

MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BOZMAN FARM ESTATES

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Exhibit A      -      Legal Description

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
BOZMAN FARM ESTATES**

This Master Declaration of Covenants, Conditions and Restrictions for Bozman Farm Estates ("Declaration") is made this 21<sup>st</sup> day of May, 2004, by Bozman Farm Development Ltd., a Texas limited partnership (the "Declarant").

**WHEREAS**, Declarant is the owner of the real property described in Section 2.1 of this Declaration (the "Property"); and

**WHEREAS**, Declarant desires to subject the Property to the covenants, conditions, restrictions, assessments, charges and liens hereinafter set forth.

**NOW THEREFORE**, the Declarant hereby declares that the Property described in Section 2.1, and such additions thereto as may hereafter be made pursuant to Section 2.2 hereof, is and shall be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, charges and liens hereinafter set forth.

**ARTICLE ONE  
DEFINITIONS**

Unless the context otherwise specifies or requires, when used in this Declaration the following terms shall have the following respective meanings:

- 1.1 "**Architectural Committee**" means the Architectural Committee of the Association.
- 1.2 "**Articles**" means the Articles of Incorporation of the Association, as amended.
- 1.3 "**Assessment**" means all Annual Assessments, Special Assessments, Fines and Individual Lot Assessments that may be levied by the Association under the terms of this Declaration.
- 1.4 "**Association**" means the Bozman Farm Estates Association, Inc., a Texas non-profit corporation.
- 1.5 "**Board**" means the Board of Directors of the Association.
- 1.6 "**Bylaws**" means the Bylaws of the Association, as amended.
- 1.7 "**Common Areas**" means all land conveyed, leased, dedicated or assigned by Declarant (or a third party with the consent of Declarant) to the Association and designated as common areas, including but not limited to open space (whether natural or landscaped), easements, fencing and walls common to the Property, limited access gates and controls, parkways, detention ponds, sidewalks, recreational areas and facilities, ponds, creeks and lakes within the Property. Without limiting the generality of the foregoing, the Common Areas of the Property shall include all areas shown as Common Areas on any recorded plat of the Property or any portion thereof, as it may hereafter be amended.

- 1.8 "City" means the City of Wylie, Texas, and its applicable agencies, departments and committees.
- 1.9 "Declarant" means Bozman Farm Development, Ltd., a Texas limited partnership, and its successors and assigns, including any person or entity to which Declarant may assign its rights and privileges, duties, and obligations hereunder, which are and shall be assignable. Any assignment of the rights of Bozman Farm Development, Ltd. must be expressly set forth in a written instrument filed in the Real Property Records of Collin County, Texas, which refers to this Declaration, and the mere conveyance of a portion of the Property without a written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant under this Declaration.
- 1.10 "Declaration" means this Master Declaration of Covenants, Conditions and Restrictions for Bozman Farm Estates, as amended or supplemented from time to time.
- 1.11 "Fines" means the monetary penalties established by the Board from time to time and imposed on Owners for violations of the provisions of this Declaration, the Bylaws or the Rules.
- 1.12 "Improvement" or "Improvements" means all buildings, storage sheds and roofed structures, parking areas, fences, walls, hedges, mass plantings, driveways, swimming pools, changes in any exterior color or shape, and any new exterior construction or exterior improvement exceeding \$2,000.00 in cost which may not be included in any of the foregoing. It does not include garden shrub or tree replacements or any other additional replacement or repair of any magnitude which does not change exterior appearances. It does include both original improvements and all later changes and improvements.
- 1.13 "Lot" means any plot of land shown on any recorded plat of the Property filed or approved by Declarant.
- 1.14 "Members" means Owners eligible to vote in Association elections.
- 1.15 "Ordinance" means Ordinance 2002-57 passed and approved by the City on August 13, 2002, as modified or amended and as may be varied pursuant to a variance or special use permit granted by the City.
- 1.16 "Owner" and "Owners" means the owner or owners of record, whether one or more persons or entities, of any Lot, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.
- 1.17 "Person" means any individual or entity.
- 1.18 "Plans and Specifications" means any and all documents designed to guide or control the construction, alteration or erection of any Improvements in the form and detail that the Architectural Committee may deem necessary.
- 1.19 "Property" means the real property (including Improvements) identified in Section 2.1 of this Declaration, and any additions thereto that are subject to this Declaration or any supplementary declaration under the provisions of Section 2.2.

1.20. "Residential Lot" means a Lot platted for single family residential use as designated by Declarant.

1.21 "Restrictions" means this Declaration, as amended, together with the Articles, Bylaws and Rules in effect from time to time.

1.22 "Rules" means the rules and regulations related to the Property that are adopted by the Board and/or the Architectural Committee, as amended from time to time.

1.23 "Subdivision" means all phases and plats of the Bozman Farm Estates development (as the subdivision may hereafter be named by Declarant), to the extent it is part of the Property.

1.24 "Telecommunications" means the transmission, emission, or reception by wire, radio, optical or other electromagnetic systems, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.

1.25 "Telecommunications Service" means the offering of any Telecommunications service for a fee and shall include, but not be limited to, the following specific services: telephone, broadcast, wireless, internet access, and cable television.

1.26 "Utility" means any person or entity that would be defined as a "utility" under the Texas Utilities Code, except for any person or entity whose primary business, or whose ultimate owner's primary business, is the provision of a Telecommunications Service.

1.27 "Utility Service" means the offering of any Utility service for a fee and shall include, but not be limited to, the following specific services: electrical power, natural gas, sanitation and water.

## ARTICLE TWO PROPERTY SUBJECT TO DECLARATION

2.1 **The Property.** The real property covered by this Declaration is described on Exhibit A attached hereto and incorporated herein. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and/or conveyed by Declarant, and any subsequent owner of all or any part thereof, subject to this Declaration and the covenants, restrictions, charges and liens set forth herein.

2.2 **Additions of Land to Declaration.** Additional property may become subject to this Declaration in the following manner.

A. **Supplementary Declaration.** A supplementary declaration shall contain covenants and restrictions to which the added property shall be subject. The supplementary declaration may contain additions, deletions, and modifications from those contained in this Declaration that may be necessary to reflect the different character, if any, of the added property. In order to add land to the Property, Declarant shall only be required to record in the Real Property Records of Collin County, Texas, a notice of addition of land (in the form of a Supplementary Declaration) containing the following provisions:

1. A reference to this Declaration, as amended, which reference shall state the volume and page numbers of the Real Property Records of Collin County, Texas, where this Declaration and all amendments are recorded;
2. A statement that the provisions of this Declaration, as amended, shall apply to the added land;
3. A legal description of the added land; and
4. Any covenants, conditions or restrictions that are different or unique to the added land.

**B. Merger or Consolidation.** Upon a merger or consolidation of the Association with another owner's association, the Association's property, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the property, rights, and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other property as one scheme. No merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided.

