

After Recording, Return To:

William P. McLean
Leslie Keyser
McLean & Howard, L.L.P.
901 S. Mopac Expressway
Building 2, Suite 225
Austin, Texas 78746



P R E S E R V A T I O N
R A N C H

**DECLARATION OF
COVENANTS, CONDITIONS AND
RESTRICTIONS FOR
PRESERVATION RANCH**

DECLARANT: PRLT PARTNERS, LLC, a Texas limited liability company

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
PRESERVATION RANCH**

This Declaration of Covenants, Conditions and Restrictions for Preservation Ranch (this “**Declaration**”) is made by **PRLT PARTNERS, LLC**, a Texas limited liability company (“**Declarant**”), and is as follows:

RECITALS:

A. Declarant is the owner of real property located in Travis County, Texas, said property being more particularly described on **EXHIBIT “A”**, attached hereto and incorporated herein by reference (the “**Property**”).

B. Declarant desires to create and carry out a uniform plan for the development, improvement and sale of the Property.

C. By the filing of this Declaration, Declarant serves notice that the Property will be subjected to the terms and provisions of this Declaration.

NOW, THEREFORE, it is hereby declared that: (i) the Property (or any portion thereof) will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions, which will run with the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) each contract or deed conveying all or any portion of the Property will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

**ARTICLE 1
DEFINITIONS**

1.01 Definitions. Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration will have the meanings hereinafter specified:

(a) “**ACC**” or “**Architectural Control Committee**” means the party holding the rights to approve Improvements within the Property and shall be Declarant or its designee until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the rights of the ACC shall automatically be transferred to the Board or committee appointed by the Board to be the acting ACC. The ACC is sometimes referred to as the Design Review Committee or DRC.

(b) **“Applicable Law”** means all statutes, public laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments or their agencies having jurisdiction and control over the Property in effect at the time a provision of the Restrictions is applied, and pertaining to the subject matter of the Restriction provision, and all other ordinances and any other applicable building codes, zoning restrictions and permits or other applicable regulations. Statutes and ordinances specifically referenced in the Restrictions are “Applicable Law” on the date of the Restrictions, 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 superseded by one or more other statutes or ordinances.

(c) **“Assessment”** or **“Assessments”** means assessments imposed by the Association under this Declaration.

(d) **“Assessment Unit”** has the meaning set forth in *Section 5.08*.

(e) **“Association”** means the Preservation Ranch Property Owners’ Association, Inc., a Texas nonprofit corporation, which has been created to exercise the authority and assume the powers specified in this Declaration. Except to the extent that an act of the Association is specifically contemplated or required under Applicable Law to be made by the Association’s members, the Association shall act at all times by and through the Board, and references herein to the Association shall mean “the Association, acting by and through the Board.”

(f) **“Board”** means the Board of Directors of the Association.

(g) **“Bylaws”** means the Bylaws of the Association as adopted and as amended from time to time.

(h) **“Certificate”** means the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

(i) **“Common Area”** means any property and facilities that the Association owns or may own or in which it otherwise holds rights or obligations, including any property or facilities (i) held by the Declarant for the benefit of the Association or its Members or (ii) designated by the Declarant as Common Area in accordance with *Section 4.06*, expressly including (without limitation) the Community Right-of-Way. Upon Recording of any such designation, the portion of the Property identified therein shall be considered Common Area for the purpose of this Declaration. Common Area also includes any portion of a Lot or other property that the Association holds under a lease, license, or any easement in favor of the Association.

(j) **“Community Manual”** means the community manual of the Association, which will be initially adopted and Recorded by the Declarant as part of the initial project documentation for the benefit of the Association and the Property or otherwise adopted by

a Majority of the Board. The Community Manual may include the Bylaws, Rules and Regulations, and other policies governing the Association. The Bylaws, Rules and Regulations, and other policies set forth in the Community Manual may be amended, from time to time, by the Declarant until expiration or termination of the Development Period. Any amendment to the Bylaws, Rules and Regulations and other policies governing the Association prosecuted by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

(k) “**Community Right-of-Way**” means the private access roadway easements and public utility easements shown on the Plat and which services the Lots and known as Spiro Trail and Moreh Pass. Declarant may, from time to time and at any time: (i) designate portions of the Property as Community Right-of-Way provided such designation does not unreasonably interfere with use of a non-Declarant owned Lot for residential purposes; and (ii) relocate the Community Right-of-Way provided the relocated Community Right-of-Way provides substantially similar access to the non-Declarant owned Lots and the relocated Community Right-of-Way does not unreasonably interfere with use of a non-Declarant owned Lot for residential purposes.

(l) “**Declarant**” has the meaning set forth in the preamble of this Declaration.

(m) “**Design Guidelines**” means the standards for design and construction of Improvements, landscaping and exterior items proposed to be placed on any Lot, adopted pursuant to *Article 3*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Property. Declarant, during the Development Period, and the Board thereafter, may adopt and amend from time to time, the Design Guidelines applicable to the Property or any portion thereof. The Design Guidelines may be Recorded as a separate written instrument or may be incorporated into the Declaration by exhibit or otherwise. Notwithstanding anything in this Declaration to the contrary, Declarant shall have no obligation to establish Design Guidelines for the Property or any portion thereof.

(n) “**Development Period**” means forty-five (45) years after the initial Recording of this Declaration, unless earlier terminated by Declarant. Declarant may terminate the Development Period by an instrument executed by Declarant and Recorded. The Development Period is the period in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property, and the right to direct the size, shape and composition of the Property. Declarant is not required to own any portion of the Property during the Development Period.

(o) “**Entry Location**” means the point at which an Entry Road intersects the Community Right-of-Way.

(p) “**Entry Road**” means the private roadway constructed by an Owner on its Lot to access the Community Right-of-Way.

(q) “**Improvement**” means every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

(r) “**Lot**” or “**Lots**” shall mean any tract or parcel of land within the Property designated by Declarant or its successors for separate ownership whether created by a metes and bounds legal description, by being shown as a subdivided lot on a Plat, or in any other instrument causing the legal division of land together with all Improvements located thereon. Declarant may, in its sole discretion, determine the meaning of Lot for purposes of this Declaration. Declarant, upon the Recordation of an instrument providing for such designation, may designate real property as a Lot or Lots for purposes of the Restrictions. A Lot may include portions of property owned in undivided common ownership by Owners and/or fee simple ownership.

(s) “**Majority**” means more than half.

(t) “**Manager**” has the meaning set forth in *Section 4.05.04*.

(u) “**Members**” means every person or entity that holds membership privileges in the Association.

(v) “**Mortgage**” or “**Mortgages**” means any mortgage(s) or deed(s) of trust securing indebtedness and securing any Lot.

(w) “**Mortgagee**” or “**Mortgagees**” means the holder(s) of any Mortgage(s).

(x) “**Owner**” means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest or undivided common ownership interest in any portion of the Property, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot pursuant to foreclosure of the lien of its Mortgage.

(y) “**Plat**” means a Recorded subdivision plat of any portion of the Property, and any amendments thereto.

(z) “**Property**” means all of that certain real property described on **EXHIBIT “A”** attached hereto, subject to such additions thereto and deletions therefrom as may be made by amendment to this Declaration.

(aa) “**Record, Recording, Recordation and Recorded**” means recorded or to be recorded in the Official Public Records of Travis County, Texas

(bb) “**Recreational Vehicle**” means a mobile home, travel trailer, recreational vehicle, or other similar vehicle.

(cc) “**Restrictions**” means this Declaration, the Bylaws, the Community Manual, and any Rules and Regulations promulgated by the Association pursuant to this Declaration, as adopted and amended from time to time.

(dd) “**Rules**” or “**Rules and Regulations**” means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Property, including any amendments to those instruments.

(ee) “**Special Common Area**” means any interest in real property or Improvements that is designated by Declarant in a Recorded instrument (which designation shall be made in the sole and absolute discretion of Declarant) as Special Common Area which is assigned for the purpose of exclusive use and/or the obligation to pay Special Common Area Assessments attributable thereto, to one or more, but less than all, of the Lots, and is or shall be conveyed to the Association or as to which the Association shall be granted rights or obligations, or otherwise held by the Declarant for the benefit of the Association. The Recorded instrument designating Special Common Area shall identify the Lots assigned to such Special Common Area and further indicate whether the Special Common Area is assigned to such parties for the purpose of exclusive use and the payment of Special Common Area Assessments, or only for the purpose of paying Special Common Area Assessments attributable thereto. By way of illustration and not limitation, Special Common Area might include such things as joint-use driveways, private drives and roads, entrance facilities and features, monumentation or signage, walkways, or landscaping. Special Common Area may include (without limitation) any property that the Association holds under a lease, license, or any easement in favor of the Association, including certain property conveyed to the Association or in which the Association is granted certain easement or other property interests. Some Special Common Area will be solely for the common use and enjoyment of the Owners to which the Special Common Area has been designated, while other portions of Special Common Area may be also be for the use and enjoyment of members of the general public.

(ff) “**Special Common Area Assessments**” means assessments levied against the Lots described in *Section 2.21*.

(gg) “**Special Common Area Expenses**” means the estimated and actual expenses which the Association incurs or expects to incur to operate, maintain, repair and replace Special Common Area, which may include a reasonable reserve for capital repairs and replacements.

(hh) “**Wildlife Management Plan**” means the program adopted and implemented, as periodically updated and amended, by the ACC in order to ensure the

primary use of the Property and the Lots is wildlife management as described in Texas Tax Code §23.51(7), Texas Administrative Code Rules §9.2001 through §9.2005, and the requirements of Travis County for qualification for agricultural appraisal based on wildlife management use.

ARTICLE 2

COMPLIANCE MATTERS

2.01 Community Right-of-Way. Declarant has dedicated, or will dedicate, to the Association the Community Right-of-Way. The dedication may occur through the Plat or a separate instrument. It is presently contemplated that, from time to time, portions of the Community Right-of-Way will be improved by the Declarant or the Association for use as a roadway and public utility easement to service the Lots. During the Development Period, Declarant, and thereafter the Association: (i) shall have the right, but not the obligation, to improve all or any portion of the Community Right-of-Way; and (ii) shall have the right, at any time and from time to time, to dedicate all or any portion of the Community Right-of-Way as a public road and/or right-of-way, or to otherwise transfer the obligation for maintenance of all or any portion of the Community Right-of-Way to the Association or applicable governmental authorities. The Property is accessible from Ranch-to-Market Road 3238 (Hamilton Pool Road) through Madrone Ranch Trail which is platted as Lot 11, of Block B, Madrone Ranch Subdivision, according to the map or plat Recorded as Document No. 199900251 of the Travis County Official Public Records, which is a private roadway within the Madrone Ranch subdivision accessible from Ranch-to-Market Road 3238 (Hamilton Pool Road). Declarant was granted non-exclusive access rights to the Property through the Madrone Ranch subdivision by virtue of that certain non-exclusive access easement reserved in a *Warranty Deed with Vendor's Lien* Recorded in Volume 13020, Page 1291, Travis County Official Public Records, and later re-Recorded at Volume 13038, Page 987, and in the *Deed of Trust* Recorded in Volume 13020, Page 1296 (and later re-Recorded in Volume 13038, Page 997), and that certain *Non-Exclusive Roadway Easement Agreement* ("**Easement Agreement**") Recorded as Document No. 2019197054, Travis County Official Public Records. Declarant hereby partially assigns to the Association and each Owner access rights under the Easement Agreement upon Recordation of these Restrictions. Only Declarant during the Development Period and the Association thereafter shall have the authority to act on behalf of the Owners with respect to any matters pertaining to the use or maintenance of Madrone Ranch Trail or any rights or obligations of any party under the Easement Agreement. The Community Right-of-Way may be constructed in phases. The Declarant may promulgate rules with respect to access and use of the Community Right-of-Way. Declarant, during the Development Period, and the Board thereafter, may grant rights or easements to use the Community Right-of-Way to third parties.

2.02 Controlled Entry Gates. The Declarant will cause to be constructed electronic controlled entry gates and related access facilities for access by Owners to and from the Property and for access by any other persons granted access rights along the Community Right-of-Way. The specifications, materials, location, and design of the entry gates will be determined by the Declarant in its sole and absolute discretion. The entry gates, upon completion, will be maintained by the Association with all maintenance, repair and replacement costs discharged through

assessments levied by the Association pursuant to *Article 5* below. The Association may adopt Rules and Regulations associated with use and operation of the entry gates and may implement access systems consisting of cards, codes, RFID transmitters or similar access systems.

2.03 Entry Road. An Owner is permitted to construct one (1) Entry Road on its Lot. An Owner shall (i) designate the Entry Location, which designation must be approved by the Declarant during the Development Period and the ACC thereafter, which approval shall not be unreasonably withheld, conditioned or delayed and (ii) may construct an entry gate and fence located from such Entry Location with architectural features, including entry/gate options, the structural requirements, dimensions and material specifications shall be approved in writing prior to commencement of construction by the Declarant, during the Development Period, and thereafter the Board. No Owner may construct more than one (1) Entry Road per Lot without the advance written consent of the Declarant during the Development Period, and thereafter the Board.

2.04 Joint-Use Access Drives. Some Lots will be served by joint-use access driveways. The Declarant, during the Development Period, and the Board thereafter, may designate such joint-use access drives as Special Common Area subject to Special Common Area Assessments.

2.05 Fences. The materials and placement of all fencing constructed on a Lot must be approved in advance by the ACC. The ACC may prohibit the construction of any fence that the ACC determines would impede the implementation of the Wildlife Management Plan. All or portions of the Property currently have barbed wire fencing on the perimeter of the Lots. Each Owner is responsible for maintenance of any fencing on an Owner's Lot.

2.06 Setback. No Owner shall allow any Improvements other than Entry Roads, entry gates, and entry-related Improvements such as fencing and landscaping, to be constructed or to remain within two hundred feet (200') of the edge of the Community Right-of-Way without the advance written consent of the Declarant, during the Development Period, and thereafter the Board.

