

**MASTER DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
THE TOWNHOMES AT KATY CROSSING HOMEOWNERS' ASSOCIATION, INC.**

This Master Declaration of Covenants, Conditions and Restrictions is made by **GAVURNIK BUILDERS, L.P.**, a Texas limited partnership, hereinafter referred to as "**Declarant**".

WITNESSETH:

WHEREAS, Declarant is the owner and developer of certain real property located in Williamson County, Texas, being the same property described in that certain subdivision plat entitled THE TOWNHOMES AT KATY CROSSING (A RESUBDIVISION OF LOT 10, BLOCK C, KATY CROSSING SECTION TWO) A PLANNED UNIT DEVELOPEMENT, recorded in Cabinet AA, Slides 320, 321 and 322, Plat Records, Williamson County, Texas, hereinafter referred to as the "**Property**"; and

WHEREAS, Declarant desires to convey the Property subject to certain protective covenants and conditions, restrictions, liens and charges hereinafter set forth; and

WHEREAS, the Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property, Declarant hereby adopts and establishes the following declaration of reservations, restrictions, covenants, conditions and easements to apply uniformly to the use, improvement, occupancy, and conveyance of all the Property.

NOW, THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold, conveyed and occupied subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I
DEFINITIONS**

Section 1. "Adjoining Lots" shall mean each Lot sharing a Party Wall with an adjacent Lot.

Section 2. "Association" shall mean and refer to THE TOWNHOMES AT KATY CROSSING HOMEOWNERS' ASSOCIATION, INC., a nonprofit corporation organized pursuant to the Texas Nonprofit Corporation Act, and its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean the elected and governing body of the Association.

Section 4. "Common Expense" shall mean the reasonable cost of maintenance and repairs to the Maintenance Areas and of insurance as provided in Article VI.

Section 5. "Homebuilder" shall mean any homebuilder designated as such by Declarant who builds single-family residences on Lots for sale to resident owners.

Section 6. "Improved Lot" shall mean a Lot with a completed single-family residence constructed thereon.

Section 7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property, including improvements thereto. Lot 30 (the "Drainage Easement") has been dedicated to the City of Georgetown as a Stormwater Easement and Drainage Right-of-Way, and is specifically excluded from the definition of Lots. Declarant may deed Lot 30 to the Association for ownership as a Maintenance Area.

Section 8. "Maintenance Areas" shall mean all property now or hereafter maintained by the Association including, without limitation, the Common Areas, if any, and any parks, drainage easement areas, streets, rights-of-way, medians, entry strips, signs and lighting systems on or adjacent to the Property.

Section 9. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as provided herein.

Section 10. "Mortgage" shall mean a lien interest in a Lot given to a creditor as security for repayment of a loan made to the Owner.

Section 11. "Mortgagee" shall mean a beneficiary of a Mortgage.

Section 12. "Mortgagor" shall mean the trustor of a Mortgage.

Section 13. "Owner" shall mean and refer to one or more persons or entities who own the record title to any Lot which is a part of the Property, but excluding in all cases any party holding an interest merely as a security for the performance of an obligation. If a Lot is sold under a recorded contract for deed, the purchaser (rather than the fee owner) will be considered the Owner.

Section 14. "Party Wall" shall mean the common wall dividing the residential structure and/or garage located on one Adjoining Lot and the residential structure and/or garage located on its adjacent Adjoining Lot(s).

Section 15. "Person" means a natural person, corporation, partnership, trustee, or other legal entity.

Section 16. "Property" shall mean and refer to the above-described real property in the City of Georgetown, Williamson County, Texas, and shall further refer to such additional

property as may hereafter be annexed by Subsequent Amendment to this Declaration or which is owned by the Association.

Section 17. "Restrictions" shall mean, collectively, this Declaration, together with any and all Supplemental Declarations, as the same may be amended from time to time, the Design Guidelines, the Articles and Bylaws and the Rules and Regulations described in Article V, Section 1, from time to time in effect, as the same may be amended from time to time.

Section 18. "Subsequent Amendment" shall mean an amendment to this Declaration which adds additional property to that covered by this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the property submitted by that Amendment to the provisions of this Declaration.

Section 18. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions or restrictions which may be recorded hereafter in order to subject any portion of the Property to further covenants, conditions or restrictions.

ARTICLE II

THE ASSOCIATION

Section 1. Organization. Declarant shall, at such times as Declarant deems appropriate, cause the formation and incorporation of the Association. The Association shall be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers prescribed by law or set forth in its Articles and Bylaws or in this Declaration.

