

**DECLARATION OF
COVENANTS, CONDITIONS
& RESTRICTIONS
FOR
SABLE CREEK**

Sanger, Denton County, Texas

Declarant

Sable Creek Partners, Ltd.

During the Development Period, Appendix C has priority over the main body of this Declaration.

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**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
SABLE CREEK**

This Declaration of Covenants, Conditions & Restrictions for Sable Creek is made by Sable Creek Partners, Ltd., a Texas limited partnership ("**Declarant**"), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon.

Declarant desires to establish a general plan of development for the planned community to be known as Sable Creek. Declarant also desires to provide a reasonable and flexible procedure by which Declarant may expand the Property to include additional real property, and to maintain certain development rights that are essential for the successful completion and marketing of the Property.

Declarant further desires to provide for the preservation, administration, and maintenance of portions of Sable Creek, and to protect the value, desirability, and attractiveness of Sable Creek. As an integral part of the development plan, Declarant deems it advisable to create a property owners association to perform these functions and activities more fully described in this Declaration and the other Documents described below.

Declarant **DECLARES** that the property described in Appendix A, and any additional property made subject to this Declaration by recording one or more amendments of or supplements to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's representations and reservations in the attached Appendix C, which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of any part of the Property.

**ARTICLE 1
DEFINITIONS**

The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1. **"Additional Land"** means real property which may be added to the Property and subjected to this Declaration by Declarant and the owner of such property, as described in Section 2.2 of this Declaration.

1.2. **"Applicable Law"** means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the Document, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superceded by one or more other statutes or ordinances.

1.3. **"Architectural Reviewer"** means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant, Declarant's designee, or Declarant's delegatee. Thereafter, the board-appointed Architectural Control Committee is the Architectural Reviewer.

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1.4. **"Assessment"** means any charge levied against a lot or owner by the Association, pursuant to the Documents or State law, including but not limited to Annual Assessments, Special Assessments, Individual Assessments, and Deficiency Assessments, as defined in Article 8 of this Declaration.

1.5. **"Association"** means the association of owners of all lots in the Property, initially organized as Sable Creek Owners Association, a Texas nonprofit corporation, and serving as the "property owners' association" defined in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration and the bylaws.

1.6. **"Board"** means the board of directors of the Association.

1.7. **"City"** means the City of Sanger, Texas, in which the Property is located.

1.8. **"Common Area"** means portions of real property and improvements thereon that are owned and/or maintained by the Association, as described in Article 4 below.

1.9. **"Declarant"** means Sable Creek Partners, Ltd., a Texas limited partnership, which is developing the Property, or the successors and assigns of Sable Creek Partners, Ltd., which acquire any portion of the Property for the purpose of development and which are designated a Successor Declarant by Sable Creek Partners, Ltd., or by any such successor and assign, in a recorded document.

1.10. **"Declarant Control Period"** means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix C of this Declaration.

1.11. **"Declaration"** means this document, as it may be amended from time to time.

1.12. **"Development Period"** means the 20-year period beginning the date this Declaration is recorded, during which Declarant has certain rights pursuant to Appendix C hereto, including rights relating to development, construction, expansion, and marketing of the Property and the Additional Land. The Development Period is for a term of years and does not require that Declarant own any part of the land described in Appendix A. Declarant may terminate the Development Period at any time by recording a notice of termination.

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1.13. **"Documents"** means, singly or collectively as the case may be, this Declaration, the Plat, the bylaws, the Association's articles of incorporation, and the rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is a part of that Document.

1.14. **"Lot"** means a portion of the Property intended for independent ownership, on which there is or will be constructed a dwelling, as shown on the Plat. As a defined term, "Lot" does not refer to common areas, even if platted and numbered as a lot. Where the context indicates or requires, "Lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the Lot.

1.15. **"Majority"** means more than half. A reference to "a majority of owners" in any Document or applicable law means "owners of at least a majority of the Lots," unless a different meaning is specified.

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1.16. **"Member"** means a member of the Association, each member being an owner of a lot, unless the context indicates that member means a member of the board or a member of a committee of the Association. In the context of votes and decision-making, each Lot has only one membership, although it may be shared by co-owners of a Lot.

1.17. **"Owner"** means a holder of recorded fee simple title to a lot. Declarant is the initial owner of all Lots. Contract sellers and mortgagees who acquire title to a lot through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure are owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not owners. Every owner is a member of the Association. A reference in any Document or applicable law to a percentage or share of owners or members means owners of at least that percentage or share of the Lots, unless a different meaning is specified. For example, "a majority of owners" means owners of at least a majority of the Lots.

1.18. **"Plat"** means all plats, singly and collectively, recorded in the Real Property Records of Denton County, Texas, and pertaining to the real property described in Appendix A of this Declaration, including all dedications, limitations, restrictions, easements, notes, and reservations shown on the plat, as it may be amended from time to time. The initial plat, titled "Final Plat of Sable Creek Phase One," was recorded on May 24, 2005, as Document 61767, Cabinet W, Page 304 and 305, Real Property Records, Denton County, Texas.

1.19. **"Property"** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Sable Creek. The Property is located on land described in Appendix A to this Declaration, and includes every Lot and any Common Area thereon.

1.20. **"Resident"** means an occupant of a dwelling, regardless of whether the person owns the Lot.

1.21. **"Rules"** means rules and regulations of the Association adopted in accordance with the Documents or applicable law. The initial Rules may be adopted by Declarant for the benefit of the Association.

1.22. **"Underwriting Lender"** means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or U.S. Department of Veterans Affairs (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an owner's financing options nor as a representation that the Property is approved by any institution.

ARTICLE 2

PROPERTY SUBJECT TO DOCUMENTS

2.1. **PROPERTY.** The real property described in Appendix A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant's representations and reservations in the attached Appendix C, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each owner of the Property.

2.2. **ADDITIONAL PROPERTY.** Additional real property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of owners representing at least two-thirds of the lots in the Property, or, during the Development Period, by Declarant as permitted in Appendix C. Annexation of additional property is accomplished by recording a declaration of annexation, including an amendment of Appendix A, in the county's Real Property Records.

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2.3. ADJACENT LAND USE. Declarant makes no representations of any kind as to current or future uses - actual or permitted - of any land that is adjacent to or near the Property, regardless of what the plat shows as potential uses of adjoining land.

2.4. PLAT DEDICATIONS, EASEMENTS & RESTRICTIONS. In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, notes, easements, restrictions, and reservations shown or cited on the plat, which is incorporated herein by reference. Each owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the plat, and further agrees to maintain any easement that crosses his Lot and for which the Association does not have express responsibility.

2.5. STREETS WITHIN PROPERTY. Because streets and cul de sacs within the Property (hereafter "streets") are capable of being converted from publicly dedicated to privately owned, and vice versa, this Section addresses both conditions. Private streets are part of the Common Area which is governed by the Association. Public streets are part of the Common Area only to the extent they are not maintained or regulated by the city or county.

2.5.1. Public Streets. As to public streets, the Association, acting through the Board, is specifically authorized (1) to accept from the city or other governmental body any delegation of street-related duties, and (2) to act as attorney in fact for the Owners in executing instruments required by public ordinance or public law to impose, modify, or remove restrictions or traffic devices (such as speed bumps) on public streets in the Property.

2.5.2. Private Streets. As to private streets, if any, the Association, acting through the Board, is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for use of private streets, if any, in Sable Creek - including but not limited to:

- a. Identification of vehicles used by Owners and residents and their guests.
- b. Designation of speed limits.
- c. Designation of parking or no-parking areas.
- d. Limitations or prohibitions on curbside parking.
- e. Removal or prohibition of vehicles that violate applicable rules and regulations.
- f. Fines for violations of applicable rules and regulations.

ARTICLE 3

PROPERTY EASEMENTS AND RIGHTS

3.1. GENERAL. In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.

3.2. EASEMENT FOR ENTRY FEATURE & SCREENING WALL. The Association is hereby granted a perpetual easement (the "Screening Wall Easement") over each Lot that abuts or contains a portion of the Property's formal entrances or the Property's screening wall, fence, or berm as originally installed by Declarant, or replacements thereof, including any such improvements along Highland Drive for the purposes stated in this Section, regardless of whether or how the plat shows the easement, entry features, or screening wall, fence, or berm. This Screening Wall Easement does not pertain to individual lot fences, even though the Lot abuts a major thoroughfare. This Section may not be construed to create an obligation on any party, including Declarant, to install entry or screening features on a Lot or Common Area.

3.2.1. Purpose of Easement. The purpose of the Screening Wall Easement is to provide for the existence, repair, improvement, and replacement of the Property's formal entrances, and screening

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wall, fence, or berm, to be maintained by the Association as a Common Area. In exercising this Screening Wall Easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the screening or entrance of a residential subdivision, including: screening walls, fences and/or berms; planter beds, landscaping, and plant material; electrical and water meters, and equipment, including light fixtures and sprinkler systems, and signage relating to the Property.

**NOTICE: LOTS ALONG HIGHLAND DRIVE
ARE SUBJECT TO A SCREENING WALL EASEMENT.**

3.2.2. Rights Reserved. The Owners of the Lots burdened with the Screening Wall Easement will have the continual use and enjoyment of their Lots for any purpose that does not interfere with the Association's use of the Screening Wall Easement.

3.2.3. Temporary Easement. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of a burdened lot as may be reasonably necessary for the Association to perform its contemplated work on the Screening Wall Easement.