**2.3 Withdrawal of Land from Declaration.** Subject to any requirements of the Ordinance, Declarant may, at any time and from time to time, reduce or withdraw land owned by Declarant from the Property, and upon the withdrawal, this Declaration and the covenants, conditions, restrictions and obligations set forth herein shall no longer apply to the lands withdrawn. In order to withdraw lands from the Property, Declarant shall only be required to record in the Real Property Records of Collin County, Texas, a notice of withdrawal of land containing the following provisions:

- A. A reference to this Declaration, as amended, which reference shall state the volume and page numbers of the Real Property Records of Collin County, Texas where this Declaration and all amendments are recorded;
- B. A statement that the provisions of this Declaration shall no longer apply to the withdrawn land; and
- C. A legal description of the withdrawn land, including any plats thereof.

**2.4 Compliance With Ordinance.** Nothing contained in this Declaration shall authorize Declarant to take any action or perform any act pursuant to the terms of this Declaration which would constitute a violation of the Ordinance; provided, however, that Declarant may take the action or perform the act after first obtaining a duly granted variance or other appropriate permit or authorization from the City.

**2.5 Binding Effect.** The provisions of this Declaration are and shall be construed as covenants running with the Property, which shall be binding upon the Owners of the Property or any part thereof and shall inure to the benefit of the Owners. From and after the date this Declaration is recorded in the Real Property Records of Collin County, Texas, the Property, and each Lot, shall be



owned, held, sold, transferred, mortgaged, conveyed, leased, demised and otherwise used, developed, encumbered or disposed of by Declarant and by any subsequent Owner thereof subject to the provisions of this Declaration, regardless of whether or not this Declaration is specifically referred to.

### **ARTICLE THREE THE ASSOCIATION**

**3.1 Organization.** Declarant has caused the formation and incorporation of the Association. The Association is a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law and/or set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor the Bylaws shall be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Declarant shall have no obligation to exercise the specific powers and duties of the Association or the Board, unless Declarant, in its sole discretion, determines to so act.

**3.2 Membership.** Each Owner shall automatically be a Member of the Association without the necessity of any further action by that Owner, subject to the terms of this Declaration, the Articles, the Bylaws, and the Rules from time to time promulgated by the Association. Membership in the Association ("Membership") shall be appurtenant to and shall run with the Property interest which qualifies the Owner for Membership, and may not be separated from the interest of that Owner in and to any portion of the Property. Ownership of any portion of the Property shall be the sole qualification for being a Member; provided, however, that a Member's voting rights, as herein described, or privileges in the Common Areas, or both, may be regulated or suspended as provided in this Declaration, the Bylaws, and/or the Rules promulgated by the Association. No person or entity shall be a Member by reason of ownership of any easement, right-of-way, or mineral interest. Any person or entity that holds an interest in and to all or any part of the Property merely as security for the performance of an obligation shall not be a Member.

**3.3 Transfer.** Membership may not be severed from ownership of any portion of the Property nor may Membership in any way be transferred, pledged, mortgaged or alienated except upon the sale or assignment of the Owner's interest in all or any part of the Property and then only to the purchaser or assignee as the new Owner thereof. Membership shall not be severed by the encumbrance by an Owner of all or any part of the Property. Any attempt to make a prohibited severance, transfer, pledge, mortgage or alienation shall be void and of no further force or effect, and will be so reflected upon the books and records of the Association. Any transfer of the fee title to a Lot, or to a tract or parcel of real estate out of or a part of the Property, shall automatically operate to transfer Membership to the new Owner thereof.

**3.4 Voting Rights.** The right to cast votes, and the number of votes which may be cast, for all matters to be voted on by the Members pursuant to this Declaration shall be calculated as follows:

**A. Class A Members.** Class A Members shall be the Owners (excluding Declarant) of each Lot within the Property. Class A Members shall have one (1) vote for each Lot so owned.

**B. Class B Member.** The Class B Member shall be the Declarant. The Class B Member shall have one hundred (100) votes for each Lot owned by it and two hundred

(200) votes for each acre of unplatted land within the Property owned or controlled by it. Declarant may develop additional Lots under this Declaration if the Property is supplemented pursuant to Section 2.2, and Declarant shall have one hundred (100) votes for each Lot, including each Lot that is ever added to the Property according to the provisions of Section 2.2. If the current and future plats of the Property create more or less Lots than contemplated, Declarant shall have one hundred (100) votes for each Lot owned by Declarant from and after the dates the Lots are added to the Declaration until Declarant sells those Lots to a party other than an assignee of Declarant rights. If Declarant adds property to this Declaration pursuant to Section 2.2, Declarant shall always have one hundred (100) votes for each Lot owned by Declarant, whether or not all other Lots owned by Declarant at the time property is added pursuant to Section 2.2 were previously sold before the property is added. Notwithstanding anything to the contrary in this Declaration, if at any time Declarant shall have sold all its Lots in the Property, but still contemplates adding additional lots pursuant to Section 2.2, Declarant shall retain all rights of Declarant set forth in these Restrictions.

For all purposes, the voting required pursuant to the Bylaws shall be the vote of all Owners, including Declarant, to obtain the majority (or other specified fraction or percentage required by the Bylaws or this Declaration) of the total eligible votes of the Association, or if no Association is then formed, the total eligible votes calculated upon the number of Lots owned within the Property as it may be amended from time to time. Suspension of voting rights and other matters dealing with voting not expressly provided for in this Declaration shall be governed by the Bylaws. Declarant shall retain the rights and duties of Declarant set forth in this Declaration until Declarant transfers its rights and duties (if ever) to the Association, so that even if Declarant shall no longer maintain voting control over the Association, that power shall not limit or preclude Declarant from having the right to exercise all Declarant's powers set forth herein.

**3.5 Board of Directors.** The Board shall consist of three (3) individuals, who shall be selected by the Declarant so long as the Declarant owns any land within the Property. After Declarant no longer owns any land within the Property, the Board shall be elected by the majority vote of the Members voting in person or by proxy at a meeting duly called for the purpose of electing Board members. After Declarant no longer owns any land within the Property, Board members shall be elected to serve two (2) years terms and shall be elected in staggered terms.

**3.6 Powers and Authority of the Association.** The Association shall have the powers of a Texas nonprofit corporation, subject only to any limitations upon the exercise of those powers that are expressly set forth in this Declaration, the Bylaws, the Articles, and the laws of the State of Texas. It shall further have the power to do and perform any and all acts which 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, this Declaration, the Articles and/or the Bylaws. Without limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, shall have the power and authority in its discretion at all times as follows:

**A. Enforce Declaration.** If, as and when the Board, in its sole discretion, deems necessary, to take any action to enforce the terms and provisions of this Declaration, the Articles and the Bylaws by appropriate means, and carry out the obligations of the Association thereunder, including without limitation, the expenditure of funds of the Association, the employment of legal counsel and accounting services, the commencement of legal causes of action, including without limitation, litigation that may

be necessary to collect Assessments, Fines and foreclose liens for which provisions are made in this Declaration, the promulgation and enforcement of the Rules, which may include the establishment of a system of Fines and/or penalties enforceable as Individual Lot Assessments as provided in this Declaration, and to enjoin and/or seek legal damages from any Owner for violation of those provisions or Rules. The Association shall comply with the applicable requirements of Texas Property Code Section 209, as amended, in connection with any enforcement action.