Section 2. Membership. Every Owner shall be deemed to have a membership in the Association, and shall remain a member thereof until the Owner's ownership ceases for any reason, at which time the Owner's membership in the Association shall automatically cease. Each Owner's membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of the Lot and may not be separated from such ownership. Whenever the legal ownership of a Lot passes from one person to another, by whatever means, it shall not be necessary in any instrument to provide for transfer of membership in the Association, and no certificate of membership will be issued.

Section 3. Voting. The Association shall have two classes of membership, Class "A" and Class "B", as follows:

- (a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Members, if any. Class "A" Members shall be entitled to one (1) vote in the Association for each Lot it owns in the Property. When more than one person holds an interest or interests in the Property, all such persons shall be Members, and the votes for such portion of the Property shall be exercised as they among themselves determine.

- (b) Class "B". The Class "B" Members shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale and who is designated as such in a recorded instrument executed by Declarant. The Class "B" Members shall be entitled to three (3) votes in the Association for each Lot it owns in the Property. The Class "B" membership shall cease and become converted to Class "A" membership on the happening of the earlier of the following events:
- (1) Ten (10) years after the date of the first conveyance of a Lot to a person other than Declarant;
 - (2) Upon the conveyance of 75% of the Lots with residences constructed upon them;
 - (3) When Declarant, in its sole discretion, so chooses.

Thereafter, the Class "B" Members shall be deemed to be Class "A" Members entitled to the vote(s) set out above. At such time, the Declarant shall call a meeting, as provided in the Bylaws of the Association for special meetings, to advise the membership of the termination of Class "B" status.

ARTICLE III **PARTY WALLS, BOUNDARIES AND ENCROACHMENTS**

Section 1. General Rules. The residential improvements constructed on the Lots are built adjoining each other by Party Wall(s) located on the common boundary line(s) of adjoining Lot(s). The walls separating such residences shall be and remain Party Walls and shall be subject to the following provisions.

Section 2. Encroachment of the Party Walls. An encroachment of any Party Wall in its present location onto Adjoining Lots shall be deemed to be permitted by subsequent Owners of the Adjoining Lots.

Section 3. Easement. Each Lot Owner grants the Adjoining Lot Owner(s) an easement to use the Party Wall(s). Each such easement shall constitute an easement appurtenant running with the land, and nothing in this Agreement shall be construed as a conveyance by a Lot Owner of any fee ownership in or to his or her Lot.

Section 4. License for Repairs. For the purpose of extending or repairing a Party Wall, each Adjoining Lot Owner is licensed by the adjacent Adjoining Lot Owner to enter upon such adjacent Lot Owner's Lot after giving at least one day's prior written notice to the adjacent Lot Owner.

Section 5. Sharing of Repairs and Maintenance. The cost of reasonable repairs and maintenance of a Party Wall shall be shared equally by both Owners of the respective Adjoining

Lots. Such Adjoining Lot Owners are hereby conclusively presumed to make use of a Party Wall in equal proportions.

Section 6. Right of Use and Possession of Attic Space. Adjoining Lot Owners' rights of use and possession of attic or crawl space between garages and townhouses shall be determined as if the vertical plane of each Party Wall was extended to the roof.

Section 7. Right to Extend. Subject to the Architectural Control Committee approval requirements contained in the Master Declaration, each Lot Owner shall have the right to extend the Party Wall(s) appurtenant to each such Lot Owner's Lot either horizontally or vertically, or both, as long as the adjoining building is not injured by the extension and the Party Wall benefits and support to which the adjoining building is entitled are not impaired by the extension and as long as such extension is made in accordance with all applicable laws and ordinances and is installed in a good and workmanlike manner. Each Lot Owner shall also have the right to add thickness to the Party Wall(s) appurtenant to each such Lot Owner's Lot as long as any added thickness is not placed on the land of the adjoining Lot Owner without that Lot Owner's prior written consent.

Section 8. Right to Use of Extension. If a Party Wall is extended as provided by Section 7, either adjoining Lot Owner shall have the right to use the extended Party Wall for any proper purposes and to its full extension in the same manner that the Lot Owner is entitled under this Agreement to use the Party Wall as originally constructed.

Section 9. Payment of Cost for Extension. If a Party Wall is extended, the cost and expense of the extension shall be borne by the Lot Owner causing the extension. However, should the Adjoining Lot Owner then use any portion of the extension as a Party Wall, that Adjoining Lot Owner shall pay to the other Lot Owner fifty (50%) percent of the cost of the extension (or portion thereof used as a Party Wall).

Section 10. Destructive Acts. Each Owner covenants to do nothing to disturb the integrity and support provided by the Party Walls by means of penetration or otherwise. Any Owner (or person for whom an Owner is responsible) causing any such damage or injury shall be liable for the restoration thereof and for any other costs or expenses incurred in connection therewith.