3.2.4. Duration, Termination & Assignment of Easement. This easement is perpetual. The Screening Wall Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform. The Association may assign this easement, or any portion thereof, to the city if the city agrees to accept the assignment

3.3. FLOOD PLAIN & FLOODWAY DRAINAGE EASEMENT. According to the Plat, portions of the Property are in or adjacent to a 100-year flood plain and subject to a floodway easement. Please refer to the Plat for information about the flood plain and the easement. Neither the Association nor Declarant has any responsibility or liability for (1) the location, relocation, or maintenance of the easement or flood plain, (2) the availability or purchase of flood insurance, or (3) the consequences of rising waters or flood-related damage. No improvements of any kind, including fences and berms, may be installed or maintained in any portion of the flood plain or floodway drainage easement, nor may the grading or drainage in those areas be changed. Any Owner, the Association, or the city may effect the removal of any item or improvement that violates this provision.

3.4. OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted a right and easement of enjoyment over the Common Areas and to use of improvements therein, subject to other rights and easements contained in the Documents. An Owner who does not occupy a Lot delegates this right of enjoyment to the residents of his lot. Notwithstanding the foregoing, if a portion of the Common Area, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

3.5. OWNER'S INGRESS/EGRESS EASEMENT. Every Owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his Lot.

3.6. RIGHTS OF CITY. The city, including its agents and employees, has the right of immediate access to the Common Areas at all times if necessary for the welfare or protection of the public, to enforce city ordinances, or for the preservation of public property.

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3.7. ASSOCIATION'S ACCESS EASEMENT. Each owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon - including the house and yards for the below-described purposes.

3.7.1. Purposes. Subject to the limitations stated below, the Association may exercise this easement of access and entry for the following express purposes:

- a. To inspect the Property for compliance with maintenance and architectural standards.
- b. To perform maintenance that is permitted or required of the Association by the Documents or by Applicable Law.
- c. To perform maintenance that is permitted or required of the owner by the Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- d. To enforce architectural standards.
- e. To enforce use restrictions.
- f. To remove signs that violate the Association's sign restrictions.
- g. The exercise of self-help remedies permitted by the Documents or by Applicable Law.
- h. To enforce any other provision of the Documents.
- i. To respond to emergencies.
- j. To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- k. To perform any and all functions or duties of the Association as permitted or required by the Documents or by Applicable Law.

3.7.2. No Trespass. In exercising this easement on an Owner's Lot, the Association is not liable to the Owner for trespass.

3.7.3. Limitations. If the exercise of this easement requires entry onto an Owner's Lot, including into an Owner's fenced yard, the entry will be during reasonable hours and after notice to the owner. This Subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property.

3.8. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over Common Areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Board. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

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3.9. MINERAL RIGHTS. Some or all of the Property may be subject to a previous owner's acquisition, reservation, or conveyance of oil, gas, or mineral rights pursuant to one or more deeds recorded in the Real Property Records of Denton County, Texas, including but not limited to rights to all oil, gas, or other minerals lying on, in, or under the Property and surface rights of ingress and egress. Because the deed reserving the mineral interest was recorded prior to this Declaration, it is a superior interest in the Property and is not affected by any provision to the contrary in this Declaration. By accepting title to or interest in a Lot, every Owner acknowledges the existence of the mineral right or reservation referenced in this Section and its attendant rights in favor of the owner of the mineral interest.

3.10. NOTICE OF LIMITATION ON LIABILITY. The development of the Property occurs during a period when many local governments are trying to be absolved of liability for flood damage to private property. As a condition of plat approval, a governmental entity may require a plat note that not only disavows the entity's liability for flood damage, but affirmatively assigns the liability to the Association. Declarant does not intend or desire to impose such absolute liability on the nonprofit association of Lot Owners. Notwithstanding plat notes or public codes or ordinances now in existence or hereafter created, the Association cannot and should not be liable for acts of God or for property damage that is not the result of the Association's negligence or willful misconduct. On behalf of the Association, Declarant hereby gives notice that the Association does not accept liabilities imposed by any governmental entity for which the Association cannot obtain insurance at a reasonable cost, or for which its members refuse to fund reserve accounts at levels sufficiently high to pay the damages for which the governmental entity may seek to make the Association liable. This notice is not intended to create a liability for any governmental entity. Further, this notice may not be construed to create a duty for the Association to obtain insurance or to fund reserve accounts for damage from rising waters.

PLEASE CAREFULLY READ THE SECURITY & RISK SECTIONS

3.11. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner and resident further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each owner and resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

3.12. RISK. Each resident uses all Common Areas at his own risk. All Common Areas are unattended and unsupervised. Each resident is solely responsible for his own safety and that of his guests. The Association disclaims any and all liability or responsibility for injury or death occurring from use of the Common Areas.

During the Development Period, Appendix C has priority over the main body of this Declaration.

ARTICLE 4

COMMON AREA

4.1. **OWNERSHIP.** The designation of real property as a Common Area is determined by the Plat and this Declaration, and not by the ownership of the Property. This Declaration contemplates that the Association will eventually hold title to every Common Area capable of independent ownership by the Association. The Declarant may install, construct, or authorize certain improvements on Common Areas in connection with the initial development of the Property, and the cost thereof is not a common expense of the Association. Thereafter, all costs attributable to common areas, including maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the Common Areas, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

4.2. **ACCEPTANCE.** By accepting an interest in or title to a Lot, each owner is deemed (1) to accept the Common Area of the Property, and any improvement thereon, in its then existing "as-is" condition; (2) to acknowledge the authority of the Association, acting through its board of directors, for all decisions pertaining to the Common Area; (3) to acknowledge that transfer of a Common Area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the common area, regardless of changes in the Association's board of directors or management.

4.3. **COMPONENTS.** The Common Area of the Property consists of the following components on or adjacent to the Property, even if located on a lot or a public right-of-way:

- a. All of the Property, save and except the Lots.
- b. The land described in Appendix A as Common Area and all improvements thereon, including any amenity center on the Common Area.
- c. Any area shown on the plat as Common Area or an area to be maintained by the Association.
- d. The formal entrances to the Property, including (if any) the signage, landscaping, electrical and water installations, planter boxes and fencing.
- e. The screening walls, fences, or berms along the Highland Drive side of the Property.
- f. Landscaping on medians along Sable Creek Boulevard and islands (if any) on other streets within the Property, to the extent they are not maintained by the city.
- g. The grounds between Highland Drive and the screening walls, fences, or berms, to the extent that the Association has a right or duty to maintain or regulate that portion of the Highland Drive right-of-way.
- h. Any property and improvements adjacent to Sable Creek if the maintenance of same is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property.
- i. Any modification, replacement, or addition to any of the above-described areas and improvements.

During the Development Period, Appendix C has priority over the main body of this Declaration.

- j. Personal property owned by the Association, such as books and records, office equipment, and supplies.

ARTICLE 5

ARCHITECTURAL COVENANTS AND CONTROL

5.1. PURPOSE. Because the Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a Lot, including but not limited to dwellings, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

**BEFORE MAKING ANY IMPROVEMENT OR ANY ALTERATION
TO A LOT OR DWELLING, A BUILDER OR OWNER
MUST APPLY FOR WRITTEN APPROVAL.**

5.2. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, neither the Association, the board of directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new homes on vacant Lots. During the Development Period, the Architectural Reviewer for new homes on vacant lots is the Declarant or its delegates.

5.2.1. Declarant's Rights Reserved. Each owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property or the ability of Builders to sell homes in the Property. Accordingly, each owner agrees that - during the Development Period - no improvements will be started or progressed on any Owner's Lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

5.2.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to (1) an architectural control committee appointed by the Board, or (2) a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

During the Development Period, Appendix C has priority over the main body of this Declaration.

5.3. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC will assume jurisdiction over architectural control.

5.3.1. ACC. The ACC will consist of at least 3 but not more than 5 persons appointed by the Board, pursuant to the bylaws. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC are construed to mean the Board. Members of the ACC need not be owners or residents, and may but need not include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

5.3.2. Limits on Liability. The ACC has sole discretion with respect to taste, design and all standards specified by this Article. The members of the ACC have no liability for the ACC's decisions made in good faith and which are not arbitrary or capricious. The ACC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ACC, (2) supervising construction for the Owner's compliance with approved plans and specifications, or (3) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

5.4. PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the Architectural Reviewer's prior written approval, a person may not construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property, if it will be visible from a street, another lot, or the common area. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.

5.5. ARCHITECTURAL APPROVAL. To request architectural approval, an Owner must make written application to the Architectural Reviewer and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the Owner may but is not required to submit letters of support or nonopposition from Owners of Lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application for the Architectural Reviewer's files. Verbal approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's manager does not constitute architectural "approval by the appropriate Architectural Reviewer", which must be in writing. In connection with the submission of such plans and specifications, the ACC may require that the submitting party pay a fee of up to \$250.00 per submission, which fee shall be payable to the Association or, if the Committee elects, to a representative designated by the Committee to review such plans and specifications.

5.5.1. Deemed Approval. Under the following limited conditions, the applicant may presume that his request has been approved by the Architectural Reviewer:

- a. If the applicant or a person affiliated with the applicant has not received the Architectural Reviewer's written response - approving, denying, or requesting additional information - within 60 days after delivering his complete application to the Architectural Reviewer; and

During the Development Period, Appendix C has priority over the main body of this Declaration.

- b. If the proposed improvement or modification strictly conforms to requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.

If those conditions are satisfied, the Owner may then proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the Owner to document the Board's actual receipt of the Owner's complete application. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed for an improvement or modification that would require a variance from the requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.

5.5.2. No Approval Required. No approval is required to repaint exteriors in accordance with the original color scheme approved by the Architectural Reviewer, or to rebuild a dwelling in accordance with originally approved plans and specifications. Nor is approval required for an Owner to remodel or repaint the interior of a dwelling.

5.5.3. Building Permit. If the application is for work that requires a building permit from a governmental body, the Architectural Reviewer's approval is conditioned on the issuance of the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

5.5.4. Neighbor Input. The Architectural Reviewer may solicit comments on the application, including from Owners or residents of Lots that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant is solely at the discretion of the Architectural Reviewer. The Architectural Reviewer is not required to respond to the commenters in ruling on the application.