**B. Own and Deal with Common Areas.** To acquire, own, hold, develop, control, administer, manage, operate, regulate, care for, repair, replace, restore, preserve, protect, buy, sell, lease, transfer, convey, encumber, pledge or otherwise deal in or with real or personal property (or any interest therein, including easements) which is, or by acquisition by the Association shall become Common Areas, and all facilities, improvements and landscaping thereon, subject to and in accordance with the provisions of this Declaration.

**C. Insurance.** To contract for and maintain all policies of insurance that may be required by this Declaration or that the Board deems necessary or desirable in furthering the purposes of and protecting the interest of the Association and its Members.

**D. Legal and Accounting Services.** To enter into contracts for legal and accounting services, maintain one or more bank accounts, and generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Areas.

**E. Borrow Money.** To borrow the amounts of money that may be reasonably required to discharge and perform the duties, responsibilities and obligations imposed upon the Association pursuant to this Declaration and the Restrictions, which borrowing may be secured by assignment or pledge of the Association's assets, including the Association's rights against delinquent Owners, to the extent deemed advisable by the Board.

**F. Sue and Be Sued.** If, as and when the Board, in its sole discretion, deems necessary it may, but shall not be obligated to (i) take action to protect or defend the Common Areas or other property of the Association from loss or damage by suit or otherwise, and (ii) sue and defend in any court of law on behalf of the Association or one (1) or more of its Members.

**G. Establish Reserves.** To create, establish, maintain and administer the capital expenditure reserves and other reserve funds or accounts that, in the discretion of the Board, are reasonably necessary to provide and assure the availability of funds necessary for the care, maintenance, repair, replacement, restoration, preservation and protection of all Common Areas, including all easements and facilities, and for any other purposes that the Board, in its reasonable discretion, deems necessary or appropriate.

**H. Establish and Enforce Rules.** To establish, amend, repeal, reenact and enforce Rules that the Board deems to be in the best interest of the Association and its Members for (i) the protection, operation and governance of the use of the Common Areas, (ii) any and all aspects of the Association's functions, and (iii) for the development, sale and

operation of the Property. In enforcing the Rules, the Association shall comply with any applicable requirements of Texas Property Code Section 209, as amended.

- I. Records.** To keep books and records of the Association's affairs; to make an unaudited annual report available (within one hundred twenty (120) days after the end of each fiscal year) to each Owner and any Person the Association is made aware is holding a mortgage or deed of trust on any Lot.
- J. Election of Officers.** To elect the officers of the Association, as provided in the Bylaws.
- K. Use of Insurance Proceeds.** Subject to the terms and provisions of this Declaration, to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property owned by the Association, and if the proceeds are insufficient to repair damage or replace lost property owned by the Association, to assess the Members in proportionate amounts to cover the deficiency.
- L. Employ and Contract.** To delegate the powers and duties of the Board to committees, officers or employees as provided in the Bylaws; employ a manager or other persons and contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or entity appointed as a manager or managing agent shall be terminable with or without cause on not more than ninety (90) days written notice by the Association and shall have a term of not more than one (1) year with successive one (1) year renewal periods upon the mutual agreement of the parties.
- M. Suspension of Voting Rights.** To suspend the voting rights of any Owners who have failed to pay their Assessments or Fines or who have otherwise violated this Declaration, the Bylaws or the Rules of the Association, subject to any applicable requirements of Texas Property Code Section 209, as amended.
- N. Record Keeping.** To cause to be kept a complete record of all its assets and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when the statement is requested in writing by twenty-five percent (25 %) or more of the outstanding votes of the Members, regardless of class.
- O. Vacancies on the Board.** To fill vacancies on the Board, in accordance with the provisions of the Bylaws.
- P. Incidental Powers and Other Services.** Generally, to have the powers necessary or incidental to the operation and management of the Association and the Common Areas; and to provide any other services and tasks that have been expressly or impliedly delegated to the Association pursuant to this Declaration or the Bylaws.
- Q. Right of Entry and Enforcement.** To enter at any time in an emergency, without prior notice, or in a non-emergency, after twenty-four (24) hours' written notice, without being liable to any Owner, 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, and the expense

incurred by the Association (or Declarant, as the case may be) in connection with the entry upon any Lot and the maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be a lien upon the Lot entered upon and Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article Five hereof for regular and special Assessments. The Association or Declarant shall 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 Association or Declarant is also authorized to settle claims, enforce liens and take all action's that it may deem necessary or expedient to enforce the Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suits against Declarant, its successors or assigns.

**R. Payment of Expenses for the Association.** To pay all expenses associated with the management and administration of the business and affairs of the Association and all other expenses for which provision is made in this Declaration, including all expenses associated with the ownership and operation of the Common Areas.

**S. Assessments and Fines.** To establish, levy, impose, enforce and collect Assessments and Fines as provided in this Declaration.

**T. Promotion of Health, Safety and Welfare.** To advance, promote and enhance the health, safety and general welfare of the Members of the Association and the residents of the Subdivision generally.

**U. Public or Quasi-Public Services.** To cause public or quasi-public services to be provided to the Subdivision. To itself provide equipment, facilities and personnel for or to contract with an independent contractor for the public or quasi-public services that the Association determines to be reasonably necessary or desirable for the common health, safety and general welfare of the residents of the Subdivision.

**V. Preserve and Enhance Beauty of the Subdivision.** To preserve, protect, maintain and enhance the appearance and natural beauty of the Common Areas and the Subdivision generally.

### **3.7 Duties of Association.**

**A.** Subject to and in accordance with the Declaration, the Association, acting through the Board, shall have the following duties:

1. To accept, own, operate, deliver and maintain all Common Areas which may be conveyed or leased to it by Declarant, or others, together with all Improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed or leased to the Association by Declarant and to maintain in good repair and condition all lands, Improvements, and other Association Property owned by or leased to the Association.

2. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that the taxes and assessments are not levied directly upon the Members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of the taxes and assessments.

3. To execute mortgages, both construction and permanent, for construction of facilities, including Improvements on Property owned by or leased to the Association, and to accept lands in Common Areas, whether or not improved, from Declarant subject to the mortgages or by assuming the mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether Declarant or the Association, on the Improvement or other facility to be constructed, together with any underlying and surrounding lands that the borrower deems appropriate. The debt secured by the mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, Assessments of the Members of the Association, or otherwise, or any combination thereof, as the case may be, but subject to the limitations imposed by this Declaration.

B: In addition to, and not in limitation of, the power and authority of the Association as set forth in Section 3.5 of this Declaration, the Association, acting through the Board, and/or the Declarant (at Declarant's sole option) shall have the power and authority:

1. To grant and convey to any Person the real property and/or other interest therein, including fee title, leasehold estate, easements, licenses, franchises and other rights, rights-of-way, or mortgages out of, in, on, over, or under any Association property, which in the Board's opinion are necessary or proper for the purpose of constructing, erecting, operating or maintaining the following:

- a. Parks, parkways or other recreations facilities or structures;
- b. Roads, streets, 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;
- e. Video services, cable television services, security services, communication services and other similar services over the Common Areas; and/or

f. Any similar public, quasi-public or private improvements or facilities.