2.07 Recreational Vehicles. No Recreational Vehicle shall be parked or placed on any street, right-of-way, Lot or used as a residence, either on a temporary or permanent basis, at any time, unless approved in advance by Declarant; however, a Recreational Vehicle may be parked temporarily on a Lot for a period not to exceed seventy-two (72) hours. If Declarant approves the placement of a Recreational Vehicle on a Lot, said Recreational Vehicle shall be parked or placed so as to shield it from view of other Lots and the Community Right-of-Way and shall be placed within an enclosure approved by the Declarant. Any enclosure constructed must be approved in advance and in writing by the Declarant during the Development Period, and thereafter by the ACC.

2.08 Hazardous Activities. No activities may be conducted on the Property and no Improvements may be constructed on any portion of the Property which, in the opinion of the Declarant during the Development Period and thereafter the Board, are or might be unsafe or hazardous to any person or property or prohibited by the Wildlife Management Plan. No open fires shall be lighted or permitted except within safe well-designed interior and exterior fireplaces or in contained fire pits or within barbecue units while attended and used for cooking or other

recreational purposes unless such open fire, such as a prescribed burn fire or the burning of piles of dead or cut trees or brush if not prohibited by the Wildlife Management Plan, is approved by the Declarant during the Development Period and thereafter the Board. Owners may burn cut trees, brush, and debris on the Owner's Lot provided: (i) burns shall not be conducted during burn bans; (ii) advanced notification is given to the Board and to local firefighting/control/prevention authorities; (iii) burns are not conducted for any commercial purpose; (iv) the burn is attended to and is not otherwise unsafe; (v) the only materials burned are natural wood, brush and vegetation and no garbage, trash, rubbish or building materials are burned; and (vi) the burn is not otherwise prohibited by the Wildlife Management Plan. No portion of the Property may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.09 Maintenance, Rubbish and Debris. The Owner of each Lot shall have the duty and responsibility to keep its Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. As determined by the Board, no rubbish or debris of any kind may be placed or permitted to accumulate on or within a Lot, and no odors will be permitted to arise therefrom so as to render all or any portion of the Lot unsanitary, unsightly, offensive, or detrimental to any other Owner. Each Owner shall dispose of brush and tree piles in a reasonable time frame, but, in no event, in violation of any burn ban. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association. The Board may require use of a single disposal service for trash removal to minimize use and damage to the Community Right-of-Way. The Board, in its sole discretion, shall determine whether a violation of the obligations of this subsection has occurred.

2.10 Animals and Household Pets. The Declarant during the Development Period and thereafter the Board may enact Rules which limit the number and/or type of animals (including but not limited to household pets) that may be kept on any one Lot and the conditions under which such animals or household pets (including horses) may be kept. The raising and keeping of horses on the Property may be permitted if the ACC determines that the keeping of horses on the Lot does not adversely impact the Wildlife Management Plan, and if the horses are fenced on the Owner's Lot and are kept for personal use and enjoyment and not for commercial or business purposes. The keeping of any animals or pets on any Lots or on any part of the Property are secondary to wildlife management uses and shall be conducted only at levels that do not adversely impact the Wildlife Management Plan, such levels as determined by the ACC. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance in the sole opinion of the Board. The Declarant during the Development Period and the Board thereafter may restrict animals to certain areas on the Property. No kennels or breeding operations are allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Each Owner is responsible for limiting the number of animals to prevent overgrazing on a Lot. If the Board determines, in its sole discretion, that an animal becomes a source of unreasonable annoyance to others, or the Owner

of the animal fails or refuses to comply with the Restrictions, the Owner, upon written notice, may be required to remove the animal from the Property.

2.11 Homesite Approval. Each Owner will designate a home site area on an Owner's Lot which home site area (i) shall describe the limits of construction where any homesite, barn or other vertical improvements to be constructed by the Owner are to be made; (ii) shall be registered with the Association; and (iii) shall comply with any other restrictions set forth herein. The Declarant during the Development Period or the Board thereafter may grant a variance for a homesite larger than 1.0 acres, must be consistent with the Wildlife Management Plan. The location of all Improvements must be approved by the Declarant during the Development Period or a Majority of the Board thereafter.

2.12 Rural Residential Use. The Lots shall be used solely for residential purposes consistent with a rural, residential subdivision located in the Texas hill country. No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot, except an Owner or resident may conduct business activities within a residence so long as:

- (a) such activity complies with all Applicable Law;
- (b) the business activity is conducted without the employment of more than three (3) persons, other than the residents of the home constructed on the Lot;
- (c) the business activity does not involve an unreasonable number of customers, contractors, clients, or the general public visiting the residence to conduct activities related to the business;
- (d) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business on any Lot, sound, or smell from outside the Lot boundaries;
- (e) the business activity does not involve door-to-door solicitation of residents within the Property;
- (f) the business does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Property which is noticeably greater than that which is typical of residences in which no business activity is being conducted;
- (g) the business activity is consistent with the rural residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property as may be determined in the sole discretion of the Board;
- (h) the business does not require the installation of any machinery other than that customary to normal rural residential operations; and

- (i) the business does not involve the sale, trade or dealing of firearms or other weapons.

The terms “business” and “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time; (b) such activity is intended to or does generate a profit; or (c) a license is required.

Owners are permitted to operate small scale agricultural, wildlife or horticultural activities on a Lot that are primarily for personal consumption and use or done in connection with club or educational purposes and are consistent with the aesthetics of a rural, residential subdivision, as determined by the Board in its absolute sole discretion.

No retail, industrial, multi-family, office, mixed use, or commercial construction or use is allowed on any Lot. Any and all commercial development and commercial business is strictly prohibited. No Lot may be used for sober living, congregate or convalescence purposes.

An Owner’s compliance with this subsection shall be determined in the Declarant’s sole discretion during the Development Period, and by the Board thereafter.

2.13 Residences.

2.13.01 Residences must contain a minimum of 3,500 square feet. The ACC may grant a variance at its sole discretion to this minimum requirement.

2.13.02 No HUD-code manufactured home or modular home is permitted.

2.13.03 During the Development Period, Declarant, in its sole discretion, and the ACC thereafter, may approve a “barndominium” style structure on a Lot, subject to such terms or restrictions as may be determined by the Declarant or ACC.

2.14 Garages. All garages shall be maintained for the parking of automobiles and storage. No garage may be permanently enclosed or otherwise used for habitation.

2.15 Guest House. Each Lot may contain one (1) or more guest houses which shall not exceed the main residence in height or square footage.

2.16 Leasing. Leasing of an entire Lot shall not be considered a business or trade within the meaning of this subsection. If the Lot Owner does not reside on the Lot, then not less than an entire Lot may be leased. If the Lot Owner resides on the Lot, then a portion of the Lot may be leased. All leases shall be subject to the Restrictions and any Rules promulgated by the Board.

2.17 Hunting and Use of Firearms. Any hunting and discharge of firearms must comply with Applicable Law. Commercial hunting or shooting activities are strictly prohibited. In addition, the following restrictions shall apply to hunting and shooting activities:

- (a) Hunting blinds are allowed but must be constructed so that they are not visible from any road, trail, or Lot boundary. The bottom floor of any hunting blind may not be elevated more than four feet (4') from ground level.
- (b) Hunting leases are prohibited.
- (c) Hunting is allowed only between dawn and dusk.
- (d) Use of firearms, whether for hunting or other purposes, must be conducted with extreme caution and care. Persons shall not discharge firearms carelessly, recklessly, or without regard for the safety of any person, or in a manner that endangers, or is likely to endanger, any person, pet, livestock, wildlife or property.
- (e) Persons shall not discharge tracer or incendiary ammunition or projectile devices.
- (f) Target or practice shooting may be conducted only in areas with an unobstructed, earthen backstop capable of stopping all projectiles and debris in a safe manner. Shotguns may only be discharged in areas where shot will not be projected beyond the boundaries of the Owner's Lot.

DISCLOSURE: Each Owner acknowledges and understands that Declarant has the authority to modify this Declaration in its sole discretion during the Development Period. Provisions in this Declaration, including but not limited to provisions addressing hunting and the use of firearms, can be potentially controversial and are subject to change.

2.18 Insurance. Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located within such Owner's Lot. In addition, each Lot Owner shall carry liability insurance protecting the Lot Owner against death, personal injury and property damage claims arising out of or associated with (i) wildlife, cliffs, canyons, caves, rocks and other terrain features and/or trees, plants or other flora; or (ii) the use of firearms. On or before January 1 of each year, each Lot Owner shall deliver to the Association certificates of insurance evidencing compliance with the insurance coverage requirements of this *Section 2.18*.

2.19 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area, or the Improvements located thereon, without the prior written approval of the Board.

2.20 Private Sewage Disposal. Unless wastewater service is provided to the Property, each Lot shall be connected to a private on-site sewage disposal system ("**OSSF**") constructed and located on an Owner's Lot at the sole expense of the Owner thereof. All OSSFs shall conform to

Applicable Law, including, without limitation, requirements of applicable county regulations and the Texas Commission on Environmental Quality or any successor agency. No outdoor toilets shall be permitted, except for a twenty-four (24) month period during construction. The Declarant may elect to connect the Property to an available wastewater connection/service for the Property if such resources become available, in which case OSSF may be discontinued if the Lot is connected to such service and the OSSF system on the Lot is decommissioned in accordance with Applicable Law if no longer in use. Declarant is under no obligation to obtain a wastewater connection/service for the Property, if later available.

2.21 Designation of Special Common Area. During the Development Period, Declarant may designate by a Recorded instrument, any interest in real property or Improvements which benefits certain Lots but less than all of the Property as Special Common Area for the use of and/or the obligation to pay Special Common Area Assessments by the Owners of such Lot(s) or portion(s) of the Property attributable thereto. Such Owners shall have the obligation to pay Special Common Area Assessments for such Special Common Area. Special Common Area may include any property that the Association holds under a lease, license, or any easement in favor of the Association, including certain property conveyed to the Association or in which the Association is granted certain easement or other property interests by either the County or a District. Some Special Common Area will be solely for the common use and enjoyment of the Owners to which the Special Common Area has been designated, while other portions of Special Common Area may also be for the use and enjoyment of members of the general public. Any portion of the Property designated as Special Common Area may be conveyed to the Association, or the Association shall be granted rights or obligations with respect to such Special Common Area, or such Special Common Area shall otherwise be held by Declarant for the benefit of the Association. The Recorded instrument designating such Special Common Area will identify the Lots assigned to such Special Common Area. All costs associated with maintenance, repair, replacement, and insurance of such Special Common Area will be assessed as a Special Common Area Assessment against the Owner(s) of the Lot(s) to which the Special Common Area is assigned.

2.22 Private Water Wells. Unless a centralized water supply is provided within the Property, each Lot Owner is responsible for drilling a water well on the Owner's Lot sufficient to provide water to the Owner's Lot. Any water well must comply with Applicable Law including but not limited to any applicable county groundwater conservation district. Upon the Recordation of these Restrictions, the Property does not have a centralized water supply. The Declarant may elect to install and require all Owners to connect their Lots to an available centralized water supply for the Property if such resources become available. Declarant is under no obligation to obtain a central water supply for the Property.

2.23 Mining, Drilling and Tree Removal. No portion of the Property may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements and/or the development of the Property by the

Declarant. No discharge of any waste, chemical, or other material or fluid shall be permitted into any creek or waterway. This provision shall not be interpreted to prevent the drilling of water wells which are installed to provide water to all or any portion of the Property. No tree removal on the Property may occur for commercial purposes.

2.24 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Declarant during the Development Period and the Board thereafter; provided, however, that during the Development Period, when Declarant is the Owner of any Lot, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole in Declarant's sole discretion as long as such subdivision complies with Applicable Law. Each Owner is advised that subdivision of a Lot may not be permitted. The Plat includes restrictions and limitations on the number of single-family homes in the subdivision. Each Owner is advised to review the Plat to understand development restrictions applicable to a Lot.

2.25 Declarant Authority. Notwithstanding any provision in this Declaration to the contrary, until the expiration or termination of the Development Period, Declarant and/or its licensees may construct and maintain upon portions of the Common Area, any Lot, or portion of the Property owned by the Declarant, such facilities and may conduct such activities and use the Property for any permitted use which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the sale of Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its licensees shall have an easement over and across the Property, Lots and Common Area for access and use of such facilities at no charge. Furthermore, notwithstanding any provision in this Declaration to the contrary, until the expiration or termination of the Development Period, Declarant and/or its licensees will have an access easement over and across the Property, Lots and Common Area for the purpose of making, constructing and installing Improvements upon the Common Area, relocating the Community Right-of-Way or developing the Property and any additional property made subject, in whole or in part, to these Restrictions.

ARTICLE 3 **ARCHITECTURAL CONTROL COMMITTEE**

3.01 Construction of Improvements\Construction Deposit. No Improvement may be erected, placed, constructed, painted, altered, modified or remodeled on any Lot, and no Lot may be re-subdivided or consolidated with other Lots or Property without the prior, written approval of the ACC. All Improvements must be in compliance with the Design Guidelines and Wildlife Management Plan, as determined by the ACC. Each Owner (other than the Declarant) must request written approval from the ACC for Improvements to an Owner's Lot. The ACC may deny such application on the grounds that (i) the ACC does not approve of the proposed location of the Improvements proposed therein; (ii) the ACC determines that the Improvements may adversely impact the Wildlife Management Plan; or (iii) the proposed Improvements violate the terms of the Restrictions, the Design Guidelines, or are otherwise not in conformity with the Property in the sole discretion of the Declarant during the Development Period and the ACC thereafter. The

ACC may implement application procedures and review fees in connection with review of an application for approval of Improvements on a Lot. Prior to commencement of construction of the primary residence or any guest house on any Lot, the Owner shall make a deposit of \$10,000.00 (the “**Construction Deposit**”) with the Association to ensure compliance with the Restrictions, a neat, orderly construction site, and to cover damages to any portion of the Property outside of the Lot. The Association may utilize any or all of the Construction Deposit, as determined by the Board in its sole discretion, in order to achieve the objectives set forth in the preceding sentence or for other purposes related to the Owner’s construction project as necessary to protect the Property and other Owners. Any unused portion of the Construction Deposit shall be returned upon completion the Owner’s construction project. An Owner’s liability related to its construction project shall not be limited to the Construction Deposit.