5.5.5. Declarant Approved. Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made or approved by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

**YES, EVEN YOU MUST GET A WRITTEN OKAY FROM THE
ARCHITECTURAL REVIEWER FOR CHANGES TO YOUR VERY
OWN PRIVATE PROPERTY.**

5.6. ARCHITECTURAL GUIDELINES. Declarant during the Development Period, and the Association thereafter, may publish architectural restrictions, guidelines, and standards, which may be revised from time to time to reflect changes in technology, style, and taste.

ARTICLE 6

CONSTRUCTION AND USE RESTRICTIONS

6.1. VARIANCE. The use of the Property is subject to the restrictions contained in this Article and subject to rules adopted pursuant to this Article. The Board or the Architectural Reviewer, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a

During the Development Period, Appendix C has priority over the main body of this Declaration.

variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance.

6.2. CONSTRUCTION RESTRICTIONS. Without the Architectural Reviewer's prior written approval for a variance, improvements constructed on every Lot must have the characteristics described in Appendix B, which may be treated as the minimum requirements for improving and using a Lot. The Architectural Reviewer and the Board may promulgate additional rules and restrictions, as well as interpretations, additions, and specifications of the restrictions contained in this Article. An Owner should review the Association's architectural restrictions, if any, before planning improvements, repairs, or replacements to his Lot and dwelling.

6.3. LIMITS TO RIGHTS. No right granted to an Owner by this Article or by any provision of the Documents is absolute. The Documents grant rights with the expectation that the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article and the Documents as a whole do not try to anticipate and address every creative or bizarre interpretation of the restrictions. For example, an Owner's right to have a sign advertising the home for sale or lease is not the right to mount the sign on the chimney and illuminate it with pulsating neon lights. Or, the right of access to a home is not the right to land helicopters on the Lot. The rights granted by this Article and the Documents are at all times subject to the Board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

REMEMBER - SAME AND TAME IS THE NAME OF THE GAME!

6.4. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its Board, is granted the right to adopt amend, repeal, and enforce reasonable Rules and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. In addition to the restrictions contained in this Article, each Lot is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

- a. Use of Common Areas.
- b. Hazardous, illegal or annoying materials or activities on the Property.
- c. The use of Property-wide services provided through the Association.
- d. The consumption of utilities billed to the Association.
- e. The use, maintenance, and appearance of exteriors of dwellings and L.
- f. Landscaping and maintenance of yards.
- g. The occupancy and leasing of dwellings.
- h. Animals.
- i. Vehicles.

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- j. Disposition of trash and control of vermin, termites, and pests.
- k. Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for residents.

The HOA can make you remove a backyard storage shed.

6.5. ACCESSORY SHEDS. Without the prior written approval of the Architectural Reviewer, accessory structures - such as dog houses, gazebos, metal storage sheds, playhouses, and greenhouses are prohibited (not allowed). To be approved by the Architectural Reviewer, an accessory structure must have the following features:

- a. Only one per Lot.
- b. Designed for outdoor use.
- c. Less than 6 feet in height at the ridge line of the roof.
- d. Less than 100 square feet of floor space (e.g. 10' x 10').
- e. Visually harmonious with the house or fence to which it is most visually related or physically attached, including matching major materials such as siding and roofing, dominant colors, construction details, and pitch of roof.
- f. Screened by a fence or acceptable landscape material so it is not visible to a person standing on the surface of an adjoining Lot or street.
- g. Not located in front yards or in unfenced portions of side yards facing streets.

If an accessory structure is installed in violation of this Section, the Architectural Reviewer reserves the right to determine that the accessory structure is unattractive or inappropriate or otherwise unsuitable for the Property, and may require the Owner to screen it or to remove it.

BETTER SAFE THAN SORRY
**GET ARCHITECTURAL APPROVAL BEFORE YOU SHOP FOR,
PURCHASE OR BEGIN CONSTRUCTION OF A STORAGE SHED.**

6.6. ANIMAL RESTRICTIONS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose or for food. Customary domesticated household pets may be kept for personal companionship subject to rules adopted by the Board. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, locations, and behavior of animals at the Property. If the rules fail to establish animal occupancy quotas, no more than 4 dogs and/or cats may be maintained on each Lot. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other Lots. Pets must be maintained inside the dwelling, and may be kept in a fenced yard only if they do not disturb residents of other Lots. Resident is responsible for the removal of his pet's

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wastes from the Property. Unless the Rules provide otherwise, a resident must prevent his pet from relieving itself on the Common Area or the Lot of another owner.

6.7. ANNOYANCE. No Lot or Common Area may be used in any way that: (1) may reasonably be considered annoying to neighbors; (2) may be calculated to reduce the desirability of the Property as a residential neighborhood; (3) may endanger the health or safety of residents of other Lots; (4) may result in the cancellation of insurance on the Property; or (5) violates any law. The Board has the sole authority to determine what constitutes an annoyance.

6.8. APPEARANCE. Both the Lot and the dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. The Architectural Reviewer is the arbitrator of acceptable appearance standards.

6.9. COLOR CHANGES. The colors of buildings, fences, exterior decorative items, window treatments, and all other improvements on a Lot are subject to regulation by the Architectural Reviewer. Because the relative merits of any color are subjective matters of taste and preference, the Architectural Reviewer determines the colors that are acceptable to the Association. Do not change or add colors that are visible from the street, a Common Area, or another Lot without the prior written approval of the Architectural Reviewer.

6.10. DECLARING PRIVILEGES. In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and residents, as provided in Appendix C of this Declaration. Declarant's exercise of a Development Period right that appears to violate a rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

6.11. DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

6.12. DRIVEWAYS. The driveway portion of a Lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage. Without the Board's prior approval, a driveway may not be used: (1) for storage purposes, including storage of boats, trailers, and inoperable vehicles; or (2) for repair or restoration of vehicles.

6.13. FENCES. Appendix B of this Declaration contains a number of requirements and prohibitions pertaining to fences, retaining walls, and hedges on Lots. For example, Lots along Common Areas have unique fencing requirements.

Yes, there are lots of rules!
EVERY RESIDENT OF SABLE CREEK IS EXPECTED TO COMPLY
WITH THESE RULES AND WITH RULES ADOPTED BY THE
BOARD OF DIRECTORS.

6.14. FIRES. Except for barbecue grills, no exterior fires on the Property are permitted.

6.15. GARAGES. Without the Board's prior written approval, the original garage area of a Lot may not be enclosed or used for any purpose that prohibits the parking of two standard-size operable vehicles therein. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

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6.16. GUNS. Hunting and shooting are not permitted anywhere on or from the Property.

6.17. HOOPS. Without the Architectural Reviewer's prior written approval, basketball goals and other recreational or sporting equipment may not be used, attached, mounted, or installed in a front yard, on a front driveway, in an unfenced portion of a side yard, or on the street side exterior portion of a dwelling. This prohibition also applies to portable goals and equipment. If the Architectural Reviewer grants approval for such equipment, the approval may be revoked if the equipment is not maintained or used, or if it becomes unsightly.

6.18. LANDSCAPING. No person may perform landscaping, planting, or gardening on the Common Area without the Board's prior written authorization.

6.19. LEASING OF HOMES. An Owner may lease the dwelling on his Lot. Whether or not it is so stated in a lease, every lease is subject to the Documents. An Owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Documents, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The Owner of a leased lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.

6.20. NOISE & ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring Lots. The Rules may prohibit the use of noise-producing security devices and wind chimes.

6.21. OCCUPANCY. Other than the completed principal dwelling, no thing or structure on a Lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, mobile homes, campers, and storage sheds.

6.22. RESIDENTIAL USE. The use of a Lot is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a resident from using a dwelling for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the dwelling as a residence; (2) the uses conform to applicable governmental ordinances; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the Lot by employees or the public in quantities that materially increase the number of vehicles parked on the street; and (5) the uses do not interfere with residents' use and enjoyment of neighboring Lots.

6.23. SCREENING. The Architectural Reviewer may require that the following items must be screened from the view of the public and neighboring Lots and dwellings, if any of these items exists on the Lot: (1) air conditioning equipment; (2) satellite reception equipment; (3) clotheslines, drying racks, and hanging clothes, linens, rugs, or textiles of any kind; (4) yard maintenance equipment; (5) wood piles and compost piles; (6) accessory structures that do not have prior approval of Architectural Reviewer; (7) garbage cans and refuse containers; (8) anything determined by the Board to be unsightly or inappropriate for a residential subdivision. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period of time is permitted for the plants to reach maturity as an effective screen. As used in this Section, "screened from view" refers to the view of a person in a passenger vehicle driving on a street or the view of a person of average height standing in the middle of a yard of an adjoining Lot.

During the Development Period, Appendix C has priority over the main body of this Declaration.

6.24. SIGNS. An Owner who is actively marketing his Lot for sale or lease may place in the front yard one professionally-made traditional yard sign of not more than 5 square feet advertising the Lot for sale or for rent. Only one such sign is allowed, per Lot, and only on the Lot that is being actively marketed. All aspects of the sign, including the height, shape, color, material, wording, and placement must be customary for the neighborhood. No other sign or unsightly object may be erected, placed, or permitted to remain on the Property or to be visible from windows in the dwelling without the Board's prior written approval. The Board's approval may specify the location, nature, appearance, dimensions, number, and time period of a sign or object. The Association may effect the immediate removal of any sign or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message.

6.25. TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another Lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, (2) antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or (3) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot where an acceptable quality signal can be obtained. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by Applicable Law.