2. To obtain, for the benefit of the Common Areas all water, gas and electric services, refuse collections, landscape maintenance services and other services, which in the opinion of the Board shall be necessary or proper.

No Improvement or other facility shall be used or occupied in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration. Declarant shall have the powers set forth in subsection 3.6(B)(1) with respect to all of the Lots or property owned by Declarant without necessity of obtaining consent of the Architectural Committee, the Board or the Association or any other Owner.

3.8 Indemnification. The Association (but not the Declarant) shall indemnify any Person who was or is 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 attorney's fees, reasonably incurred by him in connection with the action, suit or proceeding if it is found and determined by the Board or a court that he (i) 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 (ii) 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, shall not of itself create a presumption that the Person did not act in good faith or in a manner which he 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 Board may purchase and maintain insurance on behalf of any Person who is or was 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 that liability hereunder or otherwise.

#### ARTICLE FOUR ARCHITECTURAL COMMITTEE

4.1 **Membership of Architectural Committee.** The Association shall have an Architectural Committee consisting of three (3) voting members ("Voting Members") and any additional nonvoting members serving in an advisory capacity ("Advisory Members") that the Declarant deems appropriate. Members of the Architectural Committee need not be Members of the Association or own Lots.

4.2 **Action by Architectural Committee.** Items or matters presented to the Architectural Committee shall be decided by a majority vote of the Voting Members. The Architectural Committee may designate one of its members to take any action or perform any duties on behalf of the Architectural Committee. The Architectural Committee may employ professional consultants to assist it in discharging its duties and may charge a fee for architectural and engineering review.

**4.3 Advisory Members.** The Voting Members may from time to time designate Advisory Members.

**4.4 Term.** Each member of the Architectural Committee shall hold office until that member has resigned or has been removed or his successor has been appointed, as provided herein.

**4.5 Declarant's Rights of Appointment.** Declarant shall have the right to appoint and remove all members of the Architectural Committee until Declarant no longer owns any land within the Property. Declarant may delegate this right to the Board by written instrument. If Declarant ever delegates its right to appoint members to the Architectural Committee, the Board shall have the right to appoint and remove all members of the Architectural Committee. When Declarant no longer owns any land within the Property and if Declarant has not already delegated the right to appoint the members of the Architectural Committee to the Board, the Board shall have the right to elect or remove any and all members of the Architectural Committee.

**4.6 Adoption of Rules.** The Architectural Committee may adopt procedural and substantive rules, not in conflict with this Declaration (collectively, the "Architectural Committee Rules") that it may deem necessary or proper for the performance of its duties, including but not limited to, fencing standards, contents, form and submission procedures for Plans and Specifications, and other similar codes and standards as it may deem necessary and desirable. The Architectural Committee Rules adopted pursuant to this Section 4.6 shall have the same force and effect as the Association's other Rules and this Declaration, and are to be enforced by the Board in the name of the Association.

**4.7 Review of Proposed Construction.** No Improvement shall be erected, constructed, placed, altered (by addition or deletion), maintained or permitted to remain on any portion of the Property until Plans and Specifications have been submitted to and approved in writing by the Architectural Committee. An Owner may commence earth moving and grading operations for an Improvement prior to obtaining final approval of the Plans and Specifications for the Improvement if the Owner obtains approval of the grading plans from the Architectural Committee and the Architectural Committee authorizes commencement of grading operations based upon its approval of the grading plans. If the Architectural Committee allows early commencement of grading, the Owner shall not proceed beyond grading operations until the Owner receives final approval of the Plans and Specifications for the Improvement.

**A. Preliminary Plans.** Prior to submitting Plans and Specifications, each Owner shall submit to the Architectural Committee preliminary plans of any planned Improvements for approval (or disapproval) by the Architectural Committee. If the Architectural Committee fails to respond or disapprove the preliminary plans within thirty (30) days after the submission, the preliminary plans shall be deemed approved; provided, however, that no portion of the preliminary plans which is in violation of the Ordinance (as applicable) shall be deemed approved. Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee may consider all of the preliminary plans and the Plans and Specifications for the Improvement or proposal in question and all other facts which it deems relevant, in its sole discretion.

**B. Plans and Specifications.** After the preliminary plans for the Lot are approved or deemed approved by the Architectural Committee, the Plans and Specifications shall be submitted to the Architectural Committee. The Plans and Specifications shall include, but



not be limited to, those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, drainage plans, landscaping and fencing plans, elevations and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to constructing or operating the Improvements. The Architectural Committee may require additional types of Plans and Specifications, in its discretion. Except as otherwise specifically provided herein, at least thirty (30) days prior to the commencement of any construction of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the Architectural Committee has approved the Plans and Specifications in writing. The Plans and Specifications require written approval and are never deemed approved by the Architectural Committee. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform any other duties assigned to it by this Declaration or that from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Architectural Committee. No Improvement shall be allowed on any Lot which, in the opinion of the Architectural Committee, is of a size or architectural design or involves the use of landscaping, color schemes, exterior finishes and materials and similar features which are incompatible with residential development within the Property, the Declarant's development plan and the surrounding area. The Architectural Committee may disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence, as well as based upon the Architectural Committee's discretion as to whether the Improvements shall be aesthetically pleasing and in harmony with the design planned by the Declarant for the Property, and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The fact that the Architectural Committee may have approved or denied a particular installation, condition, activity or item with respect to any particular Lot does not, by itself, constitute grounds for requiring approval or denial with respect to any other Lot. Each application for Architectural Committee review must be evaluated on its own merits, with the Architectural Committee exercising the broadest discretionary judgment that is consistent with the requirements of the Restrictions. The Architectural Committee shall not be responsible for reviewing any constructed Improvements, nor shall its approval of any preliminary plans and/or Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, conformance with building or other codes, or the quality of construction the plans reflect.

**4.8 Applications.** Any applications for Architectural Committee approval must be accompanied by three (3) complete sets of Plans and Specifications, together all renderings, samples, models and other information that the Architectural Committee reasonably may require. One set of Plans and Specifications shall be reduced in size to 11 x 17 inches. Any application submitted other than by the Owner must attach the Owner's written consent to the approval requested. The application must include the Owner's complete, current street address. Any application for installation of any building or other permanent structure must include all Plans and Specifications required by the Architectural Committee, including, but not necessarily limited to, the following plans: (i) landscape plans, (ii) irrigation plans, (iii) drainage and grading plans, (iv) utility plans, (v) plot plans showing location and placement on the Lot of all Improvements, (vi) detailed construction plans with descriptions and samples of materials of all construction of all Improvements, and (vii) exterior lighting plans. If requested, the Architectural Committee may require the preliminary staking of the Improvements and structures according to the plan for Architectural Committee inspection. All costs of filing and

processing an application pursuant to this Article are at the expense of the applicant. The Association may also impose a reasonable, uniform application fee to defray the Architectural Committee's costs. Any change to any Plans and Specifications previously approved by the Architectural Committee must also be approved by the Architectural Committee as provided in this Article except that the Architectural Committee will expedite, to the extent practical, any application that is made while construction is in progress. The Architectural Committee is not required to act upon the modified application in less than ten (10) days.

