.

(i) The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring must be silver, bronze, or black tone commonly available in the marketplace place, and no advertising slogan, log, print or illustration shall be permitted upon the Solar Energy Device or any related mast, frame, brackets, support structure, piping and wiring mast, other than the standard logo, printing or illustration which may be included by the applicable manufacturer for the Solar Energy Device or any related mast, frame, brackets, support structure, piping and wiring mast.

(j) The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring shall not be constructed or placed or permitted to remain on any property owned or maintained by the Association.

(k) The Solar Energy Device and any related mast, frame, brackets, support structure, piping, and wiring installed hereunder shall be installed in a manner that complies with all applicable laws and regulations and manufacturer's instructions and as installed, must not void the manufacturer's warranty.

10.28 **Subdividing**. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the ARA; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the ARA.

10.29 **Liability of Owners for Damage to Common Area**. No Owner shall in any way alter, modify, add to, or otherwise perform any work upon the Common Area without the prior written approval of the Board and the Declarant during the Development Period. Each Owner shall be liable to the Association for any and all damages to: (a) the Common Area and any Improvements constructed thereon; or (b) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such Owner or Owner's family, or by any tenant or other Resident of such Owner's Lot, or any guest or invitee of such Owner or Resident. The full cost of all repairs of such damage shall be a Parcel Assessment against such Owner's Lot, secured by

a lien against such Owner's Lot and collectable in the same manner as provided in Article 5 of this Declaration.

10.30 **Leases/Rentals**. Nothing in this Declaration shall prevent the lease of any Lot and the Improvements thereon by the Owner thereof for single-family residential purposes; provided that all leases must be for terms of at least six (6) months, must include full-service landscape maintenance in the base rent, and must lease the entirety of the Lot and all improvements thereon for the duration of the lease. Any lease for a duration of less than (6) months, or any lease, regardless of duration, that leases only a portion of the Lot, or any improvements on the Lot, are expressly prohibited. For purposes of this provision, leases include any conveyance other than fee-simple conveyance (e.g. rentals).

All leases shall be in writing and be provided to the Association along with the name and contact information of the renter and the Owner. The Owner must provide to its lessee copies of the restrictions. Notice of any lease, together with such additional information as may be required by the Board, will be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. The lease of any Lot and the Improvements thereon by the Owner shall not relieve the Owner of their personal liability for damages to Common Area, or any costs of enforcement of the Declarations.

10.31 **Rules**. The Declarant and/or the Board of Directors is hereby specifically authorized to promulgate rules and policies governing the Property, including but not limited to rules or policies incorporating use restrictions, design guidelines, parking and traffic issues, usage of the Common Areas, and any other activity within or related to the Property; provided that, so long as Landowner owns a Lot or any portion of the Property, the adoption, amendment and/or modification of a material nature of such rules shall be subject to Landowner's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The adoption, amendment and/or modification of a non-material nature shall not require consent.

All such rules, regulations, policies, and guidelines shall be recorded in the Harris County Real Property Records.

10.32 **Enforcement**. In the event of default on the part of the Owner or occupant of any Lot in observing any or all of the requirements herein set forth, and such default continuing after ten (10) days written notice thereof, the Declarant or the Association may, without liability to the Owner or occupant, in trespass or otherwise, enter upon said Lot, cut, or cause to be cut, such weeds and grass, and remove or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with these restrictions, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner or occupant of such Lot for the cost of such work. The Owner or occupant, as the case may be, agrees by the purchase or the occupation of the Lot to pay such statement immediately upon receipt thereof. Such charge shall become an additional assessment in accordance with Article 5, Section 5.01(b) of these restrictions.

10.33 **Applicability to Landowner**. Notwithstanding anything to the contrary in this Declaration, this Article 10 shall not apply to any Lots owned by Landowner unless improved with a dwelling and occupied as a residence.