3.02 Continuity of Construction. All Improvements commenced on the Property, other than Improvements constructed by the Declarant, must be prosecuted diligently to completion and shall be completed within twenty-four (24) months after commencement, unless an exception is granted to an Owner in writing by the Declarant during the Development Period and the Board thereafter. If construction is not completed within the required twenty-four (24) month period, then such delay will constitute a violation of this Declaration and the Owner of such Lot will be subject to fines in accordance with Fine and Enforcement Policy in the Community Manual. Any fine and/or charge for damage levied in accordance with this Section will be considered an Individual Assessment pursuant to this Declaration. Nothing in this subsection applies to construction of Improvements by Declarant or parties designated by Declarant as being exempt.

3.03 Dark Sky. The outside lighting plan for each Lot shall be approved by the ACC and shall utilize Internal Dark Sky Community Guidelines to the maximum extent practicable. Full guidelines are accessible at <https://www.darksky.org/wp-content/uploads/2018/12/IDSC-Guidelines-2018.pdf>. Exterior light fixtures must be fully shielded and directed downward. Light fixtures must not produce an intense glare or direct illumination across Lot lines. The intent of this outside light provision is to maintain the visibility of the natural skylight for all Owners and to minimize outside light pollution and lighting that could affect adjacent Lots. The Board has the sole discretion to determine compliance and to allow variances to the Internal Dark Sky Community Guidelines. The ACC may adopt Rules specific to lighting and dark sky compliance.

3.04 Rainwater Harvesting Systems. Rainwater Harvesting Systems may be installed with the advance written approval of the ACC.

3.04.01 **Application.** To obtain ACC approval of a Rainwater Harvesting System, the Owner shall provide the ACC with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the “**Rain System Application**”). A Rain System Application may only be submitted by an Owner.

3.04.02 **Approval Process.** The decision of the ACC shall be made in accordance with this Declaration. Any proposal to install a Rainwater Harvesting System on Common

Area must be approved in advance and in writing by the ACC, and the ACC need not adhere to this policy when considering any such request.

3.04.03 Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, each Rain System Application and each Rainwater Harvesting System to be installed in accordance therewith shall comply with the following:

(a) The Rainwater Harvesting System shall be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the ACC.

(b) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.

(c) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the ACC.

3.04.04 Guidelines. If the Rainwater Harvesting System will be visible from the Community Right-of-Way, the Common Area, or another Owner's Lot, the ACC may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, such application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of the Community Right-of-Way, Common Area, or another Owner's Lot. When reviewing a Rain System Application for a Rainwater Harvesting System that is proposed to be installed to be visible from the Community Right-of-Way, the Common Area, or another Owner's Lot, any additional requirements imposed by the ACC to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the ACC.

3.05 Architectural Control Committee

3.05.01 Composition. The ACC will be composed of not more than three (3) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. *The Declarant, during the Development Period, and the Board thereafter, shall have the right to appoint and remove (with or without cause) all members of the ACC or to have the Board act as the ACC in the absence of a designation of such committee.* Declarant may assign its right to appoint all members of the ACC to the Association by Recorded written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant may partially or completely assign (and withdraw such assignments) of its rights to appoint and remove members of the ACC during the Development Period. If Declarant withdraws its assignment of the right to appoint and remove all members of the ACC, then on the date of such withdrawal, Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant's right to appoint all members of the ACC will automatically be

assigned to the Board upon the expiration of the Development Period. The ACC will have the right to employ consultants and advisors as it deems necessary or appropriate.

3.05.02 Actions of the Architectural Control Committee. The ACC may, by resolution unanimously adopted in writing, designate one or more of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the vote of a Majority of all of the members of the ACC taken at a duly constituted meeting will constitute an act of the ACC.

3.05.03 Failure to Act. In the event that an Owner's plans and specifications are submitted to the ACC as provided herein, and the ACC fails either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, approval of such plans and specifications by the ACC will be presumed. If full plans are not submitted or if additional information is requested from an Owner, the ACC may require an Owner to re-submit any missing or additional information before review of the plans. In furtherance, and not in limitation of the foregoing, any failure of the ACC to act upon a request for a variance will not be deemed consent to such variance, and the ACC's written approval of all requests for variances will be expressly required.

3.05.04 Variances. The ACC may grant variances, in its sole and absolute discretion, from compliance with any of the provisions of the Design Guidelines, if any, or this Declaration, provided that the ACC shall not grant any variance which conflicts with or impedes the implementation of the Wildlife Management Plan. All variances must be evidenced in writing and must be approved by at least a Majority of the members of the ACC and shall state that the ACC has determined that the variance neither conflicts with nor impedes the implementation of the Wildlife Management Plan. Each variance must also be Recorded (if determined by the Board to be a dedicatory instrument legally required to be Recorded); provided however, that failure to Record a variance will not affect the validity thereof or give rise to any claim or cause of action against the ACC, including the Declarant or its designee, the Association, or the Board. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or the Design Guidelines, if any, will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Declaration or the Design Guidelines, if any, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Declaration or the Design Guidelines, if any.

3.05.05 Duration of Approval. The approval of the ACC of any plans and specifications, and any variances granted by the ACC, will be valid for a period of twelve (12) months only. If construction in accordance with such plans and specifications or variance is not commenced within such twelve (12) month period and diligently prosecuted to completion within either: (i) 2 years after issuance of approval of such plans and

specifications; or (ii) such other period thereafter as determined by the ACC, in its sole and absolute discretion, the Owner will be required to resubmit such plans and specifications or request for a variance to the ACC, and the ACC will have the authority to re-evaluate such plans and specifications in accordance with this *Section 3.05.05* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

3.05.06 No Waiver of Future Approvals. The approval of the ACC to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the ACC will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the ACC.

3.06 Non-Liability of Committee Members. NEITHER DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION. APPROVAL OF ANY IMPROVEMENTS BY THE ACC IS NOT A SUBSTITUTE FOR AND DOES NOT ENSURE COMPLIANCE WITH THE PLAT OR APPLICABLE LAW.

ARTICLE 4

RIGHTS, POWERS AND OBLIGATIONS OF THE ASSOCIATION; VOTING RIGHTS

4.01 Organization. The Association is a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas nonprofit corporation. Neither the Certificate nor the Bylaws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration, including any modifications thereof.

4.02 Membership.

4.02.01 Mandatory Membership. Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with the ownership of the property that qualifies the Owner thereof for membership. Membership in the Association may not be severed from the ownership of the Lot in the Property, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot.

4.02.02 Easement of Enjoyment – Common Area. Every Member will have a right and easement of enjoyment in and to all of the Common Area and an access easement by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot subject, however, at all times to the Rules and Regulations established by the Board from time to time. Every Member shall further have a non-exclusive right of vehicular and pedestrian access over and across all portions of the

Community-Right-of-Way which will be or has been improved for use as a roadway or other means of ingress and egress to the Property designated by Declarant. The foregoing easements shall be, in any event, subject to the following restrictions and reservations:

(a) The right of the Declarant (during the Development Period and the Board thereafter) to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose;

(b) The right of the Declarant (during the Development Period and the Board thereafter) to grant easements or licenses over and across the Common Area and Community Right-of-Way to any third party;

(c) The right of the Declarant (during the Development Period and the Board thereafter) to permit use of the Common Area and Community Right-of-Way by persons and entities other than Owners;

(d) The right of the Board to suspend the right of an Owner to use recreational facilities, if any, within the Common Area for (A) any period during which any charge against such Owner's Lot remains delinquent, and (B) a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation of the Restrictions;

(e) The right of the Association, with the written approval of the Declarant during the Development Period and the Board thereafter, to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area, except for the Community Right-of-Way and to levy Assessments to Owners for the costs thereof;

(f) The right of the Declarant to cause such Improvements and features to be constructed upon the Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion;

(g) The right of the Association to make reasonable Rules and Regulations regarding the use of the Common Area, Community Right-of-Way and any Improvements thereon;

(h) The right of the Association to contract for services with any third parties on such terms as the Association may determine, except that during the Development Period, all such contracts must be approved in advance by the Declarant; and

(i) No use of the Common Area shall conflict with or impede the implementation of the Wildlife Management Plan.

4.02.03 Easement of Enjoyment – Special Common Area. Each Owner of a Lot which has been assigned use of Special Common Area in a Recorded instrument, shall have

a right and easement of enjoyment in and to all of such Special Common Area for its intended purposes, and an access easement, if applicable, by and through such Special Common Area, which easement shall be appurtenant to and shall pass with title to such Owner's Lot, subject to *Section 4.02.02* and subject to the following restrictions and reservations:

(a) The right of the Declarant, or the Declarant's designee, or with the advance written approval of the Declarant during the Development Period, and the right of the Board thereafter, to cause such Improvements and features to be constructed upon the Special Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion during the Development Period, or by the Board, in the Board's sole and absolute discretion, thereafter;

(b) The right of Declarant during the Development Period to grant additional Lots or third parties use rights in and to Special Common Area in a subsequently Recorded instrument;

(c) The right of the Association to suspend the Member's rights to use the Special Common Area for any period during which any Assessment against such Member's Lot remains past due and for any period during which such Member is in violation of any provision of the Restrictions;

(d) The right of the Declarant, or with the advance written approval of the Declarant during the Development Period, and the right of the Board thereafter, to grant easements or licenses over and across the Special Common Area;

(e) The right of the Declarant, or with the advance written approval of the Declarant during the Development Period, and the right of the Board thereafter, to borrow money for the purpose of improving the Special Common Area and, in furtherance thereof, mortgage the Special Common Area;

(f) The right of the Declarant, or with the advance written approval of the Declarant during the Development Period, and the right of the Board thereafter, to promulgate Rules regarding the use of the Special Common Area and any Improvements thereon;

(g) The right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant; and

(h) No use of the Special Common Area shall conflict with or impede the implementation of the Wildlife Management Plan.

4.03 Voting Rights.

4.03.01 Board of Directors.

(a) *Control by Declarant.* Notwithstanding the foregoing or any provision to the contrary in this Declaration, until the tenth (10th) anniversary of the date this Declaration is Recorded, Declarant shall have the sole right to appoint and remove all Board members and officers of the Association and their successors (any appointment of a successor will be deemed a removal of the Board member being replaced by such appointment). No later than the tenth (10th) anniversary of the date this Declaration is Recorded, or sooner as determined by Declarant, the Board shall hold a meeting of Members of the Association for the purpose of electing one-third (1/3) of the Board (the “**Initial Member Election Meeting**”), which Board member(s) shall be elected by Owners other than the Declarant. Declarant shall continue to have the sole right to appoint and remove two-thirds (2/3) of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period.

(b) *Post-Development Period.* Upon expiration or termination of the Development Period, the Declarant will call a meeting of the Members of the Association where the Declarant appointed Directors will resign and the Members, including Declarant, will elect new directors (to replace all Declarant appointed Directors) (the “**Member Election Meeting**”), one (1) Director for a three (3) year term, one (1) Director for a two (2) year term, and one (1) Director for a one (1) year term. Upon expiration of the term of a Director elected by the Members pursuant to this *Section 4.03.01(b)*, his or her successor will be elected for a term of two (2) years.

4.04 Vote Allocation.

4.04.01 Generally. The Owner of each Lot will be allocated one (1) vote in the Association. Declarant may, with a Recorded instrument, allocate a different number of votes to a Lot or additional real property made subject, in whole or in part, to these Restrictions. Votes are determined in Declarant’s sole discretion and need not be evenly distributed among Lots.

4.04.02 Declarant Allocation. In addition to the votes to which Declarant is entitled by reason of *Section 4.04.01*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

4.04.03 Co-Owners. When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote for such Lot will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this *Section 4.04*.

4.05 Powers. The Association will have the powers of a Texas nonprofit corporation. It will further have the power to do and perform any and all acts that may be necessary or proper for, or incidental to, the exercise of any of the express powers granted to it by the laws of Texas or this Declaration. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, will have the following powers at all times:

4.05.01 Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such Rules and Regulations, and Bylaws not in conflict with this Declaration, as it deems proper, covering any and all aspects of the Property (including the operation, maintenance and preservation thereof) or of the Association. Any Rules and Regulations, and any modifications to existing Rules and Regulations, or the Bylaws proposed by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

4.05.02 Assessments. To levy and collect Assessments and to determine Assessment Units, as provided in *Article 5* below.

4.05.03 Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area.

4.05.04 Managers. To retain and pay for the services of a person(s) or firm(s) (each a “**Manager**”), which may include Declarant or any affiliate of Declarant, to manage and operate the Association, including its real or personal property, including any Common Area or Special Common Area, the Property and/or the Lots, to the extent deemed advisable by the Board, and to provide for the management, implementation, and engagement of a manager specific to the Wildlife Management Plan, and other related actions reasonably required to comply with the Wildlife Management Plan. Additional personnel may be employed directly by the Association or may be furnished by the Manager. Each contract entered into between the Association and the Manager will be terminable by the Association without cause upon thirty (30) days written notice to the Manager. To the extent permitted by law, the Board may delegate any other duties, powers and functions to the Manager. In addition, the Board may adopt reasonable transfer fees, resale certificate fees or any other fees associated with the provision of management services to the Association or its Members. **THE MEMBERS HEREBY RELEASE DECLARANT, THE ASSOCIATION AND THE MEMBERS OF THE BOARD AND COMMITTEE MEMBERS FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

4.05.05 Construction. To construct new Improvements or additions to the Common Areas, subject to the approval of Declarant during the Development Period and the Board thereafter.

4.05.06 Contracts, Property Services and other Services. To pay for services (each, as applicable) such as water, sewer, garbage removal, street lights, landscaping,

gardening, cable, telecommunication services or other utilities, services, repair and maintenance for any portion of the Property, Common Area, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes; to enter into contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain any Common Area, Special Common Area or other property, or to provide any service, including but not limited to wildlife management services on behalf of Declarant, the Board, the Association, or the Members; to obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to Applicable Law or under the terms of the Restrictions or as determined by the Declarant during the Development Period and the Board thereafter.

4.05.07 Property Ownership. To acquire, own and dispose of all manner of real and personal property, whether by grant, lease, easement, gift or otherwise. During the Development Period, all acquisitions and dispositions of the Association hereunder must be approved in advance and in writing by the Declarant.