Section 11. Damage or Injury. An Owner who by his negligence or willful act (or the negligence or willful act of a person for whom an Owner is responsible) causes a Party Wall to be exposed to the elements shall bear the whole cost of repairing any damage caused thereby and of furnishing the necessary protection against such elements. If damage or injury is not caused by either of such Adjoining Lot Owners or persons for whom they are responsible, then the restoration and other costs and expenses shall be borne equally by both such Owners.

Section 12. Application. This Article shall apply whether the Party Walls are located exactly on the boundary line between the adjoining Lots, whether the Party Walls encroach beyond the boundary lines, or whether the Party Walls lie in near proximity to the boundaries.

Section 13. Right to Contribution Runs with Land. The right of an Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE IV **MAINTENANCE**

Section 1. Association's Responsibility. The Association, in the sole discretion of its Board, may maintain and keep in good repair the Maintenance Areas in the Property, the right-of-way, medians, entry strips, signs and lighting systems whether owned by the Association, by an Owner, or by the public, so long as the rights-of-way or entry strips are within or adjacent to the Property. The Association shall maintain, repair, and replace the Common Areas, if any, in the Property. The cost of the maintenance provided for in this Section shall be a common expense of the Association.

Section 2. Association's Responsibility for Maintenance of Improved Lots. On Improved Lots, the Association shall be responsible for mowing lawns, pruning trees and shrubs and maintaining plants in existing and defined beds, and for keeping parking areas and driveways in good repair. The Association shall further be responsible for painting, repair and replacement of exterior trim and siding, Party Walls, fencing and roofs of the houses on Improved Lots. The cost of the maintenance provided for in this Section shall be a Common Expense of the Association to the extent that the maintenance and repairs are required for ordinary landscaping maintenance and for ordinary weathering and wear to the Party Walls and the exterior of the houses. In the event the Board of Directors finds that a maintenance and/or repair expense incurred by the Association is due to the failure of an Owner or occupant to water the lawn and garden areas or the expense is for damages to the landscaping, Party Walls or the exterior of a house caused by the neglect or misconduct of an Owner, occupant, or guest of the Owner or occupant, the cost of maintenance and/or repair shall be paid by the Owner to the Association.

Section 3. Owner's Responsibility. Owners and occupants (including lessees) of any part of the Property shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that Lot safe and clean at all times. All improvements upon any part of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. Such maintenance includes, but is not limited to, the following:

- (a) Prompt and regular removal of all litter, trash, refuse, debris, and wastes, including any such items resulting from storm, flood or other casualty.
- (b) Regular watering of all lawn, trees, shrubs and plants as necessary to keep them alive and healthy.
- (c) Complying with all applicable governmental laws, ordinances, rules and regulations.

- (d) The Owner or occupant of an Improved Lot shall provide reasonable access to the Association or its agent to perform Association responsibilities for maintenance on the Improved Lot.
- (e) The Owner or occupant of an Improved Lot, at their own expense, may plant flowers, shrubs and other ornamental plants in existing defined landscaping beds. The Association shall not be responsible for the cost of replacing any such plants which may die.

Section 4. Enforcement. If, in the opinion of the Board of Directors, any Owner or occupant has failed in any of the foregoing duties or responsibilities, then the Board may give such Owner or occupant written notice of such failure and such Owner or occupant must within ten (10) days after receiving such notice perform the care and maintenance required. Should any Owner or occupant fail to fulfill this duty and responsibility within such period, then the Board, through its authorized agent or agents, shall have the right and power to enter into such Owner's Lot and perform such care and maintenance without liability for damages for wrongful entry, trespass or otherwise to any person. The Association may levy a special assessment pursuant to Article VII of this Declaration for the cost of such work which shall be the joint and personal obligation of the Owners and occupants (including lessees) of the Lot in which such work is performed and shall be enforced as provided in Article VII of this Declaration.

ARTICLE V

POWERS AND AUTHORITY OF THE ASSOCIATION

Section 1. Powers and Authority of the Association. The Association shall have the powers of a Texas nonprofit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. The Board, acting on behalf of the Association, shall have the power and authority necessary or appropriate to manage the property, business and affairs of the Association and to exercise all rights, duties and privileges granted to the Association by law or this Declaration including, without limitation, the powers described below:

- (a) Rules and Regulations. The Association, through its Board, may make and enforce reasonable rules and regulations governing the use of the Property, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote. The Board shall, in addition, have the power to seek relief in any court for violations or to abate nuisances.
- (b) Insurance. To obtain and maintain in effect policies of insurance which, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association functions.
- (c) Records. To keep books and records of the Association's affairs.
- (d) Assessments. To levy assessments as provided in Article VII.