ARTICLE 11
SECURITY

11.01 **Security**. The Association, its directors, officers, manager, employees, agents and attorneys, and Declarant ("Association and Related Parties") shall not in any way be considered an insurer or guarantor of security within the Property. The Association and Related Parties shall not be liable for any loss or damage by reason of failure to provide adequate security or the ineffectiveness of security measures undertaken. Owners, lessee, and occupants of all Lots, on behalf of themselves, and their guests and invitees, acknowledge that the Association and Related Parties do not represent or warrant that any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devises, or other security systems (if any are present) will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devices or other security systems will in all cases provide the detection or protection for which the system is designed or intended. Owners, lessees, and occupants of Lots on behalf of themselves, and their guests and invitees, acknowledge and understand that the Association and Related Parties are not an insurer and that each Owner, lessee and occupant of any Lot and on behalf of themselves and their guests and invitees assumes all risks for loss or damage to persons, to residential dwellings and to the contents of their residential dwelling and further acknowledges that the Association and Related Parties have made no representations or warranties nor has any Owner or lessee on behalf of themselves and their guests or invitees relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire protection, burglar alarm systems, access control systems, patrol services, surveillance equipment, monitoring devises or other security systems recommended or installed or any security measures undertaken within the Property.

ARTICLE 12
GENERAL PROVISIONS

12.01 **Enforcement**. These restrictions shall run with the Property and shall be binding upon and inure to the benefit of and be enforceable by Declarant, Landowner, the Association, each Owner and occupant of a Lot, or any portion thereof, and their respective heirs, legal representatives, successors, and assigns. If notice and an opportunity to be heard are given, the Association shall be entitled to impose reasonable fines (per day or per occurrence) for violations of the restrictions or any rules and regulations adopted by the Association or the ARA pursuant to any authority conferred by either of them by these restrictions and to collect reimbursement of actual attorney's fees and other reasonable costs incurred by it relating to violations of the restrictions. Such fines, fees, and costs may be added to the Owner's assessment account and collected in the manner provided in Article 5 of this Declaration.

In the event any one or more persons, firms, corporations, or other entities shall violate or attempt to violate any of the provisions of the restrictions, the Declarant, the Association, each

Owner or occupant of a Lot, or any portion thereof, may institute and prosecute any proceeding at law or in equity to abate, preempt or enjoin any such violation or attempted violation or to recover monetary damages caused by such violation or attempted violation. Upon the violation of any of the provisions of these restrictions by any Owner, in addition to all other rights and remedies available to it at law, in equity or otherwise, the Association, acting through the Board, shall have the right to suspend the right of such Owner to vote in any regular or special meeting of the members during the period of the violation.

12.02 **Severability**. Invalidation of any one of these covenants, conditions, or restrictions shall not affect any other provision, which shall remain in full force and effect.

12.03 **Duration; Amendment**. The provisions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from this date, after which time they shall be automatically extended for successive periods of ten (10) years.

This Declaration may be amended during the first twenty-five-year period by an instrument signed by a sufficient number of Owners representing not less than sixty-seven percent (67%) of the total votes in the Association and the consent of the Declarant during the Development Period, and thereafter by an instrument signed by a sufficient number of Owners representing not less than sixty-seven (67%) percent of the total votes; provided, however, so long as the Declarant owns any Lots, no amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant. In addition, any amendment hereto (i) to change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner, or (ii) to change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the maintenance of Common Areas, or (iii) to use hazard insurance proceeds for losses to the improvements in Common Areas, if any, for other than the repair, replacement or reconstruction of such improvements shall require the additional approval of two-thirds (2/3) majority of the First Mortgagees (based upon one vote for each mortgage owned). This Declaration may also be amended as set forth below in Section 12.04.