6.26. TEMPORARY STRUCTURES. Except for "accessory sheds" as described above, improvements or structures of a temporary or mobile nature, such as tents, portable sheds, and mobile homes, may not be placed on a lot if visible from a street or another Lot. However, an Owner or Owner's contractor may maintain a temporary structure (such as a portable toilet or construction trailer) on the Lot during construction of the dwelling.

6.27. TRASH. Each Owner and resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the city for that purpose. Trash must be placed entirely within the designated receptacle. The Board may adopt, amend, and repeal rules regulating the disposal and removal of trash from the Property. If the rules fail to establish hours for curbside trash containers, the container may be in the designated area from dusk on the evening before trash pick-up day until dusk on the day of trash pick-up. At all other times, trash containers must be kept inside the house, garage, or fenced yard and may not be visible from a street or another Lot.

6.28. VEHICLES. All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to this Section and Rules adopted by the Board. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may effect the removal of any vehicle in violation of this Section or the Rules without liability to the owner or operator of the vehicle.

6.28.1. Parking in Street. The following subsection may not be construed to prohibit the parking of all vehicles on public streets. Vehicles that are not prohibited below may park on public streets if the

During the Development Period, Appendix C has priority over the main body of this Declaration.

city allows curbside parking, subject to the continuing right of the Association to adopt reasonable rules if circumstances warrant.

6.28.2. Prohibited Vehicles. Without prior written Board approval, the following types of vehicles and vehicular equipment - mobile or otherwise - may not be kept, parked, or stored anywhere on the Property - including overnight parking on streets and driveways - if the vehicle is visible from a street or from another Lot: mobile homes, motor homes, buses, trailers; boats, aircraft, inoperable vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles which are not customary personal passenger vehicles, and any vehicle which the Board deems to be a nuisance, unsightly, or inappropriate. This restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a dwelling. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times.

6.29. WINDOW TREATMENTS. All window treatments within the dwelling that are visible from the street or another dwelling must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Reviewer may require an Owner to change or remove a window treatment that the ACC determines to be inappropriate or unattractive. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments.

6.30. POOLS. Pools are permitted to be installed on any Lot, but are subject to the Architectural Reviewer's prior approval, including approval of design, color, materials, and location. Above ground-level swimming pools may be installed only in the backyard of any Lot, provided any such pool is not visible when viewed from the street. This provision is not intended to prohibit inflatable pools, no greater than twenty-four inches (24") in depth, typically used by toddlers, but they must, likewise, be placed in the backyard of any Lot.

YES...THERE ARE RULES ABOUT POOLS...AND PLAYGROUNDS, TOO!

6.31. PLAYGROUND STRUCTURES. Pre-manufactured play sets, jungle gyms, trampolines, and patio umbrellas installed in the back yard do not require approval of the Architectural Reviewer. Those items that are "homemade" and are visible from the streets and/or neighboring property, do require approval by the Architectural Reviewer, and will be reviewed on a case-by-case basis.

All of the above must comply with the following:

- a. Height not to exceed fifteen feet (15');
- b. If seen above fence, any non-wood or metal components must be neutral color, i.e. white, tan, pewter, or green, as opposed to red, blue, or yellow;
- c. If seen above fence, wooden components may not be painted. The wood may be sealed using a natural wood stain or clear sealing material;
- d. All such items must be kept in good repair or otherwise removed from the Lot; and
- e. All such items shall be placed in backyard enclosed by a fence.

During the Development Period, Appendix C has priority over the main body of this Declaration.

ARTICLE 7
ASSOCIATION AND MEMBERSHIP RIGHTS

7.1. **BOARD.** Unless the Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through its board of directors."

7.2. **ASSOCIATION.** The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association comes into existence on the earlier of (1) issuance of its corporate charter or (2) the initial levy of assessments against the Lots and Owners. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

**EVERY OWNER OF A SABLE CREEK LOT AUTOMATICALLY
JOINS A MANDATORY MEMBERSHIP ASSOCIATION.**

7.3. **GOVERNANCE.** The Association will be governed by a board of directors elected by the members. Unless the Association's bylaws or articles of incorporation provide otherwise, the Board will consist of at least 3 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the bylaws. Unless the Documents provide otherwise, any action requiring approval of the members may be approved in writing by owners of at least a majority of all Lots, or at a meeting by owners of at least a majority of the Lots that are represented at the meeting.

7.4. **MEMBERSHIP.** Each Owner is a member of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported owner is entitled to vote at meetings of the Association. If a lot is owned by more than one person or entity, each co-Owner is a member of the Association and may exercise the membership rights appurtenant to the Lot. A member who sells his Lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all assessments attributable to his Lot until fee title to the Lot is transferred.

7.5. **VOTING.** One vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. If additional property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional lots or tracts. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Declarant Control Period as permitted in Appendix C. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's bylaws.

7.6. **VOTING BY CO-OWNERS.** The one vote appurtenant to a Lot is not divisible. If only one of the multiple co-owners of a Lot is present at a meeting of the Association, that person may cast the vote allocated to the Lot. If more than one of the co-owners is present, the Lot's one vote may be cast with the co-Owners' unanimous agreement. Co-Owners are in unanimous agreement if one of the co-Owners casts the vote and no

During the Development Period, Appendix C has priority over the main body of this Declaration.

other co-Owner makes prompt protest to the person presiding over the meeting. Any co-Owner of a Lot may vote by ballot or proxy, and may register protest to the casting of a vote by ballot or proxy by the other co-Owners. If the person presiding over the meeting or balloting receives evidence that the co-Owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.

7.7. BOOKS & RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to Article 1396-2.23.B. of the Texas Nonprofit Corporation Act.

7.8. INDEMNIFICATION. The Association indemnifies every officer, director, committee chair, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, to the extent allowed by the Texas Non-Profit Corporation Act, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.9. OBLIGATIONS OF OWNERS. Without limiting the obligations of Owners under the Documents, each Owner has the following obligations:

7.9.1. Information. Within 30 days after acquiring an interest in a Lot, within 30 days after the Owner has notice of a change in any information required by this Subsection, and on request by the Association from time to time, an Owner will provide the Association with the following information: (1) a copy of the recorded deed by which Owner has title to the Lot; (2) the Owner's address, phone number, and driver's license number, if any; (3) any mortgagee's name, address, and loan number; (4) the name and phone number of any resident other than the Owner; (5) the name, address, and phone number of Owner's managing agent, if any.

7.9.2. Pay Assessments. Each Owner will pay assessments properly levied by the Association against the Owner or his Lot, and will pay regular assessments without demand by the Association.

7.9.3. Comply. Each Owner will comply with the Documents as amended from time to time.

7.9.4. Reimburse. Each Owner will pay for damage to the Property caused by the negligence or willful misconduct of the Owner, a resident of the Owner's lot, or the Owner or resident's family, guests, employees, contractors, agents, or invitees.

7.9.5. Liability. Each Owner is liable to the Association for violations of the Documents by the Owner, a resident of the Owner's lot, or the Owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

7.10. TRANSFER-RELATED FEES. A number of independent fees may be charged in relation to the transfer of title to a Lot, including but not limited to fees for resale certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind, and number for the local marketplace. Transfer related fees are not refundable and

During the Development Period, Appendix C has priority over the main body of this Declaration.

may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees do not apply to the following transfers unless a party to the transfer requests the corresponding documentation: (1) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (2) transfer to, from, or by the Association; (3) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the Board or the manager to levy transfer related fees.

ARTICLE 8

COVENANT FOR ASSESSMENTS

8.1. **PURPOSE OF ASSESSMENTS.** The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of Owners and residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of assessments is final.

8.2. **PERSONAL OBLIGATION.** An Owner is obligated to pay assessments levied by the Board against the Owner or his Lot. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

**IF YOU OWN A SABLE CREEK LOT, YOU
MUST PAY ASSESSMENTS TO THE ASSOCIATION.**

8.3. **CONTROL FOR ASSESSMENT INCREASES.** This Section of the Declaration may not be amended without the approval of Owners of at least two-thirds of the Lots subject to Appendix C. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget:

8.3.1. **Veto Increased Dues.** At least 30 days prior to the effective date of an increase in regular assessments, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless Owners of at least a majority of the Lots disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

8.3.2. **Veto Special Assessment.** At least 30 days prior to the effective date of a special assessment, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless Owners of at least majority of the Lots disapprove the special assessment by petition or at a meeting of the Association.

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8.4. TYPES OF ASSESSMENTS. There are 4 types of assessments: Regular, Special, Individual, and Deficiency.

8.4.1. Regular Assessments. Regular assessments are based on the annual budget. Each Lot is liable for its equal share of the annual budget. If the Board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, Owners will continue to pay the regular assessment as last determined. If during the course of a year the Board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the Board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the Common Area.
- b. Utilities billed to the Association.
- c. Services billed to the Association and serving all Lots.
- d. Taxes on property owned by the Association and the Association's income taxes.
- e. Management, legal, accounting, auditing, and professional fees for services to the Association.
- f. Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- g. Premiums and deductibles on insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
- h. Contributions to the reserve funds.
- i. Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.

8.4.2. Special Assessments. In addition to regular assessments, and subject to the Owners' control for assessment increases, the Board may levy one or more special assessments against all Lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the Owners, except that special assessments for the following purposes must be approved by Owners of least a majority of the Lots:

- a. Acquisition of real property, other than the purchase of a Lot at the sale foreclosing the Association's lien against the Lot.
- b. Construction of additional improvements within the Property, but not replacement of original improvements.

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- c. Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

8.4.3. Individual Assessments. In addition to regular and special assessments, the Board may levy an individual assessment against a Lot and its Owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Documents; fines for violations of the Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.

8.4.4. Deficiency Assessments. The Board may levy a deficiency assessment against all Lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

8.5. BASIS & RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each Lot is uniform for all Lots, regardless of a Lot's location or the value and size of the Lot or dwelling subject, however, to the exemption for Declarant provided below and in Appendix C.