4.05.08 Allocation of Votes. To determine votes for each Owner of a Lot as permitted pursuant to *Section 4.04* above.

4.05.09 Membership Privileges. To establish Rules and Regulations governing and limiting the use of the Community Right-of-Way, Common Area, Special Common Area and any Improvements thereon. All Rules governing and limiting the use of the Community Right-of-Way, Common Area, Special Common Area, and any Improvements thereon must be approved in advance and in writing by the Declarant during the Development Period.

4.05.10 Insurance. To obtain and maintain in effect, policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.

4.05.11 Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

4.05.12 Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

4.05.13 Relationships and Agreements with Other Entities. The Association may enter into agreements with, or grant exclusive and/or non-exclusive easements over the Common Area to any third-party entity or person regardless of whether such entity or person is an Owner.

4.05.14 Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written

notice), without being liable to any Owner or resident, upon any Lot and into any Improvement thereon for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Restrictions. The expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Restrictions. The Board during the Development Period, and the majority vote of the Members of the Association, thereafter, is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board during the Development Period, and the majority vote of the Members of the Association thereafter, will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or its successors or assigns. The Association may not alter or demolish any Improvements on any Lot other than Common Area or Special Common Area, in enforcing this Declaration before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) has been obtained. **EACH SUCH OWNER AND RESIDENT WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.05.14 (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

4.05.15 Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area or Special Common Area for the purpose of constructing, erecting, operating or maintaining the following:

- (a) Parks, parkways or other recreational facilities or structures;
- (b) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;

- (c) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (d) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
- (e) Any similar Improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Restrictions, the Wildlife Management Plan, or Applicable Law. In addition, until expiration or termination of the Development Period, any grant or conveyance under this *Section 4.05.15* must be approved in advance and in writing by the Declarant. In addition, the Association (with the advance written approval of the Declarant during the Development Period) and the Declarant are expressly authorized and permitted to convey easements over and across Common Area or Special Common Area for the benefit of property not otherwise subject to the terms and provisions of this Declaration.

4.06 Conveyance and Designation of Common Area. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant, and its assignees, reserves the right, from time to time and at any time, to designate by written and Recorded instrument portions of the Property being held by the Declarant or a third party for the benefit of the Association, in the sole and absolute discretion of the Declarant. Upon the Recording of such designation, the portion of the Property identified therein will be considered Common Area for the purpose of this Declaration. Declarant and its assignees may also assign, transfer or convey to the Association interests in real or personal property within or for the benefit of the Property, for the Property and the general public, or otherwise, as determined in the sole and absolute discretion of the Declarant. All or any real or personal property assigned, transferred and/or conveyed by the Declarant to the Association shall be deemed accepted by the Association upon Recordation, and without further action by the Association, and shall be considered Common Area without regard to whether such real or personal property is designated by the Declarant as Common Area. If requested by the Declarant, the Association will execute a written instrument, in a form requested by the Declarant, evidencing acceptance of such real or personal property; provided, however, execution of a written consent by the Association shall in no event be a precondition to acceptance by the Association. The assignment, transfer, and/or conveyance of real or personal property to the Association may be by deed without warranty, may reserve easements in favor of the Declarant or a third party designated by Declarant over and across such property, and may include such other provisions, including restrictions on use, determined by the Declarant, in the Declarant's sole and absolute discretion. Property assigned, transferred, and/or conveyed to the Association may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment.

4.07 Indemnification. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW BUT WITHOUT DUPLICATION (AND SUBJECT TO) ANY RIGHTS OR BENEFITS

ARISING UNDER THE CERTIFICATE OR BYLAWS OF THE ASSOCIATION, THE ASSOCIATION WILL INDEMNIFY ANY PERSON WHO WAS, OR IS, A PARTY, OR IS THREATENED TO BE MADE A PARTY TO ANY THREATENED PENDING OR COMPLETED ACTION, SUIT OR PROCEEDING, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE OR INVESTIGATIVE BY REASON OF THE FACT THAT HE IS, OR WAS, A DIRECTOR, OFFICER, COMMITTEE MEMBER, EMPLOYEE, SERVANT OR AGENT OF THE ASSOCIATION AGAINST EXPENSES, INCLUDING ATTORNEYS' FEES, REASONABLY INCURRED BY HIM IN CONNECTION WITH SUCH ACTION, SUIT OR PROCEEDING IF IT IS FOUND AND DETERMINED BY THE BOARD OR A COURT OF COMPETENT JURISDICTION THAT HE (1) ACTED IN GOOD FAITH AND IN A MANNER HE REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF THE ASSOCIATION, OR (2) WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING, HAD NO REASONABLE CAUSE TO BELIEVE HIS CONDUCT WAS UNLAWFUL. THE TERMINATION OF ANY ACTION, SUIT OR PROCEEDING BY SETTLEMENT, OR UPON A PLEA OF *NOLO CONTENDERE* OR ITS EQUIVALENT, WILL NOT OF ITSELF CREATE A PRESUMPTION THAT THE PERSON DID NOT ACT IN GOOD FAITH OR IN A MANNER WHICH WAS REASONABLY BELIEVED TO BE IN, OR NOT OPPOSED TO, THE BEST INTERESTS OF THE ASSOCIATION OR, WITH RESPECT TO ANY CRIMINAL ACTION OR PROCEEDING, HAD REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL. THE ASSOCIATION AGREES TO HOLD HARMLESS, DEFEND, AND INDEMNIFY DECLARANT, DECLARANT'S LENDER(S), AND DECLARANT'S RESPECTIVE AFFILIATES (DIRECT AND INDIRECT), PARENTS, JOINT VENTURERS, PARTNERS, MEMBERS, MANAGERS, AGENTS, CONTRACTORS, REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES, AND STAFF (COLLECTIVELY, THE "RELEASED PARTIES"), FROM ANY CLAIMS, CAUSES OF ACTION, DEMANDS, LOSSES, DAMAGES, EXPENSES, COSTS, AND CLAIMS FOR PERSONAL INJURY, ILLNESS OR PROPERTY DAMAGE, INCLUDING DEATH (THE "CLAIMS"), ARISING OUT OF OR RELATING IN ANY WAY TO ANY ASSOCIATION ACTIVITIES, FUNCTIONS, COMPLETED PRODUCTS OR OPERATIONS, INCLUDING, BUT NOT LIMITED TO, THE OPERATION, MAINTENANCE OR REPAIR OF ANY COMMON AREA, SPECIAL COMMON AREA OR ANY OTHER PORTION OF THE PROPERTY WHICH THE ASSOCIATION OWNS OR IS OTHERWISE HELD BY OR FOR THE BENEFIT OF THE ASSOCIATION, INCLUDING WITHOUT LIMITATION PORTIONS HELD UNDER ANY LEASE, LICENSE OR EASEMENT IN FAVOR OF THE ASSOCIATION, OR THE EXERCISE OF ANY RIGHTS CONFERRED UPON THE ASSOCIATION IN THE RESTRICTIONS.

4.08 Facilities and Property Utilized for Marketing and Promotional Purposes. To promote the sale of Lots, Declarant may utilize certain facilities and areas within the Property, including without limitation Common Area, roads, sidewalks, medians and the surrounding areas of such facilities, for marketing and promotional purposes to the public.

4.09 Insurance. The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against him

or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability or otherwise. The Board may also purchase general liability insurance along with any other insurance it deems appropriate and at appropriate levels of coverage.

4.10 No Right of Action by Association. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Lot Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 10.01* below, relating to the design or construction of Improvements on a Lot (whether one or more). This *Section 4.10* may not be amended or modified without Declarant's written and acknowledged consent and Members entitled to cast at least one hundred percent (100%) of the total number of votes of the Association, which must be part of the Recorded amendment instrument.

4.11 Protection of Declarant's Interests. Despite any assumption of control of the Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Board is prohibited from taking any action which would discriminate against Declarant, or which would be detrimental to the sale of Lots or any portion of the Property owned by Declarant. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant. Unless otherwise agreed to in advance and in writing by the Declarant, the Board shall be required to continue the same level and quality of maintenance, operations and services as that provided immediately prior to assumption of control of the Board by Owners other than Declarant until the expiration or termination of the Development Period.

4.12 Administration of Common Area or Special Common Area. The administration of the Common Area or Special Common Area by the Association shall be in accordance with the provisions of Applicable Law, the Restrictions, and any other agreements, documents, amendments or supplements to the foregoing which may be duly adopted or subsequently required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) designated by Declarant or by any public agency, governmental or quasi-governmental agency having regulatory jurisdiction over the Common Area or Special Common Area or by any title insurance company selected by Declarant to insure title to any portion of such areas.

ARTICLE 5 **ASSESSMENTS**

5.01 Assessments.

5.01.01 Established by Board. Assessments established by the Board pursuant to the provisions of this *Article 5* will be levied by the Board against each Lot in amounts determined pursuant to *Section 5.08* below. The total amount of Assessments will be determined by the Board pursuant to *Sections 5.03, 5.04, 5.05, 5.06* and/or *5.07*.

5.01.02 Personal Obligation; Lien. Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot against which the Assessment is levied and shall be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and all Improvements thereon. The Association may enforce payment of such Assessments in accordance with the provisions of this *Article 5* and Applicable Law.

5.02 Maintenance Fund. The Board will establish one or more accounts into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association. The funds of the Association may be used for any purpose authorized by the Restrictions and Applicable Law.

5.03 Regular Assessments. Prior to the beginning of each fiscal year, the Board shall prepare a budget for the purpose of determining amounts sufficient to pay the estimated net expenses of the Association (the “**Regular Assessment**”) which sets forth: (i) an estimate of expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Declaration, including, but not limited to, the cost of all management, repair and maintenance of the Community Right-of-Way and any lighting for the Property, the cost of administering and enforcing the Restrictions including but not limited to the legal defense of any Claim made against the Declarant, Board, ACC or committee member thereof; (ii) all costs related to the creation, implementation, and enforcement of a Wildlife Management Plan; and (iii) an estimate of the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and giving due consideration to any expected income and any surplus from the prior year’s fund; and which (iv) excludes the operation, maintenance, repair and management costs and expenses associated with any Special Common Area. Regular Assessments sufficient to pay such estimated net expenses shall then be levied at the level set by the Board in its sole and absolute discretion, and the Board’s determination shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any Individual Assessment by any Owner, the Association may at any time, and from time to time, levy further Regular Assessments in the same manner. All such Regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first (1st) day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.04 Special Assessments. In addition to the Regular Assessments provided for above, the Board may levy special assessments (the “**Special Assessment**”) whenever in the Board’s opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under the Restrictions. The amount of any Special Assessments shall be at the sole discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or Special Common Area. Any Special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area shall be levied against all Owners based on Assessment Units. Any Special Assessments levied by the

Association for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Special Common Area shall be levied against all Owners who have been assigned the obligation to pay Special Common Area Assessments and will be allocated among such Owners based on Assessment Units. All Special Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first (1st) day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.05 Special Common Area Assessments. Prior to the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated expenses to be incurred by the Association to operate, maintain, repair, or manage any Special Common Area (the “**Special Common Area Budget**”). The Special Common Area Budget shall be an estimate of the amount needed to operate, maintain, repair and manage such Special Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and shall give due consideration to any expected income and surplus from the prior year’s fund. The level of assessments levied to pay for expenses associated with a Special Common Area (the “**Special Common Area Assessment**”) shall be set by the Board in its sole and absolute discretion, and the Board’s determination shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Special Common Area Assessment, the Association may at any time, and from time to time, levy further Special Common Area Assessments in the same manner as aforesaid. All such Special Common Area Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first (1st) day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.06 Individual Assessments. In addition to any other Assessments, the Board may levy an individual assessment (the “**Individual Assessment**”) against an Owner and the Owner’s Lot, which may include, but is not limited to: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner’s Lot into compliance with the Restrictions; (iii) fines for violations of the Restrictions; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and project documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner’s guests, invitees or occupants of the Owner’s Lot; (viii) common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; (ix) fees or charges levied against the Association on a per-Lot basis; and (x) “pass through” expenses for services to Lots provided through the Association and which are paid by each Lot according to benefit received.

5.07 Working Capital Assessment. Each Owner (other than Declarant) shall pay a one-time working capital assessment (“**Working Capital Assessment**”) upon acquiring title to a Lot to the Association in such amount, if any, as may be determined by the Declarant, until expiration or termination of the Development Period, and the Board thereafter. Such Working Capital Assessment need not be uniform among all Lots and the Declarant or the Board is expressly authorized to levy Working Capital Assessments of varying amounts depending on the size, use and general character of the Lots then being made subject to such levy. The Association may use

the working capital to discharge operating expenses. The levy of any Working Capital Assessment shall be effective only upon the Recordation of a written notice, signed by the Declarant or a duly authorized officer of the Association, setting forth the amount of the Working Capital Assessment and the Lots to which it applies.

Notwithstanding the foregoing provision, the following transfers shall not be subject to the Working Capital Assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's Assessment lien; (ii) transfer to, from, or by the Association; or (iii) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent. In the event of any dispute regarding the application of the Working Capital Assessment to a particular Owner, the Board's determination regarding application of the exemption shall be binding and conclusive without regard to any contrary interpretation of this *Section 5.07*.

In the event of any dispute regarding the application of the Working Capital Assessment to a particular Owner, Declarant during the Development Period and the Board thereafter will determine application of an exemption in its sole and absolute discretion which shall be binding and conclusive without regard to any contrary interpretation of this *Section 5.07*. The Working Capital Assessment shall be in addition to, not in lieu of, any other Assessments levied in accordance with this Article and shall not be considered an advance payment of such Assessments. The Working Capital Assessment hereunder will be due and payable to the Association immediately upon each transfer of title to the Lot, including upon transfer of title from one Owner of such Lot to any subsequent purchaser or transferee thereof. The Declarant during the Development Period, and thereafter the Board, shall have the power to waive the payment of any Working Capital Assessment attributable to a Lot (or all Lots) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

5.08 Amount of Assessment. The Association will levy Assessments against each Lot as determined by the number of assessment units (each an "**Assessment Unit**") allocated to each Lot. Special Common Area Assessments levied pursuant to this Declaration need not be levied uniformly against each Lot that has been assigned the obligation to pay Special Common Area Assessments for specified Special Common Area.