Any amendment hereto affecting any of the following shall require the additional approval of sixty-seven percent (67%) of the First Mortgagees (based upon one vote for each mortgage owned):

(1) voting;

(2) reserves for maintenance of the Property;

(3) insurance or fidelity bonds;

(4) rights to use of the Common Areas;

(5) responsibility for maintenance of the Common Areas;

(6) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey a Lot or Commercial Unit; and

(7) any provisions which are for the express benefit of First Mortgagees, or eligible insurers or guarantors of first mortgages on Lots or Commercial Units.

All amendments shall be recorded in the Harris County Real Property Records.

Deeds of conveyance of Lots or Commercial Units or any part thereof may contain the above restrictive covenants by reference to this document, but whether or not such reference is made, each and all of such restrictive covenants shall be valid and binding upon the respective grantees.

12.04 **Declarant Rights.** The Declarant reserves the sole and exclusive right during the Development Period, without joinder, vote, consent or any other approval of, and without notice of any kind to, the Association, the Board, the ARA, any Owner or any other Person, except for the Landowner as set forth herein, (i) to adopt, amend, modify, revise or repeal, from time to time and at any time, this Declaration and any other governing documents, (ii) to prepare, amend, modify, revise or repeal any Plat covering or to cover the Property, including without limitation elimination, change or reconfiguration of any Lots, reserves, compensating open space, street, easement, or any other parts, features, depictions, descriptions, notes, restrictions and any other aspects of any Plat, or any amendments or revisions thereof, (iii) to designate, construct or expand the Common Areas, including any Improvements thereon, and to modify, eliminate, discontinue, reconfigure, redesign, re-designate, or in any other manner change the Common Areas, including any Improvements thereon, (iv) to grant one or more residential use easements in any part of any reserve in favor of any Owner whose Lot or any part thereof abuts a reserve, in which case the area of land covered by each residential use easement will be appurtenant to and will be subject to all applicable provisions of this Declaration and all other applicable Governing Documents to the same extent as the applicable abutting Lot, and to all other provisions of the residential use easement grant, (v) to combine with, annex in to and/or to otherwise make a part of the Property any other real property, any part of which is adjacent to, or across any street from, or otherwise located within a ten (10) mile radius from, any part of the Property as configured at the time of the combination or annexation, (vi) with the consent of the owner thereof if Declarant is not the owner, to withdraw or remove any real property from the Property, and (vii) as to any or all of the foregoing, to amend this Declaration, any Plat and any other governing documents accordingly, provided that no such amendment shall change the vested property rights of any Owner, except as otherwise provided herein; provided, however, that so long as Landowner owns a Lot or any portion of the Property, all of the foregoing of a material nature shall require Landowner's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. The foregoing of a non-material nature shall not require consent.

Post-Development Period Annexation. Without limitation of above, at any time within ten years after termination of the Development Period, and with the written consent of all owners of the property to be annexed, if Declarant is not the owner, Declarant may unilaterally combine with, annex into and to make a part of the Subdivision any other real property, any part of which is adjacent to, or across any street from, or otherwise located within a ten-mile radius from, any part of the Property as configured at the time of the combination or annexation. Declarant may combine or annex any real property as aforesaid without the joinder, vote, consent, or any other approval of, and without notice of any kind to, the Association, the Board, the ARA, any Owner, or any other Person, and in any such case Declarant may amend the Declaration, any Plat, and any other Governing Documents accordingly. In the event of any combination or annexation after the Development Period as aforesaid, the Development Period will thereby be

automatically reinstated ipso facto as to all of the combined or annexed real property until completion of the sale by Declarant of the last Lot in the combined or annexed real property.

Withdrawal. Declarant also reserves the unilateral right to amend this Declaration with respect to the legal description of the Property, so long as it has the right to annex additional property in this Section 12.04, for the purpose of removing unimproved portions of the Property from the coverage of this Declaration. Such amendment shall not require the consent of any person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the portion of the Property to be withdrawn is owned by the Association, then the Association shall consent to such withdrawal by majority vote of the Board. For purposes of this Section 12.04, the term "unimproved" shall mean no above-ground, vertical improvements located on such property.