8.6. DECLARING OBLIGATION. Declarant's obligation for and exemption from assessments is described in Appendix C. Unless Appendix C creates an affirmative assessment obligation for Declarant, a Lot that is owned by Declarant during the Development Period is exempt from mandatory assessment by the Association. Declarant has a right to reimbursement for any assessment paid to the Association by Declarant during the Development Period, but only after the Declarant Control Period. This provision may not be construed to prevent Declarant from making a loan or voluntary monetary donation to the Association, provided it is so characterized.

8.7. ANNUAL BUDGET. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to an Owner of each Lot, although failure to receive a budget or summary does not affect an Owner's liability for assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.

8.8. DUE DATE. The Board may levy regular assessments on any periodic basis - annually, semiannually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date. Initially a late charge in the amount of \$15.00 may be assessed against the non-paying Owner for each month that any portion of any assessment remains unpaid. A service charge in the amount of \$25.00 shall be charged for each check that is returned because of insufficient funds.

8.9. RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair. The Association must budget for reserves and may fund reserves out of regular assessments.

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8.9.1. Operations Reserves. The Association will endeavor to maintain operations reserves at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, such as the full amount of deductibles on insurance policies maintained by the Association.

8.9.2. Replacement & Repair Reserves. The Association will endeavor to maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the Common Area.

8.10. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to (1) the consent of Owners of at least a majority of lots represented at a properly noticed meeting of the Association, at which a quorum is present, called for the purpose of approving the loan, and (2) the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

8.11. LIMITATIONS OF INTEREST. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the Owner if those assessments are paid in full.

ARTICLE 9

ASSESSMENT LIEN

9.1. ASSESSMENT LIEN. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the Lot and is secured by a continuing lien on the Lot. Each Owner, and each prospective owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his Lot.

9.2. SUPERIORITY OF ASSESSMENT LIEN. The assessment lien is superior to all other liens and encumbrances on a Lot, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original dwelling, and (4) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due. The assessment lien is subordinate and inferior to a recorded deed of trust lien that secures a first or senior purchase money mortgage, an FHA-insured mortgage, or a VA-guaranteed mortgage.

9.3. EFFECT OF MORTGAGEE'S FORECLOSURE. Foreclosure of a superior lien extinguishes the Association's claim against the Lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

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9.4. NOTICE AND RELEASE OF NOTICE. The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's Real Property Records. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing Owner.

9.5. POWER OF SALE. By accepting an interest in or title to a Lot each Owner grants to the Association a private power of nonjudicial sale in connection with the Associations' assessment lien. The Board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

Yes, the HOA can foreclose!
If you fail to pay assessments to the Association, you may lose title to your home if the Association forecloses its assessment lien against your Lot.

9.6. FORECLOSURE OF LIEN. The assessment lien may be enforced by judicial or nonjudicial foreclosure. A foreclosure must comply with the requirements of Applicable Law, such as Chapter 209 of the Texas Property Code. A nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the bylaws and Applicable Law, such as Chapter 209 of the Texas Property Code. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same. The Association may not foreclose the assessment lien if the debt consists solely of fines and/or a claim for reimbursement of attorney's fees incurred by the Association.

ARTICLE 10
EFFECT OF NONPAYMENT OF ASSESSMENTS

An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association, acting through the Board, is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to applicable laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

10.1. INTEREST. Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the Board fails to establish a rate, the rate is 10 percent per annum.

10.2. LATE FEES. Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.

During the Development Period, Appendix C has priority over the main body of this Declaration.

10.3. COSTS OF COLLECTION. The Owner of a Lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys fees and processing fees charged by the manager.

10.4. ACCELERATION. If an Owner defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting Owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

10.5. SUSPENSION OF USE AND VOTE. If an Owner's account has been delinquent for at least 30 days, the Association may suspend the right of Owners and residents to use Common Areas and common services during the period of delinquency. The Association may also suspend the right to vote appurtenant to the Lot. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay assessments.

10.6. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an Owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

10.7. NOTICE TO MORTGAGEE. The Association may notify and communicate with the holder of any lien against a Lot regarding the Owner's default in payment of assessments.

10.8. FORECLOSURE OF ASSESSMENT LIEN. As provided by this Declaration, the Association may foreclose its lien against the Lot by judicial or nonjudicial means.

10.9. APPLICATION OF PAYMENTS. The Board may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Lot's account.

ARTICLE 11
ENFORCING THE DOCUMENTS

11.1. NOTICE AND HEARING. Before the Association may exercise certain of its remedies for a violation of the Documents or damage to the Property, the Association must give an Owner written notice and an opportunity for a hearing, according to the requirements and procedures in the bylaws and in Applicable Law, such as Chapter 209 of the Texas Property Code. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorneys fees incurred by the Association.

STATE LAW APPLIES
to many of the Association's enforcement rights and remedies.

11.2. REMEDIES. The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents, subject to applicable notice and hearing requirements (if any):

11.2.1. Nuisance. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

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11.2.2. Fine. The Association may levy reasonable charges, as an individual assessment, against an Owner and his Lot if the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the Owner's obligations under the Documents.

11.2.3. Suspension. The Association may suspend the right of Owners and residents to use Common Areas for any period during which the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

11.2.4. Self-Help. The Association has the right to enter any part of the Property, including lots, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Lot and Owner as an individual assessment. The Board will make reasonable efforts to give the violating Owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the Owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or eyesore to the neighborhood.

11.2.5. Suit. Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

11.3. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being-enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

11.4. NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any Owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Documents at any future time. No officer, director, or member of the Association is liable to any Owner for the failure to enforce any of the Documents at any time.

11.5. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

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ARTICLE 12
MAINTENANCE AND REPAIR OBLIGATIONS

12.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on Lots or Common Areas.

- a. The Common Areas.
- b. Any real and personal property owned by the Association but which is not a Common Area, such as a Lot owned by the Association.
- c. Any property adjacent to Sable Creek if maintenance of same is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property.
- d. Any area, item, easement, or service - the maintenance of which is assigned to the Association by this Declaration or by the Plat.

12.2. OWNER RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements of Article 5 and the use restrictions of Article 6:

12.2.1. House Maintenance. Each Owner, at the Owner's expense, must maintain all improvements on the Lot, including but not limited to the dwelling, fences, sidewalks, and driveways. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his Lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

12.2.2. Yard Maintenance. Each Owner, at the Owner's expense, must maintain the yards on his Lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. "Yards" means all parts of the Lot other than the dwelling, including fenced and unfenced portions of the Lot. Specifically, each Owner must:

- a. Maintain an attractive ground cover or lawn on all yards visible from a street.
- b. Edge the street curbs at regular intervals.
- c. Mow the lawns and grounds at regular intervals.
- d. Prevent lawn weeds or grass from exceeding 6 inches in height.
- e. Not plant vegetable gardens that are visible from a street.
- f. Maintain an attractive appearance for shrubs and trees visible from a street.
- g. Replace plant material, as needed, to maintain the minimum landscaping requirements of Appendix B.

12.2.3. Avoid Damage. An Owner may not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

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12.2.4. Responsible for Damage. An Owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Areas or the property of another Owner.

12.3. OWNER'S DEFAULT IN MAINTENANCE. If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an individual assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

12.4. PARTY WALL FENCES. A fence located on or near the dividing line between 2 Lots and intended to benefit both lots constitutes a Party Wall Fence and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

12.4.1. Encroachments & Easement. If the Party Wall Fence is on one Lot or another due to an error in construction, the fence is nevertheless deemed to be on the dividing line for purposes of this Section. Each Lot sharing a Party Wall Fence is subject to an easement for the existence and continuance of any encroachment by the fence as a result of construction, repair, shifting, settlement, or movement in any portion of the fence, so that the encroachment may remain undisturbed as long as the fence stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall Fence.

12.4.2. Right to Repair. If the Party Wall Fence is damaged or destroyed from any cause, the owner of either Lot may repair or rebuild the fence to its previous condition, and the Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt fence.

12.4.3. Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall Fence, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the fence, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall Fence, the Owner advancing moneys has a right to file a claim of lien for the moneys advanced in the county's Real Property Records, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

12.4.4. Iterations. The Owner of a Lot sharing a Party Wall Fence may not cut openings in the fence or alter or change the fence in any manner that affects the use, condition, or appearance of the fence to the adjoining Lot. Unless both Owners reach a mutual decision to the contrary, the Party Wall Fence will always remain in the same location as where initially erected.

During the Development Period, Appendix C has priority over the main body of this Declaration.

ARTICLE 13 **INSURANCE**

13.1. **GENERAL PROVISIONS.** All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:

13.1.1. **Notice of Cancellation or Modification.** Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured.

13.1.2. **Deductibles.** An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an Owner or resident or their invitees, the Owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.

13.2. **PROPERTY.** To the extent it is reasonably available, the Association will obtain blanket all-risk insurance for insurable Common Area improvements. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage. Also, the Association will insure the improvements on any Lot owned by the Association.

ARE YOU COVERED?

The Association does NOT insure the individual houses or their contents.

13.3. **GENERAL LIABILITY.** The Association will maintain a commercial general liability insurance policy over the Common Areas - expressly excluding the liability of each Owner and resident within his Lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

13.4. **DIRECTORS & OFFICERS LIABILITY.** To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

13.5. **OTHER COVERAGES.** The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by

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an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a mortgagee or an Owner.

13.6. OWNER'S RESPONSIBILITY FOR INSURANCE. Each Owner will obtain and maintain property insurance on all insurable improvements on his Lot, in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. Further, each Owner will obtain and maintain general liability insurance on his Lot. Each Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on behalf of the Owner who will be obligated for the cost as an individual assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other owners. Each Owner and resident is solely responsible for insuring his personal property in his dwelling and on the Lot, including furnishings, vehicles, and stored items.