**4.9 Review Period.** The Architectural Committee should review all applications within fifteen (15) days after receipt. If, due to the volume of applications submitted or the complexity of a project, the Architectural Committee cannot review the application within fifteen (15) days, the Architectural Committee may advise the applicant in writing of the time frame for review. In no event shall the review period exceed forty-five (45) days unless agreed to in writing by the Architectural Committee and the applicant. If the Architectural Committee fails to approve or disapprove the application or reject it as being inadequate or to advise the applicant of a revised review period within fifteen (15) days after receipt of the application, it shall be conclusively presumed that the Architectural Committee has approved the application; provided, however, that the Architectural Committee has no right or power, through action or inaction, to waive or grant any variances to the covenants set forth in Article Six of this Declaration.

**4.10 No Waiver of Future Approvals.** The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter, subsequently or additionally submitted for approval or consent by the same or a different Person.

**4.11 Nonliability.** The Declarant, Architectural Committee, Association, Board, or any member thereof, shall not be liable to any Owner or to any other Person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's, Declarant's or the Board's respective duties under this Declaration, unless due to the willful misconduct or bad faith of the Architectural Committee or its members or the Declarant or Association/Board or its members, as the case may be. The Architectural Committee or the members thereof, or Declarant or the Association/Board or its members shall not be liable to any Owner due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from that Owner's Lot or Lots. In addition, neither Declarant, the Architectural Committee, nor the Association, nor the officers, directors, members, employees and agents of any of them, shall be liable in damages to anyone submitting Plans and Specifications for approval, or to any Owner of Property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any Plans or Specifications. Every Person who submits Plans and Specifications, and every Owner of any of Property, agrees by the submission that he will not bring any action or suit against Declarant, the Architectural Committee, the Association, or the officers, directors, Members, employees and agents of any of them, to recover damages and hereby releases and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to the claims, demands and causes of action not known at the time the release is given. Declarant, Architectural Committee and the Association (and their agents, employees, and partners) shall not

be required to compensate any Members for any losses or expenses relating to the actions of Declarant, the Association and the Architectural Committee.

**4.12 Variances.** Upon submission of a written request, the Architectural Committee may, from time to time, in its sole discretion, permit Owners to construct, erect, or install Improvements which are in variance from the Restrictions or Rules which may be promulgated in the future. In any case, however, the variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the Subdivision in the opinion of the Architectural Committee. Written requests for variances shall be deemed to be disapproved if the Architectural Committee has not expressly and in writing, approved the request within thirty (30) days of the submission of the request. No member of the Architectural Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant of any variance to an Owner. Each request for a variance shall be reviewed separately and apart from other requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Committee's right to strictly enforce the Restrictions. Notwithstanding anything to the contrary set forth herein, nothing contained herein shall be deemed to authorize or empower the Architectural Committee to grant any variance which would constitute or result in a violation of the Ordinance, provided, however, that the foregoing shall not prohibit the Architectural Committee from granting one or more variances which is consistent with and complies with a duly granted variance or other appropriate permit or authorization from the City.

## ARTICLE FIVE ASSESSMENTS AND FINES

### 5.1 Assessments.

A. The Association may from time to time levy Assessments against each Lot, whether or not improved. The level of Assessments shall be equal and uniform between all Lots except as provided in this Section 5.1(A). Notwithstanding anything set forth in the preceding sentence or in this Declaration, all property owned by Declarant shall be exempt from the Assessments and liens created hereunder. Any Property, other than a Lot, which is owned by or dedicated or accepted by any governmental body or agency or franchised utility company, shall also be exempt from any Assessment. In addition, Common Areas shall be exempt from any Assessments. If any Owner other than Declarant combines two (2) or more Lots to form one (1) Lot, then for purposes of levying Assessments pursuant to this Article, that Lot shall be deemed to constitute the original number of Lots which were combined into one Lot; provided, however, that the foregoing shall not be deemed to allow two (2) or more Lots to be combined without the prior written approval of the Architectural Committee.

B. Where the obligation to pay an Assessment first arises after the commencement of the year or other period for which the Assessment was levied, the Assessment shall be prorated upon any transfer of title to a Lot as of the date when said obligation first arose in proportion to the amount of the Assessment year or other period remaining after said date of transfer.

C. Each unpaid Assessment together with interest thereon and costs of collection as hereinafter provided, shall be the personal obligation of the Owner of the Lot against which the Assessment fell due, and shall be secured by a lien against the Lot and all

Improvements thereon. The Association may enforce payment of any unpaid Assessments in accordance with the provisions of this Article.

**5.2 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the following: (i) improving and maintaining the Common Areas; (ii) reimbursing Declarant for any and all costs incurred by Declarant in the construction, installation, reconstruction, replacement, repair or maintenance of the Common Areas; (iii) paying the costs of any litigation involving the Association; and (iv) carrying out the purposes of the Association as stated in its Articles.

**5.3 Annual Assessments.**

A. Each Owner of a Lot shall pay to the Association an initial Annual Assessment of Two Hundred Sixty Dollars (\$260.00) per year. The amount of the Annual Assessment may be increased by the Board or by the vote of the Members of the Association, as provided in Section 5.3(B). The Board may, after consideration of the current maintenance costs and future needs of the Association, fix the Annual Assessment for any year at a lesser amount. Unplatted land shall not be subject to an Annual Assessment. In future phases of development within the Property, the Board may fix the initial Annual Assessment at a different rate based on the projected expenses of the future phase. The initial Annual Assessment of each future phase of development shall be established by Declarant prior to the sale of the first Lot in that future phase.

B. The Board may increase the amount of the Annual Assessments by up to ten percent (10%) per year without a vote of the Members. Any increase in the Annual Assessment by an amount greater than ten percent (10%) must be approved by a majority vote of the Members of the Association, voting in person or by proxy, at a meeting duly called for that purpose. Notice of the meeting shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

C. Unless otherwise determined by the Board, Annual Assessments shall commence as to all Lots on the first day of the month following the first conveyance of a Lot by Declarant to a third party Owner.

**5.4 Special Assessments.** In addition to the Annual Assessments provided for in Section 5.3, the Board may levy Special Assessments (herein so called) whenever in the Board's opinion the Special Assessments are necessary to enable the Board to carry out the functions of the Association under the Restrictions. The amounts of any Special Assessments shall be at the reasonable discretion of the Board, but shall be approved by Members holding fifty-one percent (51%) of the eligible votes in the Association. Once Special Assessments are assessed by the Board, the Association shall provide written notice to each Owner of the amount of the Special Assessment established, made, levied and imposed by the Association (and as approved by the appropriate vote of the Members) along with the date upon which installments (if any) shall be due and payable to the Association.