12.05 **Books and Records.** The books and records of the Association shall, during reasonable business hours, be subject to reasonable inspection by any Member for any proper purpose. The Board of Directors has, by resolution, established rules and regulations governing the frequency of inspection and other matters to the end that inspection of the books and records by any Member will not become burdensome to nor constitute harassment of the Association. The Declaration, the Certificate of Formation, and By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

12.06 **Notices.** Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing. In the event an Owner sells or leases his or her Lot or Commercial Unit, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot or Commercial Unit and such other information as the Board may reasonably require. Every Owner shall be obligated to deliver to the Association or its managing agent current phone numbers for contact purposes and current email addresses and to update same within ten (10) days of any change to any of them.

12.07 **Good Faith Lender's Clause.** Any violation of these covenants, conditions, or restrictions shall not affect any lien or deed of trust of record held in good faith, upon any Lot or Commercial Unit, which liens may be enforced in due course, subject to the terms of this Declaration.

12.08 **Mergers.** Upon a merger or consolidation of the Association with another association as provided by its Certificate of Formation, its properties, assets, rights, and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights, and obligations of another association may be transferred to the Association as a surviving corporation. The surviving or consolidated association shall administer the covenants, conditions, and restrictions contained in this Declaration, under one administration. No such merger or consolidation shall cause any revocation, change, or addition to this Declaration.

12.09 **Annexation.**

(a) In addition to the Declarant specific provisions for annexation described in Section 12.04, additional land or lands may be annexed to the Property with the consent of two-thirds (2/3) of each voting tier of Members, and the approval of the owner(s) of the land to be annexed.

(b) Any such additions shall be developed in a manner similar to the development of the Property in accordance with a general plan of development under which the architectural standards
prevailing within the Property will be continued in such annexed lands, the dwellings or commercial structures to be constructed on Lots or Commercial Units within such annexed lands will be similar to the residential dwelling or commercial structures constructed on the Property, and the Lots or Commercial Units within the annexed lands will become subject to assessment in the same manner as then prevailing for the Property. All the provisions of this Declaration shall apply to the lands being annexed with the same force and effect as if said lands were originally included in the Property subject to this Declaration.

(c) The additions authorized under this Article shall be made by filing of record in the County's Real Property Records: (a) Supplementary Declaration(s) of Covenants, Conditions and Restrictions with respect to the additional lands which shall (i) extend the scheme of the covenants and restrictions of this Declaration to such lands and (ii) provide, if applicable, that the proportionate ownership interests in the Common Areas of the Owners by virtue of Association membership immediately prior to the filing of such Supplementary Declaration shall be equal to the number of Lots and Commercial Units owned by such Owner divided by the total number of Lots and Commercial Units within the lands then subject to this Declaration after such annexation; and (b) a deed from Declarant to the Association which shall convey to the Association all of the area within such additions (except for the Lots or Commercial Units therein) as Common Areas for the benefit and use of the Owners, with reservation of Declarant's rights set forth herein.

12.10 **Conveyance of Common Area**. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal and real property. Declarant, and its assignees, reserve the right, from time to time and at any time, to designate by written and recorded instrument portions of the Property being held by the Declarant for the benefit of the Association; provided, however, that so long as Landowner owns a Lot or any portion of the Property, such designation and/or Transfer shall be subject to Landowner's prior written consent, not to be unreasonably withheld, conditioned or delayed. Upon the filing of such designation, the portion of the Property identified therein will be considered Common Area for the purpose of this Declaration. Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Property, or the Property and the general public, and the Association will accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Such property will be accepted by the Association and thereafter will be maintained as Common Area by the Association for the benefit of the Property and/or the general public subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment to the extent conveyed in error or needed to make minor adjustments in property lines,

as determined in the sole and absolute discretion of the Declarant. The Declarant shall determine, in its sole discretion, the appropriate time to convey all or any part of the Property to the Association. The Association shall be obliged to accept such conveyance(s) without setoff, condition, or qualification of any nature. The Association shall immediately acknowledge any such conveyance if requested by Declarant. The Common Area, personal property and equipment and appurtenances thereto, shall be dedicated or conveyed in "AS IS", "WHERE IS" CONDITION WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON PROPERTY, PERSONALTY AND EQUIPMENT BEING CONVEYED.