- (e) Right of Entry and Enforcement. To enter at any time in an emergency (or in the case of 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 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 upon the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article VII hereof for regular and special assessments. The Association 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 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 shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, its successors or assigns.
- (f) Fines for Violation of the Restrictions. To levy fines, not to exceed \$200.00 per violation per day, against a Member who violated one or more of the Restrictions. The Board shall adopt a schedule of fines, procedures for notices of violations, implementation of fines and appeal to the Board of any fine levied against a Member. Failure of a Member to pay fines may result in the loss of the right to vote as a Member or serve as an officer of the Association. Delinquent fines shall be deemed personal obligations of a Member and shall be deemed an Assessment subject to the Assessment Lien and Foreclosure provisions of Article VII, Section 8. Proceeds derived from fines shall be used by the Association as directed by the Board of Directors.
- (g) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.
- (h) Collection for Subassociation. To collect on behalf of and for the accounting of any Subassociation (but not to levy) any assessment made by a Subassociation created pursuant to this Declaration.
- (i) Manager. To retain and pay for the services of a person or firm (the "**Manager**") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The Members of the Association hereby release the Association and the members of the Board from liability for any omission or

improper exercise by the Manager of any such duty, power or function so delegated.

- (j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law, the terms of this Declaration, the Articles or Bylaws of the Association.
- (k) Contracts. To enter into contracts with Declarant and other persons on such terms and provisions as the Board shall determine, to provide any service or perform any function on behalf of Declarant, the Association or any Person.

Section 2. Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interest within the Property conveyed to it by the Declarant.

Section 3. Association Documents. The Association shall make available for inspection free of charge during business hours and under normal circumstance current copies of the Declaration, Bylaws, Rules and Regulations, books, records and financial statements of the Association to Owners and Mortgagees. Any holder, insurer or guarantor of a first Mortgage shall be entitled, without charge, upon written request, to an audited financial statement for the immediately preceding fiscal year within a reasonable time following such request.

ARTICLE VI **INSURANCE**

Section 1. Association Insurance Requirements. The Association shall obtain and retain directors and officers liability insurance. In addition, the Association shall require certificates of insurance from all contractors who perform maintenance and repair services for the Association on Maintenance Areas and Improved Lots.

Section 2. Owner Insurance Requirements. The Owner(s) of each Improved Lot shall be responsible for obtaining and retaining casualty insurance for the contents of the house and improvements located thereon which may be destroyed or damaged by fire or other casualty.

ARTICLE VII **ASSESSMENTS**

Section 1. Maintenance Fund. The Board of Directors shall establish a fund (the “**Maintenance Fund**”) into which shall be deposited all monies paid to the Association and from which disbursement shall be made in performing the functions of the Association under the Declaration, the Bylaws, or the Articles of Incorporation. At first Closing on the purchase of an Improved Lot, the Buyer shall pay a one-time initial assessment of two (2) times the Regular Monthly Assessment amount (\$136.00) which shall be deposited into the Maintenance Fund.

Section 2. Regular Monthly Assessments. There are hereby created assessments for common expenses as may be from time to time specifically authorized by the Board of Directors. Regular monthly assessments shall be for expenses determined by the Board of Directors to be for the benefit of the Association as a whole. Each Owner, by acceptance of a deed or recorded contract of sale, is deemed to covenant and agree to pay these assessments. All such assessments, together with interest at the rate of twelve percent (12%) per annum, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose, and the Owner's grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance to the extent expressly assumed, except no first Mortgagee that obtains title to a Lot pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors.

Section 3. Computation of Assessment. The regular monthly assessment shall be sixty eight and No/100 Dollars (\$68.00) per Improved Lot. Thereafter, it shall be the duty of the Board of Directors, before the beginning of the next fiscal year and prior to the meeting at which the budget shall be presented to the membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessment shall become effective unless disapproved at the meeting by a vote of at least a majority of both classes of the total Association membership. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board of Directors fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. Special Assessments. If the Board, at any time, or from time to time, determines that the regular monthly assessment assessed for any period is insufficient to provide for the continued operation of the Maintenance Areas, timely payment of its bills, and the maintenance, repair or replacement of the Maintenance Areas for which the Association is responsible, then the Board shall have the authority to levy such special assessments as it shall deem necessary to provide for such continued maintenance, repair or replacement and operation. Without limiting the generality of the foregoing, such special assessment may be assessed because of casualty, condemnation, or other loss to any part of the Maintenance Areas for which the Association is responsible, or to make up for any deficiencies caused by nonpayment of assessments by Owners. No special assessment which (together with all prior special assessments levied in the same calendar year) would exceed 25% of the current year's annual regular monthly assessment may be made until the same is approved by Members holding at least 51 percent of each class of eligible votes in the Association. All special assessments shall be payable (and the payment hereof may be enforced) in the manner herein specified for the payment of regular monthly assessments. The Association may also levy a special assessment