**5.5 Individual Lot Assessments.** In addition to any other Assessments authorized by this Declaration, the Board shall be and is hereby authorized and empowered to establish, make, levy, impose, enforce and collect against and from a particular Lot and the Owner of the Lot an Assessment (the "Individual Lot Assessment") for:

A. Costs and expenses incurred by the Association in bringing a particular Owner or his particular Lot into compliance with the provisions of this Declaration, including any action taken, or cost or expense incurred by the Association to cure and eliminate any violation of or noncompliance with the provisions of this Declaration, following the failure of the Owner, within thirty (30) days following written notice from the Association of the nature of the violation of or non-compliance with this Declaration, to cure or remedy the violation or noncompliance;

B. Costs and expenses, including reasonable attorneys' fees, whether or not suit is brought, incurred by the Association in the enforcement of the provisions of this Declaration against a particular Lot or the Owner of that Lot; and

C. Reasonable overhead expenses of the Association associated with any Individual Lot Assessment established, made, levied, imposed, collected and enforced pursuant to this Section 5.5.

**5.6 Owner's Personal Obligation for Payment of Assessments.** The Annual Assessments, Special Assessments, Fines and Individual Lot Assessments (collectively the "Assessments") provided for herein shall be the personal and individual debt of the Owner of the Lot covered by same. Except as otherwise provided in Section 5.1(A) hereof, no Owner may exempt himself from liability for the Assessments. In the event of default in the payment of any Assessments, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the date thereof (or if there is no highest rate, then at the rate of eighteen percent (18%) per annum) together with all costs and expenses of collection, including reasonable attorneys' fees.

**5.7 Assessment Lien and Foreclosure.** All sums assessed in the manner provided in this Article but unpaid shall, together with interest as provided in Section 5.6 hereof and the cost of collection, including attorney's fees as herein provided, become a lien and charge on the Lot covered by the sums that are due, which shall bind the Lot in the hands of the Owner and the Owner's heirs, devisees, personal representatives, successors or assigns. The Assessment lien shall be superior to all other liens and charges against the Lot, except only for tax liens and all sums unpaid on a first mortgage lien or first deed of trust lien of record, securing sums borrowed for the purchase of the Lot in question or the construction of Improvements thereon. The Association may subordinate the Assessment lien to any other lien. The Board may prepare a written notice of lien or charge setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by the lien and a description of the Lot. The notice shall be signed by one of the officers of the Association and shall be recorded in the offices of the County Clerk of Collin County, Texas. The Assessment lien shall attach with the priority set forth above from the date that the payment becomes delinquent and may be enforced by the nonjudicial foreclosure of the defaulting Owner's Lot by the Association in the same manner as a mortgage on real property pursuant to Section 51.002 of the Texas Property Code, as amended from time to time, subsequent to the recording of a notice of Assessment lien as provided above. Alternatively, the Association may institute suit against the Owner personally obligated to pay the Assessment and/or for foreclosure of the Assessment lien judicially. In any foreclosure proceeding, whether judicial or nonjudicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred. The Association may bid on the Property at a foreclosure or other legal sale and acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any mortgagee, the Association shall

use reasonable efforts to report to the mortgagee any unpaid Assessments remaining unpaid for longer than fourteen (14) days after the due date of the Assessment. Following any foreclosure sale, the Association shall comply with any applicable notice requirements under Texas Property Code Section 209.010, as amended, and any redemption rights that may be available to the Owner under Texas Property Code Section 209.011, as amended.

**5.8 Certificate of Assessments Due.** The Association shall, upon the request of an Owner or any other interested party, furnish a certificate executed by its President, Vice President, Secretary, Treasurer or any other officer duly authorized, setting forth whether Assessments payable with respect to a particular Lot have been paid, the amount of the delinquency, if any, and the amounts of any outstanding and unpaid interest, late charges, penalties, costs of collection, including attorney's fees and court costs, if any, associated with any delinquent Assessments. A properly executed certificate of the Association as to the status of Assessments shall be binding upon the Association as conclusive evidence of the status of the payment of any Assessment therein stated to have been paid or to be delinquent as of the date of the issuance of the certificate. The Association shall be entitled to charge and collect a reasonable fee for and as a condition precedent to the issuance of the certificate not to exceed Thirty-Five Dollars (\$35.00).

**5.9 No Defenses or Offsets.** All Assessments shall be payable in full at the times due. No defenses or offsets against the payment of an Assessment shall be permitted for any reason including, without limitation, any claim by an Owner that (i) the Association is not properly exercising its rights and powers or performing or discharging its duties and obligations as provided in this Declaration or its Bylaws; (ii) an Owner and his family has made or elected to make no use of the Common Areas; (iii) the Owner and his family have otherwise waived or attempted to waive their Membership in the Association; or (iv) the Association has suspended the right, privilege and easement of the Owner and his family to use the Common Areas as provided in the Rules.

**5.10 Fines.** The Association, acting through its Board, may at any time and from time to time establish, impose and collect fines ("Fines") which accumulate on a daily basis. The Fines may be imposed in the discretion of the Board against Owners that are in violation of any provision of this Declaration, the Bylaws or any Rules of the Association. The Association shall comply with the requirements of Texas Property Code Section 209.006, as amended, in connection with the imposition of any Fines. Once Fines are imposed upon an Owner and the Owner has exhausted or waived any rights it may have to a hearing before the Board pursuant to Texas Property Code Section 209.007, as amended the Fines shall also be secured by a lien on the violating Owner's Lot as set forth in Section 5.7.

## ARTICLE SIX PROTECTIVE COVENANTS

The Property and each Lot situated therein shall be constructed, developed, occupied and used in accordance with the following protective covenants:

**6.1 Machinery and Automobile Repair.** No repairs of any detached machinery, equipment, or fixtures, including without limitation, motor vehicles, shall be made upon any portion of any Lot within view of neighboring property, dwelling units, pathways, and streets without prior written approval and authorization of the Architectural Committee. No motor vehicle that is visible from a

public street may remain upon any portion of any Lot without moving for more than thirty (30) consecutive days.

6.2 Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other domestic household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes.

6.3 Nonresidential Uses. No manufacturing, trade, business, commerce or industry, whatsoever will be conducted or carried on upon any Lot or any part thereof, or in any building or other structure erected thereon, except those professions and other occupations which are conducted or carried on with the prior approval of the Architectural Committee.

6.4 Temporary Structures and Parking. No temporary structure of any kind shall be erected or placed upon any Lot except as provided in this Article. Any truck, bus, boat, boat trailer, recreational vehicle, camper or any vehicle other than a conventional automobile shall, if brought within the Property, be stored, placed or parked within the garage or backyard area of the appropriate Lot, and if stored in the backyard area, such truck, bus, boat, boat trailer, recreational vehicle, camper or any vehicle other than a conventional automobile shall be stored, placed or parked so that it is not visible from any public street. No trailer, mobile home, tent, camper vehicle, or temporary house shall be placed or erected on any Lot for use as a dwelling. No bus or mobile home may be parked, placed, or stored on any Lot. No parking will be permitted on a street within any cul-de-sac. On streets with a pavement width of twenty-four (24) feet or less, parking shall be permitted on the even numbered side of the street, unless otherwise designated by the Declarant.