(a) Subject to subsections (b), (c), and (d) below, each Lot will be allocated one Assessment Unit unless a different allocation of Assessment Units for a Lot is determined by Declarant in its sole discretion. Assessments Units levied against a Lot need not be uniformly levied against any the other Lots in the Property. Declarant may allocate Assessment Units for a Lot in a Recorded instrument.

(b) Notwithstanding anything in this Declaration to the contrary, during the Development Period, no Assessments will be levied upon Lots owned by Declarant or an affiliate of Declarant.

(c) Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved Lot from Assessments; or (ii) delay the levy of Assessments against any un-platted or unimproved or improved Lot.

(d) In the event that any Lot is subdivided into multiple Lots, consolidated with one or more other Lots, or otherwise partitioned or modified, the allocation of Assessment Units to the resulting Lots will be reapportioned on the same basis as set forth in *Section 5.08(a)* above, as applied to each of the resulting Lot(s), unless otherwise allocated by Declarant in its sole discretion.

5.09 Late Charges. If any Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be levied as an Individual Assessment against the Lot owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

5.10 Owner's Personal Obligation; Interest. Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date therefor (or if there is no such highest rate, then at the rate of one and one-half percent (1½%) per month), together with all costs and expenses of collection, including reasonable attorney's fees. Such amounts will be levied as an Individual Assessment against the Lot owned by such Owner.

5.11 Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date, whether Regular Assessment, Special Assessment, Special Common Area Assessment, Individual Assessment, or a Working Capital Assessment, shall be considered delinquent. No Owner may waive or otherwise escape liability of the Assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot. In the event that an Assessment becomes delinquent, the Association, through the Board, in its sole discretion, may take any or all of the following action:

- (a) Assess an interest charge from the date of delinquency at the rate per annum two points above the prime rate charged by the Association's bank, or such other rate as shall have been established by the Board;
- (b) Assess a late charge as provided in *Section 5.09* above;
- (c) Suspend the voting rights of the Owner during any period of delinquency, to the extent permitted by Applicable Law;
- (d) Accelerate all remaining assessments for the fiscal year in question so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once; and/or

- (e) Bring an action at law or in equity against the Owner personally obligated to pay the delinquent assessment

5.12 Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this Article is, together with late charges as provided in *Section 5.09* and interest as provided in *Section 5.10* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01.02* above, and will bind each Lot in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot, except only for: (i) tax liens; (ii) all sums secured by a first mortgage lien or first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot in question; and (iii) home equity loans or home equity lines of credit which are secured by a second mortgage lien or second deed of trust lien of record; provided that, in the case of subparagraphs (ii) and (iii) above, such Mortgage was Recorded before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice may be signed by one of the officers of the Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot subject to this Declaration, will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have by law and under this Declaration, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien. In any foreclosure proceeding, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than sixty (60) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot; except, however, that in the event of foreclosure of any lien superior to the Assessment lien, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.12*, the Association will upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an officer of the Association. In addition to the lien hereby

retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such 12-day period) to such Owner, in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility or cable service provided through the Association and not paid for directly by an Owner or occupant to the utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Utility or cable service will not be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot will not relieve the Owner of such Lot or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot and on the date of such conveyance Assessments against the Lot remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot, and such sums will be paid in preference to any other charges against the Lot other than liens superior to the Assessment lien and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot which are due and unpaid. The Owner conveying such Lot will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the expenses associated with updating the Association's records upon the transfer of a Lot to a third party; provided, however, that no transfer fee will be due upon the transfer of a Lot from Declarant to a third party.

5.13 Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment or lien provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any first Mortgage, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first Mortgage.

5.14 Failure to Assess. The omission or failure of the Association to fix the Assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification or release of any Owner from the obligation to pay the Assessments. In such event, each Owner shall continue to pay Regular Assessments on the same basis as for the last year for which an Assessment was made until a new Assessment is determined, at which time any shortage in collections may be assessed retroactively by the Association.

5.15 Exempt Property. The following area within the Property will be exempt from the Assessments provided for in this *Article 5*:

(a) All area dedicated and accepted by public authority, by the Recordation of an appropriate document in the Official Public Records of Travis County, Texas;

(b) The Common Area; and

(c) Any portion of the Property owned by Declarant or the Association or otherwise provided as exempt by the Declarant.

5.16 Fines and Damages Assessment.

5.16.01 **Board Assessment.** The Board may assess fines against an Owner for violations of the Restrictions which have been committed by an Owner, an occupant or an Owner's or occupant's guests, agents or invitees pursuant to the *Fine and Enforcement Policy* contained in the Community Manual. Any fine and/or charge for damage levied in accordance with this *Section 5.16* shall be considered an Individual Assessment pursuant to this Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area, Special Common Area or any facilities caused by the Owner, the Occupant or their guests, agents, or invitees. The Manager shall have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the Restrictions and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

5.16.02 **Lien Created.** The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot is, together with interest as provided in the Restrictions, and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to this Declaration. Unless otherwise provided in this *Section 5.16.02*, the fine and/or damage charge shall be considered an Assessment for the purpose of this Article and shall be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this Article.

ARTICLE 6 EASEMENTS

6.01 Right of Ingress and Egress. Declarant, its agents, employees and designees will have a right of ingress and egress over and the right of access to the Property, Community Right-of-Way, Lots, Common Area or Special Common Area to the extent necessary to use the Property, Lots, Common Area or Special Common Area and the right to such other temporary uses of the Property, Lots, Common Area or Special Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with the construction and development of the Property.

6.02 Development Easements. Declarant reserves for itself and the Association a perpetual non-exclusive easement over and across the Property for: (i) the installation, operation

and maintenance of utilities and associated infrastructure (including roadways and easements for access) to serve the Property and any other property owned by Declarant; (ii) the installation, operation and maintenance of cable lines and associated infrastructure for sending and receiving data and/or other electronic signals, security and similar services to serve the Property and any other property owned by Declarant; and (iii) the construction, operation, maintenance, repair and replacement of the Community Right-of-Way, including any and all roadways, walkways, pathways and trails, street lights, signage, drainage systems, sewer lines, water lines, electrical lines and conduits, and other pipelines, conduits, wires, and any public utility function beneath or above the surface of the ground to serve the Property and any other property owned by Declarant or an affiliate of Declarant or as the Association may elect to construct therein. Declarant will be entitled to unilaterally assign the easements reserved hereunder to any third party who owns, operates or maintains any portion of the Common Area. The exercise of the easement reserved herein will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or residence or Improvement constructed thereon.

6.03 Roadside Easement. Declarant reserves for itself and the Association a perpetual, transferable, exclusive easement over and across the portion of the Property that is within fifty feet (50') of any edge of the Community Right-of-Way (the "**Roadside Easement**"). The Roadside Easement may be used for construction of additional utilities, roadway, landscaping, fencing, irrigation, way finding and other signage and project monumentation and is assignable by the Declarant during the Development Period and by the Board thereafter. The Declarant may grant a variance to the location or size of the Roadside Easement as determined in the Declarant's sole discretion during the Development Period and by the Board thereafter.

6.04 Shared Hiking Trail and Open Space Easements. Declarant reserves for itself a perpetual, non-exclusive easement over and across the Property (including the Lots) for purposes of designating certain shared hiking trail and open space easements (the "**Shared Hiking Trail and Open Space Easements**"). Declarant during the Development Period and the Board thereafter may designate any Shared Hiking Trail and Open Space Easement in a Recorded instrument or may designate such Shared Hiking Trail and Open Space Easements on any Plat.

6.05 Wildlife Management Easement. Declarant hereby reserves for itself and the Association, and their agents, employees and designees, a perpetual non-exclusive easement over and across the Property for the purpose of implementing, maintaining, or performing activities related to the Wildlife Management Plan or bringing any Owner's Lot into compliance with the Wildlife Management Plan.

6.06 Declarant's Reservation of Easement. Declarant reserves for itself a perpetual, non-exclusive easement over and across any portion of the Property that Declarant conveys to the Association or designates as Common Area or Special Common Area regardless of whether such conveyance instrument or designation specifically reserves such easement.

6.07 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set

forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Property.

6.08 Master Development Plan. The Declarant may subject the Property to a master development plan approved by Travis County (the “**Master Development Plan**”), as may be amended from time to time in Declarant’s sole discretion. Each Owner is advised to review the terms of the Master Development Plan to ensure each Owner’s compliance with its terms.

ARTICLE 7

WILDLIFE MANAGEMENT PLAN

7.01 Purpose. The purpose of the Wildlife Management Plan is to actively manage the participating Lots through the use of beneficial wildlife management practices, including but not limited to, the propagation of a breeding, migrating, or wintering population of indigenous wildlife on and around the participating Lots. Preparation, implementation, and maintenance of active, meaningful wildlife and habitat management plans are primary goals of the Declarant, Board and the Association (as defined below). Declarant intends that the Wildlife Management Plan be ecologically beneficial to the Property and the Lots by improving wildlife habitat and/or water quality and quantity; and that the non-wildlife uses of the Property and the Lots will not significantly or demonstrably interfere with the wildlife management practices and activities being conducted on the land and will not be detrimental to the species targeted for management; and that the Association further benefits the Owners by allowing them to share the expenses and other burdens of maintaining a Wildlife Management Plan on the Property and the Lots; and that the Association have the power and responsibilities given by this Declaration to achieve the benefits of the Wildlife Management Plan.

7.02 Wildlife Management Use, Ad Valorem Tax Valuation. Each Owner, by acquiring a Lot, agrees to commit the primary use of their Lot to wildlife management as described in Texas Tax Code §23.51(7), Texas Administrative Code Rules §9.2001 through §9.2005, and the requirements of Travis County for qualification for agricultural appraisal based on wildlife management use. Each Owner shall be responsible for maintaining an ad valorem tax valuation based on wildlife management on such Owner’s Lot (the “**Wildlife Valuation**”) by allowing the Association to implement a Wildlife Management Plan as described in *Section 7.04* and by taking the actions prescribed by the Association, including, but not limited to, signing and/or implementing any Wildlife Management Plan adopted by the Association or any annual report for such Owner’s Lot. To the extent the Association does not prepare a Wildlife Management Plan or an annual report applicable to each Lot within the Property, individual Owners will be responsible for doing so for the Lots they own. The Association or any individual Owner may wish to retain a third-party company specializing in such plans, such as Plateau Land and Wildlife Management, to assist in this effort. If for any reason a Lot no longer qualifies for Wildlife Valuation, the Owner thereof shall be responsible for and shall pay all rollback and market value taxes due and payable on said Lot.

7.03 Implementation of Wildlife Management. Each Owner, by acquiring a Lot, authorizes the Association to adopt and implement a Wildlife Management Plan for each Lot within the Property and agrees to comply with the Wildlife Management Plan, if any, adopted by the Association and to allow the ACC to take the actions necessary to implement the Wildlife Management Plan on each Lot. Such activities include, but are not limited to, preparing a Wildlife Management Plan for the Property, conducting wildlife censuses, trapping, removing and/or killing predators, improving and maintaining wildlife habitat, etc. The Association may enter into agreements with third-party service companies to prepare and implement such Wildlife Management Plan.

7.04 Wildlife Management Plan. In accordance with §23.51(7) of the Texas Tax Code, as amended from time to time, and any other Applicable Law, any Wildlife Management Plan implemented by the Association shall require the active use of each Lot in at least three (3) or more of the following ways to propagate a sustainable breeding, migrating, or wintering population of indigenous wild animals for human use, including food, medicine or recreation:

- (a) Habitat control;
- (b) Erosion;
- (c) Predator control;
- (d) Providing supplemental supplies of water;
- (e) Providing supplemental supplies of food;
- (f) Providing shelter; and
- (g) Making of census counts to determine population.

Each Owner shall follow all guidelines established by any Wildlife Management Plan adopted by the Association for use of and activities on all portions of his or her Lot outside that portion that is being used for residential purposes. An Owner may not use any portion of his or her Lot in any manner that is inconsistent or incompatible with the Wildlife Management Plan.

7.05 Cooperation in Submittal of Wildlife Management Plan. In the event the Association establishes a Wildlife Management Plan for the Property, each Owner agrees to designate the Board, or its duly authorized agent, to act on behalf of the Owner in wildlife management property tax matters relating to submitting a Wildlife Management Plan or related annual report for the Owner's Lot and the Property. In the event the Association establishes a Wildlife Management Plan for the Property, each Owner agrees to execute Texas Comptroller Form 50-162 to designate the Association, the Manager, or a third-party wildlife management company selected by the Board as such Owner's agent for certain wildlife management property tax matters as is necessary to allow the Association to submit a single Wildlife Management Plan and/or annual report showing implementation of the Wildlife Management Plan for the Property.

Alternatively, in the event individual Owner's signatures are required, each Owner shall execute the Wildlife Management Plan adopted by the Board.

7.06 Livestock Leases. The Owner of each Lot designates the Association as such Owner's agent to enter into a lease or leases for the grazing of livestock upon the Property in the event the grazing of livestock is part of the Wildlife Management Plan. Any lease income received will be payable to the Association and not to individual Lot Owners.

7.07 Individual Lot Plan. To the extent not covered by the Wildlife Management Plan, each Owner, at such Owner's sole cost and expense, shall have a wildlife management plan setting forth guidelines for compliance with the provisions of §23.51 of the Texas Tax Code in order to continue to qualify such Owner's Lot or Lots for qualified open space valuation based on wildlife management use.

7.08 Principal Use. Owners agree that any residential development that occurs on their property shall be secondary in nature to the principal use of wildlife management, shall not significantly or demonstrably interfere with the wildlife management practices and activities being conducted on the land, shall not be detrimental to the species targeted for management, and further agree that any residential development shall comply with any applicable legal limits established for Wildlife Management Property Associations for Travis County by Texas Administrative Code rule 9.2005(a).

7.09 Inspection. Owners agree that the Declarant, the Board, and the ACC shall have the right to inspect their Lot to ensure compliance with the Wildlife Management Plan, to implement wildlife management practices in the event of a breach of the Wildlife Management Plan, to enforce this restriction, and to recoup costs involved in enforcement, as further provided in this Declaration.