against any Member to reimburse the Association for costs incurred in bringing a Member and his Lot into compliance with the provisions of the Declaration, the amendments thereto, the Bylaws, the Articles of Incorporation, and the Association Rules and Regulations, which special assessment may be levied upon the vote of the Board after notice and an opportunity for a hearing.

Section 5. Assessment Property. The only portions of the Property which shall be subject to the assessments provided for in this Declaration shall be those portions of the Property which, at the time the assessment is made, are subdivided lots described in the formal subdivision plat on which a completed residence has been erected (herein sometimes referred to as an "**Improved Lot**").

Section 6. Division of Assessments Among Owners. Assessments made by the Association under Section 2 and uniform special assessments described in Section 4 shall be divided among all the Owners of assessment property located within the Property pro rata. The pro rata percentage of any assessment shall be calculated by dividing the number one by the total number of Improved Lots in the Property at the time the assessment is levied.

Section 7. Late Charges. If any assessment made pursuant to this Article is not paid within thirty (30) days after it is due, the Owner may be required by the Board to pay a late charge at such rate as the Board may designate from time to time; provided, however, such charge shall never exceed the maximum charge permitted under applicable law. In the event of default in the payment of any such assessment, the Owner of the Lot shall be obligated to pay interest on the amount of the assessment from the due date at a percentage rate of twelve percent (12%) per annum, unless otherwise established by Board resolution, together with all costs and expenses of collection, including reasonable attorney's fees.

Section 8. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article or any other Article in this Declaration but unpaid, together with interest and the cost of collection, including attorney's fees as provided in Section 7 shall thereupon become a continuing lien and charge on the Lot covered by such assessment, which shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien shall be superior to all other liens and charges against the said Lot, except only for:

- (a) All liens for taxes or special assessments levied by the applicable city, county or state government, or any political subdivision or special district thereof;
- (b) All liens securing all amounts due or to become due under any mortgage vendor's lien or deed of trust filed for record prior to the date any assessment became due and payable; and
- (c) All liens including, but not limited to, vendor's liens, deeds of trust and other security agreements which secure any loan made by any lender to a Member for any part of the purchase price of any Lot when the same are

purchased from a builder, or for any part of the cost of constructing, repairing, adding to or remodeling any Improvements utilized for residential purposes.

The Association shall have the power to subordinate the aforesaid assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. To evidence the aforesaid assessment lien, the Association may 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 shall be signed by one of the officers of the Association and shall be recorded in the office of the County Clerk of the county in which the Lot is located. Such lien for payment of assessments shall attach with the priority above set forth from the date that such payment becomes delinquent and may be enforced by either (i) the Association foreclosing against the defaulting Owner's Lot in like manner as a mortgage on real property subsequent to the recording of a notice of assessment lien as provided above, or (ii) the Association instituting suit against the Owner personally obligated to pay the assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or not judicial, the Owner shall be required to pay the costs, expenses, and reasonable attorney's fees incurred by the Association. The Association shall have the power to bid 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 shall report to such Mortgagee any unpaid assessments remaining unpaid for longer than thirty (30) days after the same are due.

After notice and hearing, the Board may temporarily suspend the voting rights of a Member who is in default of payment of any assessment.

Section 9. Mortgage Protection. Notwithstanding any other provision of this Declaration, no lien created under this Article or under any other Article of this Declaration, nor any lien arising by reason of any breach of the rules and regulations, nor the enforcement of any provision of this Declaration or of any Subsequent Amendment shall defeat or render invalid the rights of the beneficiary under any recorded Mortgage of first and senior priority now or hereafter given upon any portion of the Property made in good faith and for value. However, after a conveyance in lieu of foreclosure, such property shall remain subject to this Declaration, and the Owner thereof shall thereafter be liable for all assessments levied after such completion of foreclosure or conveyance in lieu of foreclosure. No amendment of this Section shall affect the rights of any Mortgagee whose Mortgage has the first and senior priority as provided herein, unless the Mortgagee consents in writing to the amendment thereof, or unless the amendment was filed of record prior to the recording of the Mortgage, provided, however, that after foreclosure, or conveyance in lieu of foreclosure, the portion of the Property which was subject to such Mortgage shall be subject to such amendment.