ARTICLE 14 **AMENDMENTS**

14.1. CONSENTS REQUIRED. As permitted by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by the Board alone. Otherwise, amendments to this Declaration must be approved by Owners of at least a majority of the Lots.

14.2. METHOD OF AMENDMENT. For an amendment that requires the approval of Owners, this Declaration may be amended by any method selected by the Board from time to time, pursuant to the bylaws, provided the method gives an Owner of each Lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

14.3. EFFECTIVE. To be effective, an amendment approved by the Owners or by the Board must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners or directors and, if required, Eligible Mortgagees; and (3) recorded in the Real Property Records of every county in which the Property is located, except as modified by the following section.

14.4. DECLARING PROVISIONS. Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Appendix C. An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

**During the Development Period, Appendix C
has priority over the main body of this Declaration.**

14.5. MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners of at least a

During the Development Period, Appendix C has priority over the main body of this Declaration.

majority of the lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

14.6. TERMINATION. Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by Owners of at least two-thirds of the Lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by Owners of at least 80 percent of the Lots.

14.7. CONDEMNATION. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the Common Area, the Association will be the exclusive representative of the Owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the Common Area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

ARTICLE 15

DISPUTE RESOLUTION

15.1. INTRODUCTION & DEFINITIONS. 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**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

15.1.1. "**Claim**" means any claim, grievance, or dispute between Parties involving the Property, except Exempt Claims as defined below, and including without limitation:

- a. Claims arising out of or relating to the interpretation, application, or enforcement of the Documents.
- b. Claims relating to the rights and/or duties of Declarant as Declarant under the Documents.
- c. Claims relating to the design, construction, or maintenance of the Property.

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

15.1.3. "**Exempt Claims**" means the following claims or actions, which are exempt from this Article:

- a. The Association's claim for assessments, and any action by the Association to collect assessments.
- b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain

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the status quo and preserve the Party's ability to enforce the provisions of this Declaration.

- c. Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
- d. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

15.1.4. **"Respondent"** means the Party against whom the Claimant has a Claim.

15.2. **MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

15.3. **NOTICE.** Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

15.4. **NEGOTIATION.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 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. 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.

15.5. **MEDIATION.** If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 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 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

15.6. **TERMINATION OF MEDIATION.** If the Parties do not settle the Claim within 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 administrative proceedings on the Claim, as appropriate.

15.7. **ALLOCATION OF COSTS.** Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

During the Development Period, Appendix C has priority over the main body of this Declaration.

15.8. ENFORCEMENT OF RESOLUTION. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the noncomplying Party all costs incurred in enforcing the agreement, 'including, without limitation, attorneys fees and court costs.

15.9. 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. A Party having an Exempt Claim may submit it to the procedures of this Article.

15.10. LITIGATION APPROVAL & SETTLEMENT. In addition to and notwithstanding the above alternate dispute resolution procedures, the Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a majority of the Lots, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims. This Section may not be amended without the approval of Owners of at least 75 percent of the Lots.

ARTICLE 16

GENERAL PROVISIONS

16.1. COMPLIANCE. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi governmental entity having jurisdiction over the Association or Property.

16.2. HIGHER AUTHORITY. The Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

DRAFTER'S DICTUM

Users of this document should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this document.

16.3. NOTICE. All demands or other notices required to be sent to an Owner or resident by the terms of this Declaration may be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it.

During the Development Period, Appendix C has priority over the main body of this Declaration.

16.4. LIBERAL CONSTRUCTION. The terms and provision of each Document are to be liberally construed to give effect to the purposes and intent of the Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved in favor of the operation of the Association and its enforcement of the Documents, regardless which party seeks enforcement.

16.5. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

16.6. CAPTIONS. In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

16.7. APPENDICES. The following appendices are attached to this Declaration and incorporated herein by reference:

- A - Description of Subject Land
- B - Construction Specifications
- C - Declarant Representations & Reservations

16.8. INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

16.9. DURATION. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

16.10. PREPARER. This Declaration was reviewed and completed in the law offices of Charles A. Ellison of 302 Holleman Drive East, Suite 76, College Station, Texas 77840.

ARTICLE 17
CITY OF SANGER REQUIREMENTS

17.1. AMENDMENTS. Notwithstanding anything contained herein to the contrary, no portion of this Declaration pertaining to the use, operation, maintenance, and/or supervision of the Common Areas shall be amended without the prior written consent of the City of Sanger.

17.2. CITY RIGHTS. In the event that the Association or the Board fail or refuse to maintain the Common Areas to the City of Sanger's specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, the City of Sanger, by and through a majority of its City Council members, shall have the same right, power, and authority as is herein given to the Association and its Board of Directors to enforce these covenants and levy assessments necessary to maintain the Common Areas identified herein. It is understood that in such event, the City of Sanger, through its City Council, may elect to exercise the rights and powers of the Association or its Board of Directors, to the extent necessary to take any action required and levy any assessment that the Association might have, either in the name of the Association, or otherwise, to cover the cost of maintenance of said Common Areas.

[Executed on next page.]

During the Development Period, Appendix C has priority over the main body of this Declaration.

SIGNED AND ACKNOWLEDGED

SIGNED on this 25th day of May, 2005.

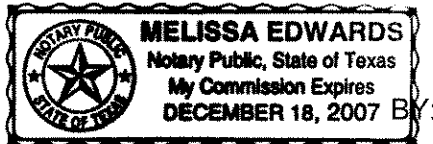
SABLE CREEK PARTNERS, LTD., a Texas limited partnership

By: JUSTLAND DEVELOPMENT, LLC, a Texas limited liability company, its sole general partner

BY: M.L. Schehin
M.L. Schehin, Its Member

THE STATE OF TEXAS }
 }
COUNTY OF BRAZOS }

This instrument was acknowledged before me on the 25 day of May, 2005 by M.L. Schehin, Member of JUSTLAND DEVELOPMENT, LLC, a Texas limited liability company on behalf of the company in its capacity as sole general partner of SABLE CREEK PARTNERS, LTD., a Texas limited partnership, on behalf of the limited partnership.



Melissa Edwards
Notary Public, State of Texas

CONSENT AND SUBORDINATION BY LIENHOLDER

Lienholder, as the holder of the lien on a portion of the Property, consents to the foregoing Declaration and the covenants, conditions, restrictions and easements contained therein, and lienholder hereby subordinates its lien to the rights and interests of the Declaration, such that a foreclosure of the lien shall not extinguish the covenants, conditions, restrictions and easements contained in the Declaration.

CITIBANK TEXAS, N.A.

By: [Signature]
Name: Neal A. Briens
Title: Senior Vice President

During the Development Period, Appendix C has priority over the main body of this Declaration.

THE STATE OF TEXAS

§

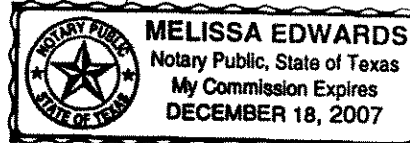
(ACKNOWLEDGMENT)

COUNTY OF Brazos

§

This instrument was acknowledged before me on the 25 day of May 2005, by Ned A. Briers of Citibank Texas, N.A., on behalf of said banking institution.

Melissa Edwards
Notary Public, State of Texas



During the Development Period, Appendix C has priority over the main body of this Declaration.

APPENDIX A

DESCRIPTION OF SUBJECT LAND

SABLE CREEK

PHASE ONE

The 21.6176 acre tract described by metes and bounds in the Owner's Certification of the Final Plat of Sable Creek Addition, Phase One, recorded on May 24, 2005 as Document 61767, Cabinet W, Page 304 and 305, Real Property Records, Denton County, Texas, including the following common areas and 107 house lots:

HOUSE LOTS

BLOCK E:	LOTS	49 - 53
BLOCK G:	LOTS	3 - 8
BLOCK K:	LOTS	1 - 12
BLOCK L:	LOTS	1 - 21
BLOCK M:	LOTS	1 - 21
BLOCK N:	LOTS	4 - 31
BLOCK O:	LOTS	26 - 39

COMMON AREAS

Sable Creek Boulevard

SAVE AND EXCEPT, and EXCLUDING the following tract to be conveyed to the City of Sanger:

Parkland scheduled for conveyance in subsequent phase of Sable Creek

During the Development Period, Appendix C has priority over the main body of this Declaration.

APPENDIX B

CONSTRUCTION SPECIFICATIONS

All improvements on a Lot must (1) comply with any applicable city ordinances and codes, (2) have a building permit issued by the city, if the type of improvement requires a permit, and (3) have the Architectural Reviewer's prior written approval. These 3 requirements are independent - one does not ensure or eliminate the need for another. The Lot Owner and/or Owner's contractor must comply with all 3 requirements. Without the Architectural Reviewer's prior written approval for a variance, improvements constructed on every Lot must have the following characteristics:

B.1. CITY ORDINANCE. The City of Sanger has a number of ordinances pertaining to what can be constructed on a Lot.

B.2. LOTS. The size of each Lot must comply with the requirements of applicable ordinances.

B.2.1. Combining Lots. Any person owning two or more adjoining Lots may consolidate such Lots into a single building location for the purpose of constructing one (1) residential structure thereon (the plans and specifications therefore being approved as set forth in this Declaration) and such other improvements as are permitted herein; provided, however, any such consolidation must comply with the rules, ordinances and regulations of any governmental authority having jurisdiction over the Property. In the event of any such consolidation, the consolidated Lots shall be deemed to be a single Lot for purposes of applying the provisions of this Declaration; provided, however, such Owner shall continue to pay assessments on such Lots as if such Lots had not been consolidated and shall be entitled to one vote for each Lot (determined prior to such consolidation) owned by such Owner. Any such consolidation shall give consideration to easements as shown and provided for on the Plat and any required abandonment or relocation of any such easements shall require the prior written approval of Declarant as well as the prior written approval of any utility company having the right to the use of such easements. Combining of portions of Lots into a single building site is prohibited.