ARTICLE 8

DEVELOPMENT RIGHTS

8.01 Special Declarant Rights. Notwithstanding any provision of this Declaration to the contrary, at all times, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots in the Property or the sale of other property owned by Declarant or an affiliate of Declarant; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Property. The construction, placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 8.01* until two (2) years after expiration or termination of the Development Period.

8.02 Assignment of Declarant's Rights. Notwithstanding any provision in this Declaration to the contrary, during the Development Period, Declarant may, by Recorded instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under the Restrictions (including, without limitation, this Declaration) to any person or entity and may

permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

8.03 Development by Declarant. It is contemplated that the Property will be developed pursuant to a plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to create and/or designate Lots and Common Area and to subdivide with respect to any of the Property pursuant to the terms of this *Section 8.03*, subject to any limitations imposed on portions of the Property by any applicable Plat subject to the acreage requirements necessary to maintain an open space ad valorem tax valuation based on wildlife management for each Lot. These rights may be exercised with respect to any portions of the Property. As each area is developed or dedicated, Declarant may designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area.

8.04 Addition of Land. Declarant may, at any time and from time to time, add additional lands to the Property. Upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Declaration, and such added lands will be considered part of the Property subject to this Declaration and the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. To add lands to the Property, Declarant will be required only to Record a notice of addition of land containing the following provisions:

- (a) A reference to this Declaration, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Declaration is Recorded;
- (b) A statement that such land will be considered Property for purposes of this Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and
- (c) A legal description of the added land.

8.05 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw from the Property, and remove and exclude from the burden of this Declaration and the jurisdiction of the Association any portion of the Property. Upon any such withdrawal of land, this Declaration and the covenants, conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Property withdrawn. To withdraw lands from the Property hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

- (a) A reference to this Declaration, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Declaration is Recorded;

(b) A statement that the provisions of this Declaration will no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land.

8.06 Plat Recordation. Declarant may, at any time and from time to time, Record a Plat of the Property or portion of the Property to clearly identify specific Lots, to dedicate the Community Right-of-Way to the public, to re-locate the Community Right-of-Way, or for any other reason determined by the Declarant during the Development Period. Each Owner understands, acknowledges and agrees and the Owner will not be required to join in the execution of any Plat or other governmental approval required for Recording a Plat affecting an Owner's Lot. Each Owner agrees to cooperate with Declarant in consenting to any required approvals of a governmental body with respect to the Recording of a Plat or other required governmental approval with respect to entitlements to the Property or development of the Property.

8.07 Declarant as Attorney-in-Fact. To secure and facilitate the Declarant's development of the Property during the Development Period and in exercise of the rights reserved by the Declarant in the Restrictions, each Owner: (i) by retaining benefits of the Declarant's actions; or (ii) by accepting a deed to a Lot; and each Mortgagee, by accepting the benefits of a Mortgage against a Lot within the Property, and any other person, by acceptance of the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot in the Property, shall thereby be deemed to have appointed the Declarant as such Owner's, Mortgagee's and person's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by the Declarant pursuant to the Restrictions and to amend, modify, or terminate any Recorded instruments affecting the Property or benefitting the Owners or the Property on such Owner's behalf without the joinder of such Owner, including but not limited to the Recording of a plat(s) for roads (including but not limited to the Community Right-of-Way), to establish Lots, or for any portion or the entirety of the Property; for executing construction plans or requirements for the approval of governmental entitlements to fully develop the Property or adjacent property owned by Declarant or an affiliate of Declarant. The power thereby vested in the Declarant as attorney-in-fact for each Owner, Mortgagee, and/or person, shall be deemed, conclusively, to be coupled with an interest and shall survive the dissolution, termination, insolvency, bankruptcy, incompetency, and death of an Owner, Mortgagee, and/or person and shall be binding upon the legal representatives, administrators, executors, successors, heirs, and assigns of each such party. In addition, each Owner: (i) by retaining benefits of the Declarant's actions; or (ii) by accepting a deed to a Lot; and each Mortgagee, by accepting the benefits of a Mortgage against a Lot within the Property, and any other person, by acceptance of the benefits of a Mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot in the Property, shall thereby appoint Declarant the proxy of such Owner, Mortgagee, or person, with full power of substitution to the premises, to do and perform each and every act permitted or required pursuant to the Restrictions, and which may otherwise be reasonably necessary in connection therewith, including without limitation, to cast a vote for such Owner, Mortgagee or person at any meeting of the Members for the purpose of approving or consenting to an amendment to the Restrictions in order to effect and perfect any such act permitted

or required pursuant to the Restrictions and to execute and record amendments on their behalf to such effect; and the power hereby reposed in Declarant, as the attorney-in-fact for such Owner, Mortgagee or person, includes, without limitation, the authority to execute a proxy as the act and deed of any Owner, Mortgagee or person, and upon termination or revocation of any Owner's proxy as permitted by the Texas Business Organizations Code, the authority to execute successive proxies as the act and deed of any Owner, Mortgagee or person authorizing Declarant or any substitute or successor Declarant appointed thereby, to cast a like vote for such Owner at any meeting of the Members of the Association. All such appointments or successive proxies shall expire as to the power reserved by Declarant in the Restrictions on the date Declarant no longer has the right to exercise such rights. All such proxies shall be non-revocable for the maximum lawful time and upon the expiration of non-revocation period, new proxies shall again be executed for the maximum non-revocable time until Declarant's right to require such successive proxies expires.

ARTICLE 9

GENERAL PROVISIONS

9.01 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the Property, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant and its legal representatives, heirs, successors, and assigns, for a term of ninety-nine (99) years, after which time this Declaration will be automatically extended for successive periods of ten (10) years each.

9.02 Amendment. This Declaration may be amended or terminated in any manner – including to add real property to or withdraw real property from the Property – by the recording in the Official Public Records of Travis County, Texas, of an instrument executed and acknowledged by: (i) Declarant, acting alone and unilaterally, until expiration or termination of the Development Period; or (ii) the President and Secretary of the Association setting forth the amendment and, during the Development Period, certifying that such amendment has been approved by Declarant (unless Declarant has relinquished such right by written instrument Recorded in the Official Public Records of Travis County, Texas) and Members (including Declarant) entitled to cast at least sixty-seven percent (67%) of the number of votes entitled to be cast by members of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. No amendment will be effective without the written consent of Declarant, or its successors or assigns until expiration or termination of the Development Period. Specifically, and by no means by way of limitation, Declarant may unilaterally amend this Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

9.03 Safety and Security. Each Owner, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property. The Association or the Declarant may, but shall not be obligated to, maintain or support certain activities within the Property designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, in no event shall the Association, the Declarant or their board members, directors, officers, committee members, employees, or agents be considered insurers or guarantors of safety or security within the Property nor shall the Association, the Declarant or their board members, directors, officers, committee members, employees, or agents be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems or any gate, mechanism or system for limiting access to the Property or any portion thereof, cannot be compromised or circumvented; or that any such system or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any occupants of such Owner's Lot that the Association, the Declarant or their board members, directors, officers, committee members, employees, or agents are not insurers or guarantors of security or safety and that each person within the Property assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot and the contents thereof, resulting from acts of third parties.

9.04 Enforcement. The Association and the Declarant will have the right to enforce, by a proceeding at law or in equity, the Restrictions. The Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein. Failure to enforce any right, provision, covenant, or condition set forth in the Restrictions will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future. Failure of the Declarant or the Association to enforce the terms and provisions of the Restrictions shall in no event give rise to any claim or liability against the Declarant, the Association, or any of their partners, directors, officers, or agents. EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE PROPERTY, HEREBY RELEASES AND SHALL HOLD HARMLESS EACH OF THE DECLARANT, THE ASSOCIATION, AND THEIR PARTNERS, DIRECTORS, OFFICERS, OR AGENTS FROM AND AGAINST ANY DAMAGES, CLAIMS, OR LIABILITY ASSOCIATED WITH THE FAILURE OF THE DECLARANT OR THE ASSOCIATION TO ENFORCE THE TERMS AND PROVISIONS OF THE RESTRICTIONS.

9.05 Severability. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this

Declaration, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

9.06 Higher Authority. The terms and provisions of this Declaration are subordinate to federal and state law, and local ordinances. Generally, the terms and provisions of this Declaration are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

9.07 Conflicts. If there is any conflict between the provisions of this Declaration, the Certificate of Formation, the Bylaws, or any Rules and Regulations adopted pursuant to the terms of such documents, the provisions of this Declaration will govern.

9.08 Acceptance by Grantees. Each grantee of a Lot or other real property interest in the Property, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Declaration or to whom this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. All impositions and obligations hereby imposed will constitute covenants running with the land within the Property, and will bind any person having at any time any interest or estate in the Property, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

9.09 No Partition. Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area or Special Common Area or any part will be permitted, nor will any person acquiring any interest in the Property or any part seek any such judicial partition unless the Property in question has been removed from the provisions of this Declaration pursuant to *Section 9.12* below. This *Section 9.09* shall not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Declaration.

9.10 Notices. Any notice permitted or required to be given to any person by this Declaration will be in writing and may be delivered either personally or by mail, or as otherwise required by Applicable Law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

9.11 View Impairment. Neither Declarant nor the Association guarantee or represent that any view over and across the Lots, or any open space or Common Area or Special Common Area within the Property will be preserved without impairment. Neither the Declarant, the ACC, and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Area or Special Common Area) will have the right to add trees and other landscaping from time to time, subject to Applicable Law. There shall be no express or implied easements for view purposes or for the passage of light and air.

9.12 Eminent Domain. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Special Common Area for any public purpose during the period this Declaration is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be made a party, and in any event the proceeds received shall be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments shall be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on the respective Lot. In the event any proceeds attributable to acquisition of Special Common Area are paid to Owners who have been assigned the obligation to pay Special Common Area Assessments attributable to such Special Common Area, such payment shall be allocated on the basis of Assessment Units and paid jointly to such Owners and the holders of first Mortgages or deeds of trust on the respective Lot.

9.13 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in the Declaration. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms, or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE 10

DISPUTE RESOLUTION

10.01 Introduction and 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 10* (individually, each a “**Party**,” or collectively, the “**Parties**”) agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this *Article 10* applies to all Claims as hereafter defined. This *Article 10* may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding one hundred percent (100%) of the votes in the Association. As used in this *Article 10* only, the following words, when capitalized, have the following specified meanings:

(a) “**Claim**” means:

(a) Claims relating to the rights and/or duties of Declarant, the Association, the Board, or the ACC, under the Restrictions.

(b) Claims relating to the acts or omissions of the Declarant, the Association or a Board member or officer of the Association during Declarant’s control and administration of the Association, and any claim asserted against the ACC.

(c) Claims relating to the design or construction of the Common Area or Special Common Area or any Improvements located on the Property.

- (b) **“Claimant”** means any Party having a Claim against any other Party.
- (c) **“Respondent”** means any Party against which a Claim has been asserted by a Claimant.

10.02 Mandatory Procedures. Claimant may not initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this *Article 10*. As provided in *Section 10.09* below, a Claim will be resolved by binding arbitration.

10.03 Claim Affecting Common Area or Special Common Area. In accordance with *Section 4.10* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Lot Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 10.01* above, relating to the design or construction of Improvements on a Lot (whether one or more). In the event the Association or a Lot Owner asserts a Claim related to the Common Area or Special Common Area, as a precondition to providing the Notice defined in *Section 10.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 10*, or taking any other action to prosecute a Claim related to the Common Area or Special Common Area, the Association or a Lot Owner, as applicable, must:

10.03.01 **Independent Report on the Condition of the Common Area or Special Common Area.** Obtain an independent third-party report (the **“Common Area Report”**) from a licensed professional engineer which: (i) identifies the Common Area or Special Common Area subject to the Claim including the present physical condition of the Common Area or Special Common Area; (ii) describes any modification, maintenance, or repairs to the Common Area or Special Common Area performed by the Lot Owner(s) and/or the Association; and (iii) provides specific and detailed recommendations regarding remediation and/or repair of the Common Area or Special Common Area subject to the Claim. For the purposes of this *Section 10.03*, an independent third-party report is a report obtained directly by the Association or a Lot Owner and paid for by the Association or a Lot Owner, as applicable, and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Association or a Lot Owner in the Claim. As a precondition to providing the Notice described in *Section 10.05*, the Association or Lot Owner must provide at least ten (10) days prior written notice of the inspection, calculated from the date of receipt of such notice, to each Party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Common Area Report, the specific Common Area or Special Common Area to be inspected, and the date and time the inspection will occur. Each Party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Common Area Report shall be provided to each Party subject to a Claim. In addition, before providing the Notice described in *Section 10.05*, the Association or the Lot Owner, as applicable, shall have permitted each Party subject to a Claim the right, for a period of ninety (90) days, to inspect and correct, any condition identified in the Common Area Report.