Section 10. Subordination. The lien assessments provided for herein shall be subordinated to any loan used by Declarant for the acquisition, development and construction of the lots and homes within the Property, and the lien of any first Mortgage if the Mortgage was recorded before the delinquent assessment became due. However, the sale or transfer of any portion of the Property subject to assessment pursuant to Mortgage foreclosure, or any

proceeding in lieu thereof, shall extinguish the lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such property subject to assessment from liability for any assessment thereafter becoming due or from the lien thereon.

ARTICLE VIII
ARCHITECTURAL CONTROL COMMITTEE

Section 1. Designation of Committee. An Architectural Control Committee (the "Committee"), shall consist of not less than three (3) members who shall be natural persons. The initial Committee shall consist of John Gavurnik, Gregorio Garza and Rick Burlson. Persons serving on the Committee shall serve until removed by the Board of Directors or until a resignation is effective. Any member may resign at any time for any reason and such resignation shall be effective upon notice thereof to the Board. Subsequent members of the Committee shall be appointed by the Board of Directors. Until the occurrence of one of the events described in Article II, Section 3(b), whichever is earlier, the appointment of the members of the Committee must be approved by Declarant, and during such period any and all members of the Committee can be removed by Declarant with or without cause. The Board shall have the exclusive right and power at any time and from time to time to fill vacancies on the Committee. The Committee shall act by majority vote of its members.

Section 2. Function of Architectural Control Committee. No improvement, as that term is hereinafter defined, except those constructed by the Declarant, 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, and any other information pertaining thereto, in such form and detail as the Committee may deem necessary, shall have been submitted to and approved in writing by the Committee. The decision of the Committee shall be final, conclusive, and binding upon the applicant.

Section 3. Content of Plans and Specifications. The plans and specifications to be so submitted and approved shall include the following:

- (a) A site plan showing the location of all improvements, structures, walks, driveways, fences, and Lot corners and the corners of proposed improvements, and a grading plan and a drainage plan. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the Lot contours is contemplated.
- (b) Exterior elevations showing all sides of the proposed improvements.
- (c) Exterior materials, colors, textures and shapes.
- (d) Structural design and construction plans.
- (e) Landscaping plan, including walkways, fences and walls, elevation changes, sprinkler systems, vegetation and ground cover.

- (f) Parking area and driveway plan.
- (g) Any exterior illumination, including location and method.
- (h) Any fire protection systems required by applicable government law, ordinance or regulation.
- (i) Signs, including size, shape, color, location and materials.
- (j) Mailboxes, if any.

Section 4. Definition of "Improvement". The term "improvement" shall mean and include all buildings and roofed structures, fences, walls, mass plantings, driveways, signs, any new exterior construction or exterior improvement, all outbuildings, and both original improvements and all later changes and improvements. The term "improvement" shall not include garden shrub or tree replacements or any other replacement or repair of any magnitude which does not change exterior colors or exterior appearances. Further, the term "improvement" shall not include repairs and/or replacements of improvements damaged by fire or other casualty, subject to the following:

- (a) The damaged improvements to be repaired or replaced were approved by the Committee as provided in Section 2.
- (b) The repairs or replacements will effect a restoration of the damaged improvements to substantially the same condition as existed prior to such damage, with no material change from the original plans and specifications approved by the Committee as provided in Section 2.
- (c) Plans and specifications for the repairs or replacements, similar in form and detail to the original plans and specifications for the items to be repaired or replaced, together with a certificate signed by a duly licensed architect stating that the repairs or replacements will effect a restoration of the damaged improvements to substantially the same condition as existed prior to such damage with no material change from such original plans and specifications, shall have been submitted to the Committee at least fifteen (15) days prior to the date construction of such repairs or replacements is commenced.

Section 5. Variances. In case of special size or shape of site or condition of terrain or special use, operation or treatment not provided for within the general conditions of the protective covenants herein contained or for any other reason, the Committee may, in its discretion, permit such variances or exceptions to the restrictions herein contained as it deems necessary or desirable.

Section 6. Failure of the Committee to Act. The Committee shall approve such plans and specifications or reject them as being inadequate within thirty (30) days after receipt thereof. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them as being inadequate or may approve part, conditionally or unconditionally, and reject the balance. If the committee shall fail to respond to any Owner within thirty (30) days after its receipt of any original or revised plans and specifications submitted hereunder, such plans and specifications shall be deemed to have been disapproved by the Committee.

Section 7. Limitation of Liability Neither Declarant, the Committee, nor any of the members of the Committee shall be liable in damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any plans and specifications.

Section 8. Inspection of Work.