12.11 **Indemnification**. The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then-Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors 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 shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation if such insurance is reasonably available.

12.12 **Landowner Rights**. Notwithstanding anything to the contrary in this Declaration, so long as Landowner owns any Lot, Declarant shall not act unilaterally in exercising its rights of a material nature as set forth in Sections 12.04, 12.09, and 12.10 hereof without Landowner's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. Such consent shall not be needed for acts of a non-material nature.

ARTICLE 13
DISPUTE RESOLUTION

13.01 **Introduction; Definitions; Amendment**. The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties" or individually, a "Party") agree to encourage the amicable resolution of disputes and to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined. This Article may only be amended with the prior written approval of the Declarant (until the end of the Development Period), the Association (acting through a Majority of the Board), and Owners holding 100% of the votes in the Association. As used in this Article only, the following words, when capitalized, have the following specified meanings:

13.01.1. "**Claim**" means:

(i) Claims relating to the rights and/or duties of Declarant or the Association under
the restrictions.

(ii) Claims relating to the acts or omissions of the Declarant or Board members of the Association and any claim asserted against the Declarant or any appointed member of the ARA.

(iii) Claims relating to the design or construction of any Improvements by the Declarant or claims relating to the design or construction of any Improvements by any developers, contractors, subcontractors, suppliers, and/or design professionals alleging construction and/or design defects.

13.01.2. "**Claimant**" means any Party having a Claim against any other Party.

13.01.3. "**Respondent**" means any Party against which a Claim has been asserted by a Claimant.

13.02 **Mandatory Procedures.** Claimant may not initiate any proceeding against the Declarant before any administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the procedures of this Article. As provided in *Section 13.07* below, a Claim will be resolved by binding arbitration. In the event that the Association intends to assert a Claim against the Declarant, the Declarant must first be given the opportunity to inspect and the right to address or cure the Claim in a reasonable amount of time after such inspection. In the event the Association still asserts a Claim against the Declarant after such inspection and cure period, the Association must obtain the approval from Members holding seventy-five percent (75%) of the votes in the Association to provide the Notice described in *Section 13.03*, initiate the mandatory dispute resolution procedures set forth in this *Article*, or take any other action to prosecute a Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of the meeting of Members to approve prosecution of the Claim must be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of any proposed engagement letter, with the terms of such engagement between the Association and an attorney to be engaged by the Association to assert or provide assistance with the claim (the "**Engagement Letter**"); (iii) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which it may be liable if it is not the prevailing party or that the Association will be required, pursuant to the Engagement Letter or otherwise, to pay if the Association elects to not to proceed with the Claim; (iv) a summary of the steps previously taken, and proposed to be taken, by the Board to resolve the Claim; (v) the manner in which the Association proposes to fund the cost of prosecuting the Claim; (vi) the impact on the finances of the Association, including the impact on present and projected reserves, in the event the Association is not the prevailing party. The notice required by this paragraph must be prepared and signed by a person other than, and not employed by or otherwise affiliated with, the attorney or law firm that represents or will represent the Association in the Claim. In the event Members approve providing the Notice described in *Section 13.03*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a

meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

13.03 **Notice.** Claimant must notify Respondent in writing of the Claim (the "**Notice**"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim; (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section. If the Claim is not resolved during negotiation, mediation pursuant to *Section 13.05* is required without regard to the monetary amount of the Claim.

13.04 **Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property.

If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the Property to take and complete corrective action.