10.03.02 Claim by the Association - Owner Meeting and Approval. If the Claim is prosecuted by the Association, the Association must first obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to: (i) provide the Notice described in *Section 10.05*; (ii) initiate the mandatory dispute resolution procedures set forth in this *Article 10*; or (iii) take any other action to prosecute a Claim, which approval from Members must be obtained at a special meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (a) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (b) a copy of the Common Area Report; (c) a copy of any proposed engagement letter, with the terms of such engagement between the Association and an attorney to be engaged by the Association to assert or provide assistance with the claim (the “**Engagement Letter**”); (d) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which it may be liable if it is not the prevailing Party or that the Association will be required, pursuant to the Engagement Letter or otherwise, to pay if the Association elects to not proceed with the Claim; (e) a summary of the steps previously taken, and proposed to be taken, to resolve the Claim; (f) an estimate of the impact on the value of each Lot if the Claim is prosecuted and an estimate of the impact on the value of each Lot after resolution of the Claim; (g) an estimate of the impact on the marketability of each Lot if the Claim is prosecuted and during prosecution of the Claim, and an estimate of the impact on the value of each Lot during and after resolution of the Claim; (h) the manner in which the Association proposes to fund the cost of prosecuting the Claim; and (i) the impact on the finances of the Association, including the impact on present and projected reserves, in the event the Association is not the prevailing Party. The notice required by this paragraph must be prepared and signed by a person other than, and not employed by or otherwise affiliated with, the attorney or law firm that represents or will represent the Association or Lot Owner, as applicable, in the Claim. In the event Members approve providing the Notice described in *Section 10.05*, or taking any other action to prosecute a Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

10.04 Claim by Lot Owners – Improvements on Lots. Notwithstanding anything contained herein to the contrary, in the event a warranty is provided to a Lot Owner by the Declarant or a homebuilder relating to the design or construction of any Improvements located on a Lot, then this *Article 10* will only apply to the extent that this *Article 10* is more restrictive than such Lot Owner’s warranty, as determined in the Declarant’s sole discretion. If a warranty has not been provided to a Lot Owner relating to the design or construction of any Improvements located on a Lot, then this *Article 10* will apply. If a Lot Owner brings a Claim, as defined in *Section 10.01*, relating to the design or construction of any Improvements located on a Lot (whether one or more), as a precondition to providing the Notice defined in *Section 10.05*, initiating the mandatory dispute resolution procedures set forth in this *Article 10*, or taking any other action to prosecute a Claim, the Lot Owner must obtain an independent third-party report (the “**Owner Improvement Report**”) from a licensed professional engineer which: (i) identifies the Improvements subject to the Claim including the present physical condition of the Improvements;

(ii) describes any modification, maintenance, or repairs to the Improvements performed by the Lot Owner(s) and/or the Association; and (iii) provides specific and detailed recommendations regarding remediation and/or repair of the Improvements subject to the Claim. For the purposes of this *Section 10.04*, an independent third-party report is a report obtained directly by the Lot Owner and paid for by the Lot Owner, and not prepared by a person employed by or otherwise affiliated with the attorney or law firm that represents or will represent the Lot Owner in the Claim. As a precondition to providing the Notice described in *Section 10.05*, the Lot Owner must provide at least ten (10) days prior written notice of the inspection, calculated from the date of receipt of such notice, to each Party subject to a Claim which notice shall identify the independent third-party engaged to prepare the Owner Improvement Report, the specific Improvements to be inspected, and the date and time the inspection will occur. Each Party subject to a Claim may attend the inspection, personally or through an agent. Upon completion, the Owner Improvement Report shall be provided to each Party subject to a Claim. In addition, before providing the Notice described in *Section 10.05*, the Lot Owner shall have permitted each Party subject to a Claim the right, for a period of ninety (90) days, to inspect and correct, any condition identified in the Owner Improvement Report.

10.05 Notice. Claimant must notify Respondent in writing of the Claim (the “**Notice**”), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Restrictions or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this *Section 10.05*. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 10.06* below is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 10.06*, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. *Section 10.06* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred twenty (120) day period for mediation, set forth in *Section 10.07* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 10.07* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association, the Notice will also include: (a) a true and correct copy of the Common Area Report; (b) a copy of the Engagement Letter; (c) copies of all reports, studies, analyses, and recommendations obtained by the Association related to the Common Area or Special Common Area that forms the basis of the Claim; (d) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 10.03.02* above; and (e) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and pertains to the Common Area or Special Common Area, the Notice will also include a true and correct copy of the Common Area Report. If the Claimant is not the Association

and pertains to Improvements on a Lot, the Notice will also include a true and correct copy of the Owner Improvement Report.

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

10.07 Mediation. If the Parties negotiate, but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the Parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the Parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Respondent may submit the Claim to mediation in accordance with this *Section 10.07*.

10.08 Termination of Mediation. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate arbitration proceedings on the Claim, as appropriate and permitted by this *Article 10*.

10.09 Binding Arbitration-Claims. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 10.09*.

10.09.01 **Governing Rules.** If a Claim has not been resolved after mediation as required by *Section 10.07*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 10.09* and the rules and procedures of the American Arbitration Association ("**AAA**") or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Travis County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's "Construction Industry Dispute Resolution Procedures" and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any Claim, if the AAA has, by the time of Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules

identified above. In the event of any inconsistency between any such applicable rules and this *Section 10.09*, this *Section 10.09* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal except as provided in *Section 10.09.04*, but may be reduced to judgment or enforced in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

(a) One arbitrator shall be selected by Respondent, in its sole and absolute discretion;

(b) One arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and

(c) One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

10.09.02 Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 10.09* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any Party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

10.09.03 Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 10.09*.

10.09.04 Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the applicable substantive law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 10.09* and subject to *Section 10.10* below (attorney's fees and costs may not be awarded by the arbitrator); provided, however, that for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings, the Parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or

factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of federal or state law; or (iv) a cause of action or remedy not expressly provided under existing state or federal law. In no event may an arbitrator award speculative, consequential or punitive damages for any Claim.

10.09.05 Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred eighty (180) days of the filing of the Claim for arbitration by notice from either Party to the other. Arbitration proceedings hereunder shall be conducted in Travis County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Each Party agrees to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the Parties or by Applicable Law or regulation. In no event shall any Party discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other Parties to the Claim.

10.10 Allocation of Costs. Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Binding Arbitration-Claims sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

10.11 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.

10.12 Period of Limitation.

10.12.01 For Actions by an Owner. The exclusive period of limitation for any of the Parties to bring any Claim, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day from the date that the Owner discovered or reasonably should have discovered evidence of the Claim; or (iii) for all Claims, the applicable statute of limitations under Texas law. In no event shall this *Section 10.12.01* be interpreted to extend any period of limitations under Texas law.

10.12.02 For Actions by the Association. The exclusive period of limitation for the Association to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of the Common Area or Special Common Area, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging

construction defect or defective design of the Common Area or Special Common Area, four (4) years and one (1) day from the date that the Association discovered or reasonably should have discovered evidence of the Claim; or (iii) for all Claims, the applicable statute of limitations under Texas law. In no event shall this *Section 10.12.02* be interpreted to extend any period of limitations under Texas law.

10.13 Funding Arbitration and Litigation. The Association must levy a Special Assessment to fund the estimated costs of arbitration, including estimated attorney's fees, conducted pursuant to this *Article 10* or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund.

[SIGNATURE PAGE TO FOLLOW]

*[EXECUTION PAGE TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR PRESERVATION RANCH]*

EXECUTED to be effective on the date this instrument is Recorded.

DECLARANT:

PRLT PARTNERS, LLC,
a Texas limited liability company

By: _____
Landon Marino, Manager

NOTARY ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me this _____ day of _____, 2021, by Landon Marino, as Manager of PRLT Partners, LLC, a Texas limited liability company, on behalf of said limited liability company.

(SEAL)

Notary Public Signature

CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the lien created by a *Deed of Trust* recorded as Document No. 2019197056 in the Official Public Records of Travis County, Texas (the "**Lien**"), securing a note of even date therewith, executes this Declaration solely for the purposes of (a) evidencing its consent to this Declaration, and (b) subordinating the Lien to this Declaration, both on the condition that the Lien shall remain superior to the Assessment Lien in all events.

Capital Farm Credit, FLCA

By: _____

Printed Name: _____

Title: _____

THE STATE OF TEXAS §

§

COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2021, by _____, as _____ of Capital Farm Credit, FLCA, on behalf of said entity.

Notary Public, State of Texas

(seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

The Property is legally described as 869.093 acres, more or less, being the same real property described as 868.774 acres, more or less, in the plat for Preservation Ranch to be recorded in the Official Public Records of Hays County Texas, and identified by metes and bounds as follows:

TRACT 1: A description of 929.987 acres of land situated in the C.W. Pressler Survey, Abstract No. 2472, the John Lewis Survey No. 21, Abstract No. 498, and the Adams, Beaty and Moulton Survey, Abstract No. 42 in Travis County, Texas, being that certain tract 1, conveyed to Preservation Ranch Limited Partnership, LLP, recorded in Document No. 1999028310 of the Official Public records of Travis County, Texas, and being partially described in Volume 3236, Page 1167, of the Deed Records of Travis County, Texas, said 929.987 acre tract being more particularly described by metes and bounds as follows:

BEGINNING, at a MAG nail found for an angle point on the Northwest line of Lot 51, Block A, Belvedere Phase II, a Subdivision whose Plat is recorded in Document No. 200700054 of the said Official Public records, same being the most Easterly North corner of Lot 11, Madrone Ranch, a Subdivision whose Plat is recorded in Document No. 199900251 of the said Official Public records, a Private Street, drainage and Public utility easement, also called Madrone Ranch Trail and same also being a Southerly corner of the said Preservation Ranch Limited Partnership tract 1;

THENCE, along the Northerly line of said Lot 11, same being a Southerly line of the said Preservation Ranch Limited Partnership Tract 1, North 68 degrees 08 minutes 50 seconds West, at a distance of 65.48 feet pass the most Westerly North corner of said Lot 11, same being a Northeast corner of Lot 26, Block A, of said Madrone Ranch and along a Northerly line of said Lot 26, a total distance of 81.61 feet to a calculated point on a rock wall for an Easterly corner of that certain 393.26 acre tract of land, conveyed to The Serengeti Foundation, recorded in Document No. 2004132532 of the said Official Public records, same being a Northerly corner of said Lot 26, and same also being a Southerly corner of the said Preservation Ranch Limited Partnership Tract 1;

THENCE, along the common line between the said The Serengeti Foundation 393.26 acre tract and the said Preservation Ranch Limited Partnership tract 1, the following Seventeen (17) courses:

1. North 25 degrees 27 minutes 09 seconds East, 418.19 feet to a 1/2 inch iron rod with plastic cap marked "McAngus Surveying" found,
2. North 39 degrees 13 minutes 05 seconds East, 94.65 feet to a 5/8 inch iron pipe found,
3. North 08 degrees 26 minutes 56 seconds East, 67.50 feet to a 3/4 inch iron pipe found,
4. North 21 degrees 07 minutes 58 seconds West, 48.84 feet to a 1/2 inch iron pipe found,
5. North 61 degrees 30 minutes 46 seconds West, 369.50 feet to a 1/4 inch iron pipe found,
6. North 62 degrees 51 minutes 07 seconds West, 269.26 feet to a 1/2 inch iron pipe found,
7. North 61 degrees 38 minutes 49 seconds West, 268.52 feet to a 1/4 inch iron pipe found,
8. North 62 degrees 34 minutes 13 seconds West, 438.13 feet to a 1/4 inch iron pipe found,
9. North 56 degrees 14 minutes 24 seconds West, 48.77 feet to a 1/2 inch iron pipe found,
10. North 41 degrees 43 minutes 45 seconds West, 62.18 feet to a 3/4 inch iron pipe found,
11. North 83 degrees 45 minutes 21 seconds West, 60.96 feet to a 3/4 inch iron pipe found,
12. North 63 degrees 21 minutes 50 seconds West, 155.28 feet to a 1/2 inch iron pipe found,
13. North 61 degrees 57 minutes 30 seconds West, 682.56 feet to a 1/2 inch iron pipe found,
14. North 61 degrees 41 minutes 01 seconds West, 477.88 feet to a 1/2 inch iron pipe found,
15. North 63 degrees 30 minutes 53 seconds West, 205.46 feet to a cotton gin spindle found,

16. North 62 degrees 27 minutes 25 seconds West, 225.25 feet to a cotton gin spindle found, and

17. North 61 degrees 54 minutes 09 seconds West, 709.70 feet to a metal fence post found on the East line of that certain 399.13 acre tract, conveyed to Michael Allen Murphy, recorded in Volume 12840, Page 215 of the real property records of Travis County, Texas, for the Northwest corner of the said The Serengeti Foundation 393.26 acre tract, same being the Southwest corner of the said Preservation Ranch Limited Partnership tract 1;

THENCE, along the common line between the said Michael Allen Murphy 399.13 acre tract and the said Preservation Ranch Limited Partnership Tract 1, the following Six (6) courses:

1. North 26 degrees 05 minutes 32 seconds East, 851.39 feet to a cotton gin spindle found,
2. North 26 degrees 12 minutes 39 seconds East, 116.66 feet to a 1/4 inch iron pipe found,
3. North 28 degrees 30 minutes 27 seconds East, 91.47 feet to a cotton gin spindle found,
4. North 04 degrees 59 minutes 11 seconds East, 25.58 feet to a cotton gin spindle found,
5. North 31 degrees 14 minutes 59 seconds East, 125.23 feet to a cotton gin spindle found, and
6. North 25 degrees 28 minutes 36 seconds East, 170.25 feet to a 1/2 inch iron rod with plastic cap marked 'Forest RPLS 1847' found for the most Southerly Southeast corner of that certain 738.154 acre tract, conveyed to Stephen Michael Harrison, recorded in Document No. 2017108086 of the said Official Public records, same being the Northeast corner of the said Michael Allen Murphy 399.13 acre tract, from which, a 1/2 inch iron rod with plastic cap marked 'Forest RPLS 1847' found for an angle point on the Southerly line of the said Stephen Michael Harrison 738.154 acre tract, same being the North line of the said Michael Allen Murphy 399.13 acre tract, bears, North 83 degrees 47 minutes 32 seconds West, 291.28 feet;

THENCE, along the common line between the said Stephen Michael Harrison 738.154 acre tract and the said Preservation Ranch Limited Partnership tract 1, as fenced with an 8' wire game fence, the following Eleven (11) courses:

1. North 27 degrees 11 minutes 07 seconds East, 244.22 feet to a steel fence post found,
2. North 28 degrees 13 minutes 13 seconds East, 328.52 feet to a cotton gin spindle found,
3. North 28 degrees 29 minutes 43 seconds East, 983.01 feet to a cotton gin spindle found,
4. North 28 degrees 22 minutes 52 seconds East, 400.13 feet to a 5/8 inch iron rod with plastic cap marked "RL, Surveying" found,
5. North 28 degrees 13 minutes 48 seconds East, 1007.71 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" found,
6. North 28 degrees 23 minutes 55 seconds East, 799.49 feet to a steel fence post found,
7. North 01 degrees 43 minutes 51 seconds West, 573.06 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" found,
8. North 01 degrees 27 minutes 41 seconds West, 483.65 feet to a steel post found for an interior corner of the said Stephen Michael Harrison 738.154 acre tract, same being the Northwest corner of the said Preservation Ranch Limited Partnership Tract 1,
9. North 88 degrees 41 minutes 11 seconds East, 531.44 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" found,
10. North 88 degrees 17 minutes 04 seconds East, 651.88 feet to a cotton gin spindle found,
11. North 88 degrees 30 minutes 11 seconds East, 545.14 feet to a 1/2 inch iron pipe found for a Southwest corner of that certain 671.45 acre tract 1, conveyed to Ronya Kozmetsky Ranch TRUST, recorded in Document No. 2010195713 of the said Official Public records, same being the most Easterly Southeast corner of the said Stephen Michael Harrison 738.154 acre tract;