B.2.2. Setback Requirements and Building Location. All front, side and rear setbacks must be approved by the Architectural Reviewer, and must meet the requirements of the City of Sanger and the requirements of the Plat. The location of the main residence on each Lot and the facing of the main elevation with respect to the street shall be subject to the written approval of the Architectural Reviewer. No building or structure of any type shall be erected on any Lot nearer to the property lines indicated by the minimum building setback line on the Plat.

B.3. HOUSES. The principal improvement on a Lot must be one detached single family dwelling. The dwelling size, setbacks, and exterior materials must comply with the applicable ordinances and with any higher standards established by the Architectural Reviewer.

B.3.1. Minimum Floor Space. All floor areas referenced below are for air-conditioned floor areas, exclusive of porches, garages, or breezeways attached to the main dwelling. Each dwelling constructed on any Lot in the subdivision shall contain a minimum of one thousand three hundred fifty (1,350) square feet.

B.3.2 Height. No building or structure on any Lot shall contain more than two (2) stories or exceed, in height, the maximum height allowed by the City of Sanger, such height to be measured and determined in accordance with the method approved by the City of Sanger.

B.4. NEW CONSTRUCTION. The dwelling must be constructed on the Lot. A dwelling or addition constructed elsewhere may not be moved onto a Lot. Factory-built homes are not permitted, even though assembled or finished on the Lot. The construction of a dwelling must be started promptly after the Architectural Reviewer approves the dwelling's plans and specification. At the start of construction - but not

before - building material to be used in the construction may be stored on the Lot. Once started, the dwelling and all improvements on the Lot must be completed with due diligence.

B.5. MASONRY. For purposes of this Appendix, the following materials qualify as masonry: conventional brick and brick veneer, stone and stone veneer, glass block or brick, and lathed or sprayed stucco. The following materials do not qualify as masonry for purposes of this Appendix, subject to the right of the Architectural Reviewer to grant a variance on a case by case basis: pressed or poured concrete forms, concrete block, and cement fiber board products, such as HardiPlank siding.

B.6. EXTERIOR WALL MATERIALS. The type, quality, and color of exterior wall materials must be approved by the Architectural Reviewer. Generally, at least Sixty Five Percent (65%) of the dwelling's total exterior area, minus windows and doors, must be masonry or masonry veneer, such as brick, stone, or stucco. Any siding used on the remainder of the dwelling's exterior walls must be (a) a cement fiber board product, such as HardiPlank, (b) LP Smartside or (c) any other exterior material approved by the Architectural Reviewer.

B.7. FENCES & WALLS. This Section is subject to the Architectural Reviewer's right to adopt additional or different specifications for construction or reconstruction of fences. Generally, fences should be approximately 6 feet in height and should not exceed 6 feet. Fences must be made of masonry, wood, or other Architectural Reviewer-approved material. Any portion of a fence that faces a street or Common Area must have a "finished side" appearance. Retaining walls must be constructed entirely with Architectural Reviewer-approved materials, however railroad ties may not be used for a retaining wall visible from a street. Fences may not be constructed between a dwelling's front building line and the street.

B.7.1. Prohibited Materials. Barbed wire, vinyl fencing, and chain link fencing are prohibited. Barbed wire and chain link are not included within the meaning of "iron," "metal," or "steel" fence materials or components if those terms are used and permitted in the Documents.

B.7.2. Along Common Areas. Any fence or wall installed on a lot at, near, along, or parallel to the boundary shared with a Common Area must be uniform in style and appearance. The specifications for fencing on Lots that adjoin the Common Area will be determined by the Architectural Reviewer, if not specified in an amendment or supplement of this Declaration.

B.7.3. Fence Stain. No wood fence may be stained to alter the fence color from a natural wood color. Without prior written approval of the Architectural Reviewer, clear sealants may be applied, including, by way of example, Olympic Oil Base Natural Tone Semi-Transparent Stain, Ready Seal OIS, Thompson's Clear Water Seal, Sherwin Williams' Clear Wood Finish, or their equivalents. The use or application of (1) paint or (2) any stain that cures in a solid color is prohibited.

B.8. ROOFS. Roofs must be covered with material having a manufacturer's warranty of at least 20 years, such as GAF Sentinel or its equivalent. The use of fiberglass shingles is permitted. The color of roofing material must be weatherwood or an equivalent earth tone color. The Architectural Reviewer may permit or require other weights, materials, and colors. The roof pitch of any structure shall be 5:12 ratio at a minimum. Any deviation of roof pitch must be approved in writing by the Architectural Reviewer. No projections of any type shall be placed or permitted to remain above the roof of any residential building with the exception of one or more chimneys and one or more vent stacks without the written permission of the Architectural Reviewer.

B.9. GARAGE & DRIVEWAY. Each dwelling must have an attached garage for at least two standard-size cars. The driveway must be surfaced with concrete.

B.10. CARPORTS. No carport may be installed, constructed, or maintained on the front of any Lot or dwelling, with or without approval of the Architectural Reviewer. No carport may be installed, constructed, or maintained on any other portion of a Lot without the Architectural Reviewer's prior written consent. In other words, all carports require the written approval of the Architectural Reviewer, and carports on the front sides or front yards of dwellings are expressly prohibited and may not be authorized.

B.11. LANDSCAPING. Landscaping must be installed on the front and side yards of the Lot within 90 days after an occupancy permit is issued for the dwelling. The minimum landscaping requirements are (1) a fully sodded front yard and (2) a fully sodded side yard on the street side of each corner lot.

B.12. ACCESSORIES. Installation of all exterior items and surfaces, including address numbers, decorative hardware, external ornamentation, lights fixtures, and exterior paint and stain, is subject to the Architectural Reviewer's prior approval, including approval of design, color, materials, and location.

B.13. MAILBOXES. If curbside boxes are permitted by postal authorities, the Architectural Reviewer may require a uniform size and style of mailbox and pedestal.

B.14. UTILITIES. All utility lines and equipment must be located underground, except for: (1) elevated or surface lines or equipment required by a public utility or the city; (2) elevated or surface lines or equipment installed by Declarant as part of the development plan; and (3) surface equipment necessary to maintain, operate, or read underground facilities, such as meters, risers, service pedestals, and transformers. The Architectural Reviewer may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring lots. Each Lot will use city water and sewage systems. Individual water supply and sewage disposal systems are not permitted. No privy, cesspool, or septic tank shall be placed or maintained upon or in any Lot. However, portable toilets will be required during building construction. The installation and use of any propane, butane, LP Gas or other gas tank, bottle or cylinder of any type (except portable gas grills), shall require the prior written approval of the Architectural Reviewer, and, if so approved, the Architectural Reviewer may require that such tank, bottle or cylinder be installed underground.

B.15. AIR CONDITIONERS. Air conditioning equipment may not be installed in the front yard of a dwelling. Window units are prohibited. The Architectural Reviewer may require that air-conditioning equipment and apparatus be visually screened from the street and neighboring lots.

B.16. NO SUBDIVISION. No Lot may be subdivided. One or more Lots may be replatted with the approval of all Owners of the Lots directly affected by the replatting, and subject to the approval of the city. The parties executing the replat will provide a copy of the recorded replat to the Association. Replatting of Lots may not alter the number of votes and assessments allocated to the Lots as originally platted. If replatting reduces the number of Lots by combining Lots, the joined Lot will have the votes and assessments allocated to the Lots as originally platted.

B.17. DEBRIS. No Lot or other part of the Property may be used as a dumping ground. Waste materials incident to construction or repair of improvements on a Lot may be stored temporarily on the Lot during construction while work progresses and must be removed when construction or repair is complete.

B.18. DRAINAGE. Neither the Declarant nor its successors or assigns shall be liable for any loss of, use of, or damage done to, any shrubbery, trees, flowers, improvements, fences, walks, sidewalks, driveways, or buildings of any type or the contents thereof on any Lot caused by any water levels, rising waters, or drainage waters. After the residence to be constructed on a Lot has been substantially completed, the Lot will be graded so that surface water will generally flow to streets, drainage easements, or Common Areas, and in conformity with the general drainage plans for the subdivision.

B.19. SIDEWALKS. Construction of a new single family dwelling on any Lot shall include the placement of a four (4) foot wide concrete sidewalk across the, entire frontage of such Lot. Such sidewalks shall be constructed in conformity with the then existing ordinances, standards and codes promulgated by the City of Sanger.

APPENDIX C

DECLARING REPRESENTATIONS & RESERVATIONS

C.1. GENERAL PROVISIONS.

C.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Appendix.

C.1.2. General Reservation & Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Document, this Appendix controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

C.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with 90 days' notice.

C.1.4. Definitions. As used in this Appendix and elsewhere in the Documents, the following words and phrases, when capitalized, have the following specified meanings:

- a. **"Builder"** means a person or entity which purchases, or contracts to purchase, a Lot from Declarant or from a Builder for the purpose of constructing a dwelling for resale or under contract to an Owner other than Declarant. As used in this Declaration, Builder does not refer to Declarant or to any home building or home marketing company that is an affiliate of Declarant without limitation.
- b. **"Declarant Control Period"** means that period of time during which Declarant controls the operation of the Association. The duration of the Declarant Control Period will be from the date this Declaration is recorded for a maximum period not to exceed the earlier of:
 - (1) Ten years from date this Declaration is recorded; or
 - (2) Six months after title to 85 percent of the Lots that may be created in the Property and on the Additional Land has been conveyed to Owners other than Builders.

C.1.5. Builders. Declarant, in its own name or through its affiliates, reserves the right to construct dwellings on the Lots in connection with the sale of the Lots. However, Declarant intends to sell some or all of the Lots to one or more Builders to improve the Lots with dwellings to be sold and occupied.