13.05 **Mediation.** If the parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If the parties are unable to agree to a mediator, the parties will utilize the American Arbitration Association for this role. If Claimant does not submit the Claim to mediation within the 30-day period or does not appear for the mediation, then the Claimant shall be deemed to have waived the Claim, and the Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim.

13.06 **Termination of Mediation.** If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate arbitration proceedings on the Claim, as appropriate and permitted by this Article.

13.07 **Binding Arbitration-Claims.** All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 13.07*. If a Claim has not been resolved after Mediation as required by *Section 13.05*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 13.07* and the rules and procedures of the American Arbitration Association ("AAA") or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Harris County,

Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's "Construction Industry Dispute Resolution Procedures" and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer- Related Disputes. If such Rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this *Section 13.07*, this *Section 13.07* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows: (i) one arbitrator shall be selected by Respondent, in its sole and absolute discretion; (ii) one arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and (iii) one arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

13.08 **Exceptions to Arbitration; Preservation of Remedies**. No provision of, nor the exercise of any rights under, this *Section 13.08* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

13.09 **Statute of Limitations**. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this Article.

13.10 **Scope of Award; Modification or Vacation of Award**. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings, the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of federal or state law; or (iv) a cause of action or remedy not expressly provided under existing state or federal law. By taking title to a Lot or Commercial Unit, each Owner acknowledges and agrees that such Owner has waived and shall be deemed to have waived the right to any award of damages in connection with the arbitration of a dispute other than such

Owner's actual damages. In no event may an arbitrator award speculative, consequential, or punitive damages for any Claim.

13.11 **Allocation of Costs**. Each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting Party shall be awarded reasonable attorneys' fees incurred in defending such contest. In addition, if a Party fails to abide by the terms of a mediation settlement or arbitration award, the other Party shall be awarded reasonable attorneys' fees and expenses in enforcing such settlement award.

13.12 **General Provisions**. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. The waiver or invalidity of any portion of this Article shall not affect the validity or enforceability of the remaining portions of this Article.

13.13 **Other Dispute Resolutions.** Notwithstanding the parties' obligation to submit any Claim to mediation and arbitration, in the event that a particular Claim is not subject to the arbitration provisions of this Declaration, then the parties agree to the following provisions: **CLAIMANT ACKNOWLEDGES THAT JUSTICE WILL BE BEST SERVED IF ISSUES REGARDING THIS DECLARATION ARE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY. CLAIMANT AND RESPONDENT AGREE THAT ANY CLAIM SHALL BE HEARD BY A JUDGE IN A COURT PROCEEDING AND NOT A JURY. CLAIMANT AND RESPONDENT HEREBY WAIVE THEIR RESPECTIVE RIGHT TO A JURY TRIAL.** By taking title to a Lot or Commercial Unit, each Owner acknowledges and agrees that such Owner has waived and shall be deemed to have waived the right to any award of damages in connection with the litigation of a dispute other than such Owner's actual damages. In no event shall a judge award speculative, consequential, or punitive damages for any Claim.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 30th day of August, 2024.

Declarant:

Lennar Homes of Texas Land and Construction, Ltd, a Texas limited partnership, d/b/a Friendswood Development Company

By: U.S. Home, LLC, a Delaware limited liability company (as successor-in-interest by conversion from U.S. Home Corporation, a Delaware corporation), its general partner

By: _____
Michael W. Johnson, Vice President

STATE OF TEXAS §
§
COUNTY OF Harris §

The foregoing instrument was acknowledged before me on this the 30th day of August, 2024, by Michael W. Johnson, Vice President of U.S. Home, LLC, a Delaware limited liability company, as general partner of Lennar Homes of Texas Land and Construction Ltd., on behalf of said companies.