THENCE, along the common line between the said Ronya Kozmetsky Ranch Trust 671.45 acre tract 1, a portion of the remainder of that certain 975.846 acre tract, conveyed to WS-COS Development, LLC, recorded in Document No. 2011102858 of the said Official Public records and that certain 16.18 acre tract 18, conveyed to Nash Sweetwater, LLC, recorded in Document No. 2015050284 of the said Official Public records and the said Preservation Ranch

Limited Partnership tract 1, North 88 degrees 11 minutes 51 seconds East, at a distance of 3013.92 feet, pass a 1/2 inch iron rod found with plastic cap destroyed, for a Southwesterly corner of that certain 114.60 acre tract 22, conveyed to Nash Sweetwater, LLC, recorded in said Document No. 2015050284, same being a Southeasterly corner of the said portion of the remainder of the 975.846 acre WS-COS Development, LLC, tract, and with the common line of the said 114.60 acre Nash Sweetwater, LLC tract 22 and the said Preservation Ranch Limited Partnership Tract 1, at a distance of 3250.43 feet, pass a 1/2 inch iron rod with plastic cap marked "Delta Survey" found, and a total distance of 3316.74 feet to a 1/2 inch iron pipe found for the Northwest corner of that certain 394.0348 acre tract, described in a Partition Agreement, between Jan M. Harris, Sara Lee Harris Wallace and Kay Harris Wood, recorded in Document No. 2006007530 of the said Official Public records, same being the Northeast corner of the said Preservation Ranch Limited Partnership Tract 1;

THENCE, departing a Southerly line of the said 114.60 acre Nash Sweetwater, LLC tract 22, along the common line between the said 394.0348 acre tract and the said Preservation Ranch Limited Partnership Tract 1, the following Thirteen (13) courses:

1. South 09 degrees 50 minutes 45 seconds East, 661.46 feet to a 1/2 inch iron pipe found,
2. South 26 degrees 37 minutes 23 seconds East, 976.65 feet to a 1/2 inch iron pipe found,
3. South 02 degrees 33 minutes 23 seconds West, 337.07 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
4. South 04 degrees 45 minutes 53 seconds West, 144.89 feet to a 1/2 inch iron pipe found,
5. South 25 degrees 42 minutes 38 seconds West, 42.59 feet to a 1/2 inch iron pipe found,
6. South 38 degrees 26 minutes 58 seconds West, 659.36 to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
7. South 22 degrees 16 minutes 32 seconds West, 78.73 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set.
8. South 09 degrees 23 minutes 27 seconds West, 689.46 feet to a 1/2 inch iron pipe found,
9. South 08 degrees 09 minutes 24 seconds West, 203.65 feet to a 1/2 inch iron pipe found,
10. South 03 degrees 10 minutes 49 seconds West, 60.54 feet to a 1/2 inch iron pipe found,
11. South 03 degrees 36 minutes 17 seconds East, 86.37 feet to a 1/2 inch iron pipe found,
12. South 07 degrees 09 minutes 38 seconds West, 1273.62 feet to a metal fence post found for an interior corner of the said 394.0348 acre tract, same being an exterior corner of the said Preservation Ranch Limited Partnership tract 1, and
13. South 48 degrees 38 minutes 56 seconds West, 400.08 feet to a 1/2 inch iron rod with plastic cap marked "RPLS 4404" found for the most Northerly corner of Lot 78, Block A, Belvedere Phase I, a Subdivision whose Plat is recorded in Document No. 200600055 of the said Official Public records, same being an exterior corner of the said 394.0348 acre tract;

THENCE, along the common line between said Block A, Belvedere Phase I and the said Preservation Ranch Limited Partnership tract 1, the following Four (4) courses:

1. South 48 degrees 44 minutes 12 seconds West, 1032.32 feet to a 1/2 inch iron rod with plastic cap marked "RPLS 4404" found,
2. South 48 degrees 26 minutes 08 seconds West, 381.85 feet to a 5/8 inch iron rod with plastic cap marked "RL

surveying" set,

3. South 49 degrees 14 minutes 09 seconds West, 934.22 feet to a 3/4 inch pipe rod found, and

4. South 48 degrees 22 minutes 47 seconds West, 69.05 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found for the most Northerly corner of Lot 63, of said Block A, Belvedere Phase II, same being the Southwest corner of Lot 66, of said Block A, Belvedere Phase I;

THENCE, along the common line between said Block A, Belvedere Phase II and the said Preservation Ranch Limited Partnership tract 1, and the following Fifteen (15) courses:

1. South 48 degrees 22 minutes 47 seconds West, 200.12 feet to a 1/2 inch iron pipe found,

2. South 49 degrees 15 minutes 58 seconds West, 281.91 feet to a 5/8 inch iron plastic cap marked "RPLS 4532" found,

3. South 49 degrees 26 minutes 41 seconds West, 104.51 feet to a 5/8 inch iron plastic cap marked "RPLS 4532" found,

4. South 49 degrees 32 minutes 53 seconds West, 53.91 feet to a 5/8 inch iron plastic cap marked "RPLS 4532" found,

5. South 50 degrees 25 minutes 07 seconds West, 93.33 feet to a 5/8 inch iron plastic cap marked "RPLS 4532" found,

6. South 50 degrees 18 minutes 22 seconds West, 154.85 feet to a 5/8 inch iron plastic cap marked "RPLS 4532" found,

7. South 49 degrees 37 minutes 46 seconds West, 139.67 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

8. South 50 degrees 14 minutes 27 seconds West, 147.22 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

9. South 50 degrees 14 minutes 43 seconds West, 110.13 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

10. South 49 degrees 46 minutes 00 seconds West, 47.74 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

11. South 49 degrees 57 minutes 31 seconds West, 157.88 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

12. South 50 degrees 10 minutes 47 seconds West, 157.85 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

13. South 50 degrees 11 minutes 26 seconds West, 157.85 feet to a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found,

14. South 50 degrees 04 minutes 42 seconds West, 290.18 feet to a 1/2 inch iron rod with plastic cap marked "RPLS 4532" found,

15. South 55 degrees 19 minutes 08 seconds West 125.89 feet to the POINT OF BEGINNING and containing 929.987 acres of land more or less.

SAVE AND EXCEPT TRACT TWO:

Being 60.894 acres of land, more or less, situated in the JOHN LEWIS SURVEY NO. 21, ABSTRACT NO. 498, in Travis County, Texas, being out of that certain called 929.987 acre tract of land conveyed to PRLT PARTNERS, LLC in Special Warranty Deed recorded in Document No. 2019197055, Official Public Records, Travis County, Texas. Said 60.894 acres being more particularly described by metes and bounds description shown in **EXHIBIT "A-1"** attached hereto and made a part hereof.

EXHIBIT "A-1"

METES AND BOUNDS DESCRIPTION OF TRACT TWO

JANUARY 28, 2020 JOB NO. 1981-01 FIELD NOTE NO. 1981-01
PROJECT: PRESERVATION RANCH 60.894 ACRES

FIELD NOTES

A DESCRIPTION OF 60.894 ACRES OF LAND SITUATED IN THE JOHN LEWIS SURVEY NO. 21, ABSTRACT NO. 498, IN TRAVIS COUNTY, TEXAS, BEING OUT OF THAT CERTAIN 929.987 ACRE TRACT 1, CONVEYED TO PRLT PARTNERS, LLC, A TEXAS LIMITED LIABILITY COMPANY, RECORDED IN DOCUMENT NO. 2019197055 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 60.894 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING, at a MAG nail found for an angle point on the northwest line of Lot 51, Block A, Belvedere Phase II, a subdivision whose plat is recorded in Document No. 200700054 of the said Official Public Records, same being the most easterly north corner of Lot 11, Block B, Madrone Ranch, a subdivision whose plat is recorded in Document No. 199900251 of the said Official Public Records, a private street, drainage and public utility easement, also called Madrone Ranch Trail and same also being a southerly corner of the said PRLT Partners, LLC, 929.987 acre Tract 1;

THENCE, along the northerly line of said Lot 11, same being a southerly line of the said PRLT Partners, LLC, 929.987 acre Tract 1, N68°08'50"W, at a distance of 65.48 feet pass the most westerly north corner of said Lot 11, same being a northeast corner of Lot 26, Block A, of said Madrone Ranch and along a northerly line of said Lot 26, a total distance of 81.61 feet to a calculated point on a rock wall for an easterly corner of that certain 393.26 acre tract of land, conveyed to The Serengeti Foundation, recorded in Document No. 2004132532 of the said Official Public Records, same being a northerly corner of said Lot 26, and same also being a southerly corner of the said PRLT Partners, LLC, 929.987 acre Tract 1;

THENCE, along the common line between the said The Serengeti Foundation 393.26 acre tract and the said PRLT Partners, LLC, 929.987 acre Tract 1, the following eight (8) courses:

1. N25°27'09"E, 418.19 feet to a 1/2 inch iron rod with plastic cap marked "McAngus Surveying" found,
2. N39°13'05"E, 94.65 feet to a 5/8 inch iron pipe found,
3. N08°26'56"E, 67.50 feet to a 3/4 inch iron rod found,
4. N21°07'58"W, 48.84 feet to a 1/2 inch iron pipe found,

5. N61°30'46"W, 369.50 feet to a 1/4 inch iron pipe found,
6. N62°51'07"W, 269.26 feet to a 1/2 inch iron pipe found,
7. N61°38'49"W, 268.52 feet to a 1/4 inch iron pipe found,
and
8. N62°34'13"W, 108.36 feet to a 5/8 inch iron rod with
plastic cap marked "RL Surveying" set for the POINT OF
BEGINNING of the herein described 60.894 acre tract;

THENCE, along the common line between the said The Serengeti Foundation 393.26 acre tract and the said PRLT Partners, LLC, 929.987 acre Tract 1, the following ten (10) courses:

1. N62°34'13"W, 329.77 feet to a 1/4 inch iron pipe found,
2. N56°14'24"W, 48.77 feet to a 1/2 inch iron pipe found,
3. N41°43'45"W, 62.18 feet to a 3/4 inch iron rod found,
4. N83°45'21"W, 60.96 feet to a 3/4 inch iron rod found,
5. N63°21'50"W, 155.28 feet to a 1/2 inch iron pipe found,
6. N61°57'30"W, 682.56 feet to a 1/2 inch iron rod found,
7. N61°41'01"W, 477.88 feet to a 1/2 inch iron pipe found,
8. N63°30'53"W, 205.46 feet to a cotton gin spindle found,
9. N62°27'25"W, 225.25 feet to a cotton gin spindle found,
and
10. N61°54'09"W, 709.70 feet to a metal fence post found on
the east line of that certain 399.13 acre tract,
conveyed to Michael Allen Murphy, recorded in Volume
12840, Page 215 of the Real Property Records of Travis
County, Texas, for the northwest corner of the said The
Serengeti Foundation 393.26 acre tract, same being the
southwest corner of the said PRLT Partners, LLC,
929.987 acre Tract 1;

THENCE, along the common line between the said Michael Allen Murphy 399.13 acre tract and the said PRLT Partners, LLC, 929.987 acre Tract 1, the following six (6) courses:

1. N26°05'32"E, 851.39 feet to a cotton gin spindle found,
2. N26°12'39"E, 116.66 feet to a 1/4 inch iron pipe found,
3. N28°30'27"E, 91.47 feet to a cotton gin spindle found,

4. N04°59'11"E, 25.58 feet to a cotton gin spindle found,
5. N31°14'59"E, 125.23 feet to a cotton gin spindle found, and
6. N25°28'36"E, 170.25 feet to a 1/2 inch iron rod with plastic cap marked "Forest RPLS 1847" found for the most southerly southeast corner of that certain 738.154 acre Tract 1, conveyed to Peacock Preserve, LLC, recorded in Document No. 2018048115 of the said Official Public Records, same being the northeast corner of the said Michael Allen Murphy 399.13 acre tract, from which, a 1/2 inch iron rod with plastic cap marked "Forest RPLS 1847" found for an angle point on the southerly line of the said Peacock Preserve, LLC 738.154 acre Tract 1, same being the north line of the said Michael Allen Murphy 399.13 acre tract, bears, N83°47'32"W, 291.28 feet;

THENCE, along the common line between the said Peacock Preserve, LLC, 738.154 acre Tract 1 and the said PRLT Partners, LLC, 929.987 acre Tract 1, as fenced with an 8' wire game fence, the following three (3) courses:

1. N27°11'07"E, 244.22 feet to a steel fence post found,
2. N28°13'13"E, 328.52 feet to a cotton gin spindle found, and
3. N28°29'43"E, 36.45 feet to a calculated point, from which, a cotton gin spindle found, on the said common line between the Peacock Preserve, LLC, 738.154 acre Tract 1 and the PRLT Partners, LLC, 929.987 acre Tract 1, bears, N28°29'43"E, 946.56 feet.

THENCE, departing the said common line between the Peacock Preserve, LLC, 738.154 acre Tract 1 and the PRLT Partners, LLC, 929.987 acre Tract 1, crossing the said PRLT Partners, LLC, 929.987 acre Tract 1, the following thirteen (13) courses:

1. S62°17'38"E, at a distance of 1.42 feet pass, a MAG nail set in concrete base of metal fence post, for reference, and a total distance of 648.72 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
2. S10°22'56"W, 246.80 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
3. S16°11'52"W, 67.85 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
4. S02°20'02"E, 131.52 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,

5. S25°03'09"E, 367.87 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
6. S21°05'59"W, 626.18 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
7. S16°01'24"W, 71.53 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
8. S00°38'14"E, 227.78 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
9. S16°40'58"E, 132.81 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
10. S22°22'16"E, 80.97 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set,
11. S54°51'42"E, 233.55 feet to a cotton gin spindle set,
12. S64°51'39"E, 1306.58 feet to a 5/8 inch iron rod with plastic cap marked "RL Surveying" set, and
13. S27°27'16"W, 346.42 feet to the POINT OF BEGINNING containing 60.894 acres of land more or less.