6.5 Marketing Facilities. Declarant reserves the exclusive right to erect, place and maintain such facilities in or upon any portion of the Property as it, in its sole discretion, determines to be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements in the Property. Such facilities may include, but are not limited to, sales and construction offices, storage areas, model units, signs and portable toilet facilities. Until Declarant has completed all of the Declarant's contemplated improvements (including, without limitation, street paving, excavation, utility lines and landscaping) upon the Property, neither the Owners nor the Association nor the application of this Declaration shall interfere with the completion of the contemplated improvements and the sale of land and improvements. Declarant may make such use of the Common Areas as may facilitate such completion and sale, including, but not limited to maintenance of a sales office, the showing of the Property therein and the display of signs thereon and therein. Declarant hereby expressly reserves an easement over the Property for completion of and making improvements to any portion of the Property. Declarant shall further have the right to maintain facilities on and to use unsold portions of the Property for development, marketing and related purposes, whether or not such use is otherwise permitted by other provisions of this Declaration.

6.6 Signs. No sign or signs shall be displayed to the public view on any Residential Lot unless it has been approved by the Architectural Committee, except that Declarant may erect and maintain a sign or signs deemed by it to be reasonable and necessary for the construction, development, operation, promotion and sale of the Lots. Such signs may be located in the common area designated on any recorded plat within the Property. Any builder, during the construction and sale of a dwelling may utilize professional signs (of not more than twelve (12) square feet in size) designed in accordance with the design guidelines prepared and approved by the Declarant on each Lot which it owns for advertising and sales promotion. Thereafter, a "For Sale" sign (of not more than six (6) square feet in size) may be utilized on a Lot by the Owner of that Lot, or the agent of

such Owner, for the sale of that Lot and its improvements. Declarant or its agents shall have the right to remove any sign, billboard or other advertising structure that does not comply with the above, and in so doing shall not be subject to any liability for trespass or any other liability in connection with such removal. All signs are to be in compliance with the sign regulations of the City. The Association shall have the right, but not the obligation, to remove signs that detract from the overall integrity of the development of the Property.

6.7 Noise. No radio, stereo, broadcast, or loudspeaker units and no amplifiers of any kind shall be placed upon or outside, or be directed to the outside of any building without prior written approval and authorization of the Architectural Committee.

6.8 Weeds and Trash. The Owner of each Lot shall at all times keep all weeds and grass thereon cut in a sanitary, healthful and attractive manner. In no event shall an Owner use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon. If, at any time, an Owner of any Lot fails to control weeds, grass and/or other unsightly growth, or permits accumulation of garbage, trash or rubbish, the Declarant or Architectural Committee shall have the authority and right to go onto said Lot for the purpose of mowing or cleaning said Lot and shall have the authority and right to assess and collect from the Owner of said Lot a reasonable sum for mowing or cleaning said Lot on each respective occasion of such mowing or cleaning, which shall constitute an Individual Lot Assessment subject to Section 5.5 of this Declaration. Refuse, garbage and trash shall be kept at all times in covered containers and the containers shall be kept within enclosed structures or appropriately screened from view by the public, as approved by the Architectural Committee, and the contents thereof disposed of regularly as required by the Association or the City.

6.8 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are or might be unsafe or hazardous to any Person or property. Without limitation, no firearms or fireworks shall be discharged upon the Property, and no person shall incinerate or otherwise burn any material on any Lot outside of the residence thereon except for charcoal or gas fires used solely for cooking purposes. Leaves, trash and other refuse may not be burned in any fireplaces located in a residence.

6.10 Underground Utilities. With the exception of initial subdivision transmission lines, no gas, electric, power, telephone, water, sewer, cable television, or other utility or service lines of any nature or kind shall be placed, allowed, or maintained upon or above the ground, except to the extent, if any, underground placement thereof may be prohibited by law or would prevent the subject line from being functional. Further, this provision shall not prohibit service pedestals and above ground switch cabinets and transformers where required.

6.11 Noxious or Offensive Activity. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become annoyance or nuisance to any neighbor or the neighborhood.

6.12 Maintenance of Parkways. The Owners shall be responsible for the maintenance of parkways located between their lot lines and the streets on which their Lots face or side. The Owners thereof shall likewise maintain the exterior of all structures on their Lot and their yards, hedges, plants and shrubs in a neat and trim condition at all times.



6.13 Nuisances. Nothing shall be done on any Lot which may be or become an annoyance or nuisance to any neighbor or the neighborhood.

6.14 Exterior Lighting. No exterior light shall be installed or maintained on any Lot which light is found to be objectionable by the Architectural Committee. Upon being given notice by the Architectural Committee that any exterior light is objectionable, the Owner of the Lot on which same is located will immediately remove said light or have it shielded in such a way that it is no longer objectionable.

6.15 Drilling, Excavation. No oil drilling, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, water wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, natural gas or water shall be erected, maintained or permitted upon any Lot.

## ARTICLE SEVEN EASEMENTS

7.1 Easement of Enjoyment. Subject to the provisions of this Article Seven every Member of the Association shall have a right and easement of enjoyment in and to the Common Areas.

7.2 Easements Reserved by Declarant.

A. **Easements for Sidewalks and Facilities.** Easements for the installation, maintenance, repair and removal of sidewalks, Utility Service facilities, Telecommunications Service facilities, and drainage facilities are reserved by Declarant over, under and across the Property, including the Common Areas; provided, however, that such easements shall not interfere with the operation of any Improvements completed or being constructed on any Lot. Full right of ingress and egress is reserved by Declarant at all times over the Property for the installation, operation, maintenance, repair or removal of any sidewalk, Utility Service facility, Telecommunications Service facility, or drainage facility together with the right to remove any obstruction that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such sidewalk, Utility Service facility, Telecommunications Service facility, or drainage facility.

B. **Exclusive Easements.** Exclusive easements for the benefit of Declarant are reserved in the designated setback areas between the building lines and the exterior boundaries of individual Lots as may be necessary or convenient for the purpose of erecting, constructing, maintaining and operating any Utility Service or Telecommunications Service over, across, under and through the Property (including but not limited to wiring, conduits or lighting, power and telephone lines, communication equipment, gas lines, sanitary sewer, storm sewer and water). The easements shall be assigned to the Association and to any appropriate public agencies, Utility or Telecommunications Service provider that the Declarant may direct. No buildings may be located upon the easements but, subject to this Declaration, landscaping, parking, lighting, sidewalks, and access drives may be located thereon. The Association may charge a fee to the public agency, Utility or Telecommunications Service provider and shall have design approval rights.

C. **Perpetual Easements.** Declarant reserves a perpetual easement for the benefit of Declarant and the Association over and across those portions of the Property to which

Declarant or the Association reasonably require access: (i) to install and maintain landscaping within or adjacent to portions of any streets or other rights-of-way through or directly serving the Property (provided, however that such landscape easement shall in no way create an obligation on the part of Declarant or the Association to install or maintain such landscaping) and (ii) to maintain and repair the Common Areas.

**D. Right to Assign.** Declarant shall have the right, at any time and from time to time to assign, convey and transfer in whole or in part the easements, and rights reserved under the provisions of this Article and to designate and limit the location of any such easements, and shall have the right to record in the Real Property Records of Collin County any instruments or documents evidencing such easement and rights as Declarant deems necessary; and each Owner of any Lot agrees to execute, acknowledge and deliver to Declarant, or its assigns, at no cost to such Owner, any such instruments or documents as Declarant may so require relating to the easements reserved herein.