C.2. DECLARING CONTROL PERIOD RESERVATIONS. Declarant reserves the following powers, rights, and duties during the Declarant Control Period:

C.2.1. Officers & Directors. During the Declarant Control Period, the Board may consist of 3 persons. During the Declarant Control Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or Owners, and each of whom is indemnified by the Association as a "Leader."

C.2.2. Weighted Votes. During the Declarant Control Period, the vote appurtenant to each Lot owned by Declarant is weighted 6 times that of the vote appurtenant to a Lot owned by another Owner. In other words, during the Declarant Control Period, Declarant may cast the equivalent of 6 votes for each Lot owned by Declarant on any issue before the Association. On termination of the Declarant Control Period and thereafter, the vote appurtenant to Declarant's Lots is weighted uniformly with all other votes.

C.2.3. Budget Funding. During the Declarant Control Period only, Declarant is responsible for the difference between the Association's operating expenses and the regular assessments received from Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. On termination of the Declarant Control Period, Declarant will cease being responsible for the difference between the Association's operating expenses and the assessments received from Owners other than Declarant.

C.2.4. Declarant Assessments. During the Declarant Control Period, any real property owned by Declarant is not subject to assessment by the Association.

C.2.5. Builder Obligations. During the Declarant Control Period only, Declarant has the right but not the duty (1) to reduce or waive the assessment obligation of a Builder, and (2) to exempt a Builder from any or all liabilities for transfer-related fees charged by the Association or its manager, provided the agreement is in writing. Absent such an exemption, any Builder who owns a Lot is liable for all assessments and other fees charged by the Association in the same manner as any Owner.

C.2.6. Builder Assessments. During the Declarant Control Period only, Declarant has the right but not the duty to reduce or waive the assessment obligation of a Builder, provided the agreement is in writing.

C.2.7. Builder Transfer Fees. During the Declarant Control Period only, Declarant has the right but not the duty to exempt a Builder from any or all liabilities for transfer-related fees charged by the Association or its manager, provided the agreement is in writing.

C.2.8. Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

C.2.9. Budget Control. During the Declarant Control Period, (a) the right of Owners to veto assessment increases or special assessments is not effective and may not be exercised; and (b) the right of Owners to assessments, special assessments or borrowing by the Association is not effective and shall not be required.

C.2.10. Organizational Meeting. Within 60 days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call an organizational meeting of the members of the Association for the purpose of electing, by vote of the Owners, directors to the Board. Written notice of the organizational meeting must be given to an Owner of each Lot at least 10 days before the meeting. For the organizational meeting, Owners of 10 percent of the Lots constitute a quorum. The directors elected at the organizational meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin.

C.3. DEVELOPMENT PERIOD RESERVATIONS. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, at any time during the Development Period:

C.3.1. Platting. If the Property includes unplatted parcels, they may be platted in whole or in part, and in phases. The right to plat belongs to the owner of the unplatted parcel, provided, however, that a plat that creates Common Areas or obligations for the Association must also be approved by Declarant. Declarant's right to have the Property platted, or to approve such plats, is for a term of years and does not require that Declarant own land described in Appendix A at the time or times Declarant exercises its right of platting.

C.3.2. Expansion. The Property is subject to expansion. During the Development Period, Declarant may - but is not required to - annex any real property: (1) any portion of which is contiguous with, adjacent to, or within 1,000 feet of any real property that is subject to this Declaration, (2) in any addition or subdivision platted by the City of Sanger as a phase or section of Sable Creek, or (3) located in a planned development district created by the City of Sanger for the Property subject to this Declaration. Declarant annexes real property by subjecting it to the Declaration and the jurisdiction of the Association by recording a supplement or an amendment of this Declaration, executed by Declarant, in the county's Real Property Records. The supplement or amendment of annexation must include a description of the additional real property or a reference to the recorded plat that describes the additional real property. Declarant's right to annex land is for a term of years and does not require that Declarant own land described in Appendix A at the time or times Declarant exercises its right of annexation.

C.3.3. Withdrawal. During the Development Period, Declarant may withdraw from the Property any portion of the real property (1) that is not platted with house lots or (2) that is platted as a phase of Sable Creek, provided that no Lot in the phase to be withdrawn has been conveyed to an Owner other than Declarant or a Builder.

C.3.4. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by (1) a governmental entity, if applicable, and (2) the Owner of the land or Lots to which the change would directly apply (if other than Declarant), Declarant may (a) change the sizes, dimensions, and configurations of Lots and streets; (b) change the minimum dwelling size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

C.3.5. Builder Limitations. Declarant may require its approval (which may not be unreasonably withheld) of all documents and materials used by a Builder in connection with the development and sale of Lots, including without limitation promotional materials, deed restrictions, forms for deeds, lot sales, and lot closings. Without Declarant's prior written approval, a Builder may not use a sales office or model in the Property to market houses, Lots, or other products located outside the Property or the Additional Land.

C.3.6 Architectural Control. During the Development Period, Declarant has the absolute right to serve as the Architectural Reviewer pursuant to Article 5. Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under Article 5 and this Appendix to (1) an architectural control committee appointed by the Board, or (2) a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. Declarant also has the unilateral right to exercise architectural control over vacant Lots in the Property. Neither the Association, the Board of Directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new homes and related improvements on vacant Lots.

C.3.7. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other Owners or any mortgagee, for any purpose, including without limitation the following purposes:

- a. To add real property to the Property.
- b. To withdraw real property from the Property.
- c. To create Lots, easements, and Common Areas within the Property.
- d. To subdivide, combine, or reconfigure lots.
- e. To convert Lots into Common Areas.
- f. To modify the construction and use restrictions of Article 6 of this Declaration.
- g. To modify the construction specifications of Appendix B of this Declaration.
- h. To merge the Association with another property owners association.
- i. To comply with requirements of an underwriting lender.
- j. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- k. To enable any reputable title insurance company to issue title insurance coverage on the lots.
- l. To enable an institutional or governmental lender to make or purchase mortgage loans on the Lots.
- m. To change the name or entity of Declarant.
- n. To change the name of the addition in which the Property is located.
- o. To change the name of the Association.
- p. For any other purpose, provided the amendment has no material adverse effect on any right of any Owner.

C.3.8. Completion. During the Development Period, Declarant has (1) the right to complete or make improvements indicated on the Plat; (2) the right to sell or lease any Lot owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in the Common Area and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

C.3.9. Easement to Inspect & Right to Correct. During the Development Period, Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Property, including the Lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage

resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a Lot may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or the Association.

C.3.10. Promotion. During the Development Period, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other owners and residents, for purposes of promoting, identifying, and marketing the Property and/or Declarant's houses, lots, developments, or other products located outside the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events - such as open houses, MLS tours, and brokers parties - at the Property to promote the sale of Lots. During the Development Period, Declarant also reserves (1) the right to permit Builders to place signs and promotional materials on the Property and (2) the right to exempt Builders from the sign restriction in this Declaration.

DIFFERENT RULES

The developer has rights and privileges to use the property in ways that are not available to other owners and residents.

C.3.11. Offices. During the Development Period, Declarant reserves for itself the right to use dwellings owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to Lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

C.3.12. Access. During the Development Period, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property and the Additional Land, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for the homebuying public through any existing or future gate that restricts vehicular access to the Property or to the Additional Land in connection with the active marketing of Lots and homes by Declarant or Builders, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

C.3.13. Utility Easements. During the Development Period, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the easements on any Lot, as shown on the plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a Common Area of the Property or not owned by Declarant, Declarant must have the prior written consent of the land owner.

C.3.14. Assessments. For the duration of the Development Period, any Lot owned by Declarant is not subject to mandatory assessment by the Association until the date Declarant transfers title to an Owner other than Declarant. If Declarant owns a Lot on the expiration or termination of the

Development Period, from that day forward Declarant is liable for assessments on each Lot owned by Declarant in the same manner as any Owner.

C.4. COMMON AREAS. Declarant will convey title to the Common Areas to the Association by one or more deeds - with or without warranty. Any initial Common Area improvements will be installed, constructed, or authorized by Declarant, the cost of which is not a common expense of the Association. At the time of conveyance to the Association, the Common Areas will be free of encumbrance except for the property taxes accruing for the year of conveyance. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of Common Areas requiring inspection, evaluation, acceptance, or approval of Common Area improvements by the Owners.

C.5. WORKING CAPITAL FUND. Declarant may (but is not required to) establish a working capital fund for the Association by requiring purchasers of Lots to make a one-time contribution to this fund, subject to the following conditions:

- a. The amount of the contribution to this fund will be \$150.00 per Lot and will be collected on the closing of the sale of the Lot to an Owner other than Declarant, a Successor Declarant, or a Declarant-affiliate.
- b. A Builder who buys Lots from Declarant is not exempt from the purchaser's obligation. If the Builder's contribution is not collected at time of closing on the Lot purchased from Declarant, for any reason or no reason, the Builder guarantees that the contribution will be paid when Builder closes the sale of the Lot to another Owner.
- c. Subject to the foregoing Builder provision, if a Lot's contribution is not collected from the Owner at closing, neither Declarant nor the Owner of the Lot is thereafter liable for the contribution. Declarant acknowledges that this condition may create an inequity among the Owners, but deems it a necessary response to the diversification of marketing and closing Lot sales.
- d. Contributions to the fund are not advance payments of regular assessments and are not refundable to the contributor by the Association or by Declarant. This may not be construed to prevent a selling Owner from negotiating reimbursement of the contribution from a purchaser.
- e. Declarant will transfer the balance of the working capital fund to the Association on or before termination of the Declarant Control Period. Declarant may not use the fund to defray Declarant's expenses or construction costs.

C.6. SUCCESSOR DECLARING. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Denton County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.