- (a) Completed Work. Inspection of completed work and correction of defects therein shall proceed as follows:
- (1) Upon the completion of any improvement for which the final plans and specifications were approved under this Declaration, the Owner shall give written notice of completion to the Committee.
 - (2) Within such reasonable time as the Committee may set in its rules but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in strict compliance with all approved plans and specifications, it shall notify the Owner in writing of such noncompliance within five (5) days, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.
 - (3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the Committee shall notify the Board of Directors in writing of such failure. Upon notice to the Owner, the Board shall conduct a hearing at which it shall determine whether there is noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days following the announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the noncomplying improvement, remedy the noncompliance or seek appropriate injunctive relief and other available legal redress from a court of competent jurisdiction, and the Owner shall reimburse the Association upon demand for all expenses incurred in connection therewith. If such

expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against such Owner and improvement in question and the Lot upon which the same is situated for reimbursement and the same shall constitute a personal obligation of the Owner of such Lot, a lien upon such Lot and improvement, and be enforced as provided in this Declaration.

- (4) If for any reason after receipt of said written notice of completion from the Owner, no inspection is made or any noncompliance is not found within the period provided above in Subparagraph (2) of this Section 8(a), the improvement shall be deemed to be in accordance with said approved plans and specifications. In the instances where an inspection has occurred and the improvements are in compliance, upon request, the Committee shall issue a "Certificate of Compliance" in a form suitable for recording. The certificate shall identify the Lot and the improvement, and shall certify only that the improvements thereon are not in violation of the covenants of the Declaration, or if they are in violation, that a variance has been granted. **THE CERTIFICATE SHALL NOT BE CONSTRUED TO CERTIFY THE ACCEPTABILITY, SUFFICIENCY OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE ACTUAL DESIGN OR CONSTRUCTION OF THE IMPROVEMENTS OR OF THE WORKMANSHIP OR MATERIALS THEREOF. THE OWNER IS HEREBY NOTIFIED THAT THE CERTIFICATE IN NO WAY WARRANTS THE SUFFICIENCY, ACCEPTABILITY OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE DESIGN, CONSTRUCTION, WORKMANSHIP, MATERIALS OR EQUIPMENT OF THE IMPROVEMENTS. RECORDATION OF SUCH A CERTIFICATE SHALL BE AT THE EXPENSE OF THE OWNER OF THE IMPROVED LOT.**

- (b) Work in Progress. The Committee may inspect all work in progress and give notice of noncompliance as provided above in Subparagraph (2) of Section 8(a). If the Owner denies that such noncompliance exists, the procedures set out in Subparagraph (3) of Section 8(a) shall be followed, except that no work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board should ultimately find that noncompliance exists.

Section 9. Enforcement. Declarant or the Board of Directors, on behalf of the Association, shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction the decisions of the Committee established in this Article. This Article may not be amended without Declarant's written consent, so long as Declarant owns any land subject to this Declaration.

ARTICLE IX
USE RESTRICTIONS AND PROTECTIVE COVENANTS

Section I. General Restrictions.

- (a) Noxious Uses. The land and improvements located on each Lot shall not be used so as to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance or violate any public law, ordinance or regulation from time to time applicable thereto. Nor shall such land and improvements be used for any purposes which will create or emit any objectionable, offensive or noxious odors, dust, gas, fumes or other such material.

- (b) Animals. No animals or birds, other than a maximum of four (4) generally recognized house or yard pets, shall be maintained on any Lot and then only if they are kept, bred or raised thereon solely as domestic pets and not for commercial purposes. No animal or bird shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing or confinement of any animal or bird shall be maintained so as to be visible from neighboring property, without approval by the Architectural Control Committee. Upon the written request of any Owner, the Board of Directors of the Association shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal or bird is a generally recognized house or yard pet, or a nuisance.

- (c) Antennas. Without the prior written consent of the Committee, exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed on any Lot. All such items shall be placed in a location which is not visible from any street, common area or other Lot unless it is impossible to receive signals from said location. In that event, the receiving device may be placed in a visible location as approved by the Committee. The Committee may require as much screening as possible while not substantially interfering with reception. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Properties. No satellite dishes shall be permitted which are larger than 1 meter in diameter. No exterior antennas, aerials, satellite dishes, or other apparatus which transmit, rather than receive, television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. The Declarant by promulgating this section is not attempting to violate the Telecommunications Act of 1996 (the "Act"), as may be amended from time to time. This section shall be interpreted to be as restrictive as possible while not violating the Act.