YOLANDA BARAJAS
Notary ID #4912704
My Commission Expires
September 29, 2024

_____
Notary Public, State of Texas

RP-2024-322724

JOINDER BY LANDOWNER

Executed this 12 day of June, 2024, also by the undersigned, as the owner of the real property being subjected hereto, not as Declarant nor as the developer thereof but in order to subject such real property to the terms, provisions and conditions of this Declaration.

FR Beeson, LLC, a Delaware limited liability company

Signature: _____
Name: Brandon Jenkins
Title: Authorized Signatory

~~STATE OF~~ District of
~~COUNTY OF~~ Columbia

This instrument was acknowledged before me on the 12 day of June, 2024, by Brandon Jenkins, Authorized Signatory of FR Beeson, LLC, a Delaware limited liability company, on behalf of such entity.

_____
Notary Public, ~~State~~ of District of Columbia

EMILY KAY REIDER
NOTARY PUBLIC
MY COMMISSION EXPIRES
12 14/2027
DISTRICT OF COLUMBIA

After Recording please return to:
Friendswood Development Company
681 Greens Parkway, Suite 220
Houston, TX 77067-4526
Attn: Yolanda Barajas

RP-2024-322724

CONSENT AND SUBORDINATION OF LENDER

The undersigned, FUNDRISE INCOME REAL ESTATE FUND, LLC, a Delaware limited liability company ("Lender"), as successor by merger to Fundrise Real Estate Investment Trust, LLC, a Delaware limited liability company, is the owner and holder of that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing from FR Beeson, LLC, to Amanda K. Holcomb, Esq., as Trustee, for the benefit of Lender, dated August 31 , 2021, recorded as RP-2021-507957, Harris County, Texas records; as affected by that certain Subordination, Non-Disturbance and Attornment Agreement by and among FR Beeson, LLC, a Delaware limited liability company, Lennar Homes of Texas Land and Construction, Ltd, a Texas limited partnership, and Lender, dated August 31 , 2021, recorded as RP-2021-507958, aforesaid records (said instruments as now or hereinafter modified, amended, restated and/or partially released or otherwise affected being collectively referred to herein as the "Security Instrument").

Lender hereby consents to and subordinates the Security Instrument to the foregoing Declaration of Covenants, Conditions, and Restrictions to which this Consent and Subordination is attached (as may be amended from time to time, the "Declaration"), and Lender agrees that all of its right, title and interest in and to the real property described therein by virtue of the Security Instrument shall be bound by, subject to and subordinate to the easements and other terms and provisions of the foregoing Declaration, and the foregoing Declaration shall survive any foreclosure, deed in lieu of foreclosure and/or exercise of any remedy by Lender pursuant to the Security Instrument or any other instrument that Lender holds; provided, however, that nothing herein shall modify, alter or amend the Security Instrument as between Lender and the borrower thereunder.

Executed this 14 day of June, 2024.

[LENDER SIGNATURE FOLLOWS]

LENDER:

FUNDRISE INCOME REAL ESTATE FUND, LLC,
a Delaware limited liability company

By: _____
Name: Brandon Jenkins
Title: Authorized Signatory

Acknowledgement

~~STATE OF~~ District of)
) ss.
~~COUNTY OF~~ Columbia)

This instrument was acknowledged before me on the 12 day of June, 2024, by Brandon Jenkins, Authorized Signatory of FUNDRISE INCOME REAL ESTATE FUND, LLC, a Delaware limited liability company, on behalf of said limited liability company.

_____
Notary Public
My commission expires: 12/14/2027

EMILY KAY REIDY NOTARY PUBLIC MY COMMISSION EXPIRES 12-14-2027 DISTRICT OF COLUMBIA

RP-2024-322724

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09/04/2024 07:21 AM

e-Filed & e-Recorded in the

Official Public Records of

HARRIS COUNTY

TENESHIA HUDSPETH

COUNTY CLERK

Fees $245.00

RP-2024-322724

RECORDERS MEMORANDUM
This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.

COUNTY CLERK
HARRIS COUNTY, TEXAS