**7.3 Drainage Easements.** By acquisition of a Lot, each Owner grants, creates and conveys to the Association, the other adjacent Owners and the Declarant a perpetual Drainage Easement (herein so called) over, through, under and across the Owner's Lot for the purpose of permitting runoff and/or storm water to drain from other adjacent Lots over, through, under and across the Owner's Lot. Without limiting the foregoing, in order to facilitate drainage from the Property subject to the Declaration over, through, under and across the Owner's Lot, each Owner hereby agrees that the Declarant or the Association, as the case may be, shall have the right to enter onto the Owner's Lot at any time to (i) prevent possible interference with the Drainage Easement and to remove possible hazards from the Drainage Easement area, (ii) prevent the construction or placement of any building, structure or other obstruction within the Drainage Easement area which may endanger or interfere with the efficient and convenient use of the Drainage Easement, (iii) grade, improve, construct, reconstruct, repair and perpetually maintain swales within the Drainage Easement area, and (iv) regrade those portions of the Drainage Easement area that may be necessary or appropriate to permit drainage as generally described herein or as approved or required by appropriate governmental authorities. Notwithstanding any of the foregoing rights of the Association or the Declarant, each Owner hereby agrees to maintain the Drainage Easement area at such Owner's sole cost and expense. If any structures or other obstructions are constructed, created or placed by any Owner within the Drainage Easement area without the prior written consent of the Board or the Declarant, the Declarant or the Association shall have the right to remove that structure or obstruction at the sole cost of the Owner. The cost to remove the structure or the obstruction shall constitute a Special Assessment chargeable to the Owner, payable on demand, and secured by the lien provided for in Section 5.7 of this Declaration.

**7.4 Extent of Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of the Declarant and Association to prescribe Rules for the use, enjoyment, and maintenance of the Common Areas;

B. The right of the Association to sell and convey the Common Areas, or any part thereof, provided such sale or conveyance is approved by a majority of the total votes of the Members of the Association, voting in person or by proxy, at a meeting duly called for such purpose, notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting;

C. The right of the Association to borrow money for the purpose of improving the Common Areas, or any part thereof, and to mortgage the Common Areas, or any part thereof;

D. The right of the Association to take such steps as are reasonably necessary to protect the Common Areas, or any part thereof, against foreclosure; and

E. The right of the Association to suspend the right of any Owner and any other Person (including but not limited to a family member or guest of an Owner) to use the Common Areas or any designated portion thereof, and to suspend the Owner's voting rights, during the time that any Assessment levied against the Owner or his Lot under Article Five hereof remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its Rules or during the period in which any Owner remains in violation of any other provision of this Declaration, as it may be amended.

7.5 Easement Maintenance. The Association and the Declarant shall have the right to access, repair and maintain all facilities and improvements within any wall, entry, fence, landscape or other similar easement as recorded on any plat of the Property.

## ARTICLE EIGHT MISCELLANEOUS

8.1 Duration. This Declaration and the covenants, conditions, restrictions, charges, and liens set out herein shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, and every Owner of any part of the Property, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Declaration is recorded, and continuing through and including December 31, 2029, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless a change (the word "change" including additions, deletions or modifications thereto, in whole or in part) is approved by a majority of the total votes cast in person or by proxy at a meeting duly called for such purpose, notice of which shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of such meeting; PROVIDED, HOWEVER, that no such change shall be effective until one (1) year following the vote referred to above, nor shall any such change be effective prior to the recording of a certified copy of such resolution in the Real Property Records of Collin County, Texas.

### 8.2 Amendment.

A. This Declaration may be amended or terminated at any time by the Declarant, in its sole discretion, so long as Declarant owns land within the Property.

B. After Declarant no longer owns any land within the property, this Declaration may be amended or terminated at any time by sixty percent (60%) of the votes of the membership voting together, cast in person or by proxy at a meeting duly called for such purpose, notice of which shall be given to all members at least thirty (30) days in advance and shall set forth the purpose of such meeting.

C. Any amendment or termination shall become effective when an instrument is filed for record in the Real Property Records of Collin County, Texas.

8.3 Indemnification. If the Association, the Declarant, or any Owner, or any of their agents, employees, or contractors, (i) causes any damage to the Common Areas or to any Lot, or to any Improvements located thereon, or (ii) causes any injury to any person utilizing the Common Areas or any Lot, or any Improvements located thereon, which damage or injury arises in whole or in part out of the exercise of any of the easements granted by Section 7.2, the party responsible for such damage or injury shall:

- A. Restore the Common Areas or Lot(s) to their condition immediately preceding such entry;
- B. Repair any damage to any Improvements located on the Common Areas or any Lot, and replace any such Improvements located thereon which are not capable of repair; and
- C. Indemnify, defend, and hold harmless the Association, the Declarant, or any Owner not responsible for such damage or injury, from any and all damages, liability, and expenses incurred by such innocent party as a result of the exercise of rights granted by such easement.

8.4 Enforcement. The Association, the Declarant or any Owner shall have the right, but not the duty, to enforce any of the Restrictions. Enforcement of the Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any Restriction, either to restrain violation or to recover damages, and against any Lot on which a violation exists to enforce any lien created by this Declaration. Any failure by the Association, the Declarant or any Owner to enforce any Restriction shall not be deemed a waiver of the right to do so thereafter.

8.5 Severability. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null, or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null, or void, the remaining paragraphs, sections, sentences, clauses, or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses, and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses, or phrases shall become or be illegal, null or void.

8.6 Notice. Wherever notice to a Member (or Members) is permitted or required hereunder, such shall be given by the mailing of such to the Member at the address of such Member appearing on the records of the Association; unless such Member has given written notice to the Association of a different address, in which event such notice shall be sent to the Member at the address so designated. In such event, such notice shall conclusively be deemed to have been given by the Association by placing same in the United States mail, properly addressed, whether received by the addressee or not. Unless written notice is specifically required, notice may also be provided by publication in a newspaper of general circulation within the Property, such newspaper to be designated by the Board; or by posting the notice in a visible public location designated by the Board.

8.7 Titles. The titles, headings, and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

EXECUTED as of the day and year first written above.

**BOZMAN FARM DEVELOPMENT, LTD.**  
A Texas Limited Partnership

By: **TROY DEVELOPMENT CORPORATION**  
A Texas Corporation  
Sole General Partner

By:

  
James A. Siepiela, President

STATE OF TEXAS

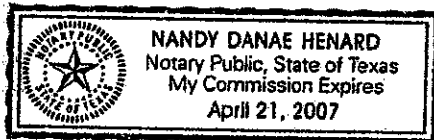
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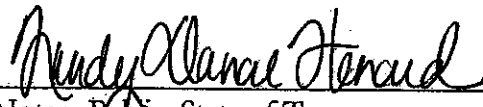
COUNTY OF DALLAS

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This instrument was acknowledged before me on the 21st day of May, 2004, by JAMES A. SIEPIELA, President of TROY DEVELOPMENT CORPORATION, a Texas corporation, the General Partner of BOZMAN FARM DEVELOPMENT, LTD., a Texas limited partnership, on behalf of said limited partnership.



  
Notary Public, State of Texas