- (d) Temporary Occupancy. No trailer, basement or any incomplete building, tent, shack, garage or barn and no temporary building or structure of any kind shall be used at any time for a residence, either temporary or permanent. Temporary buildings or structures used during the construction, repair or remodeling of a dwelling on any Lot shall be removed immediately after the completion of construction.
- (e) Trailers, Boats and Motor Vehicles. Without prior approval of the Architectural Control Committee, no mobile home, trailer of any kind, truck, camper, motorized recreational vehicle, permanent tent or similar structure, boat or inoperable motor vehicle of any type shall be kept, placed, maintained, constructed, reconstructed or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property, private drive, or a public street; provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvements approved by the Architectural Control Committee. In addition, no motor vehicle of any type, whether operable or inoperable, may be constructed, reconstructed or repaired upon any property or street or private driveway in such a manner as will be visible from neighboring property for three (3) consecutive days.
- (f) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors shall be permitted to arise therefrom, so as to render any such property or portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such property.
- (g) Repair of Buildings. No building or structure upon any property within any Lot shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.
- (h) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot except in covered containers of a type, size and style which are approved by the Association, which may include the requirement that all containers will be disposable. In no event shall such containers be maintained so as to be visible from neighboring property except to make the same available for collection and, then, only the shortest time reasonably necessary to effect such collection.
- (i) Clothes Drying Facilities. Outside clotheslines or other facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot unless they

are erected, placed or maintained exclusively within a fenced yard or otherwise concealed and not visible from neighboring property.

- (j) Sidewalk Encroachments. No tree, shrub or planting of any kind on any Lot shall be allowed to overhang or otherwise encroach upon any sidewalk or other pedestrian way from ground level to a height of seven feet (7') without the prior approval of the Architectural Control Committee.
- (k) Right of Access. During reasonable hours Declarant, any member of the Architectural Control Committee, or member of the Board of Directors or any other representative of any of them, shall have the right to enter upon and inspect any Lot for the purpose of ascertaining whether or not the provisions of these restrictions have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.
- (l) Mineral Exploration. No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.
- (m) Machinery and Equipment. Without approval by the Board, no machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in Williamson County, Texas, in connection with the use, maintenance or construction of residential improvements; provided, however, such machinery or equipment may be so placed, operated or maintained by any governmental, or quasi-governmental agency or a public utility. Nothing herein shall prevent the use of appliances, tools or machines for usual and customary household purposes.
- (n) Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which will induce, breed or harbor plant diseases or noxious insects.
- (o) Restriction on Further Subdivision. Except as expressly provided for herein for the benefit of Declarant, no Lot shall be further subdivided and no portion less than all of any such Lot nor any easement or other interest therein, shall be conveyed by any Owner, except, however, that easements may be granted to any governmental or quasi-governmental agency or a public utility.
- (p) Signs. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Unit, fence or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the Property or the subdivision or carried by any person or by any other means displayed within the Property or the subdivision except the following:
 - (1) For Sale Signs. An Owner may erect one (1) sign not exceeding 2 feet by 3 feet in area, fastened only to a stake in the ground and extending not

more than 3 feet above the surface of the ground advertising the property for sale or for lease.

- (2) Declarant/Builder Signs. Signs or billboards may be erected by the Declarant or any Homebuilder as Declarant shall desire and approve.
- (3) Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs will not be erected more than 90 days in advance of the election to which they pertain and are removed within 15 days after the election.
- (4) School and Business Signs. Emblems or bumper stickers advertising a resident's school or business mounted upon vehicles parked or driven in the subdivision.

The content and location of all signs shall be subject to such rules as the Association may promulgate. Declarant or its agents will have the right to remove any sign, billboard or other advertising structure that does not comply with the foregoing requirements; and in so doing, will not be subject to any liability in connection with such removal.

- (q) Tanks. No elevated tanks shall be erected.
- (r) Increased Insurance Costs. Nothing shall be done on any Lot which will result in the increase of fire and extended coverage insurance premiums thereon or the cancellation of such insurance.
- (s) Waste. No waste shall be committed on any Lot.
- (t) Lighting. No lighting or illumination shall be placed upon any Lot in such a manner as to cause unreasonable glare or illumination on any other Lot.
- (u) Rights of Declarant. Nothing herein shall be construed as prohibiting Declarant, its officers, employees or agents, from inviting any person or the general public to enter any residence situated upon any Lot owned by Declarant for the purpose of making a sale or lease thereof or from using such residence as a model for the purpose of making a sale or sales or from maintaining a sales force upon any Lot owned by Declarant which remains unsold.
- (v) Fencing. All fences shall be no greater than six feet (6') high. Fences shall be constructed of new wood and/or masonry material, or such other material approved by the Architectural Control Committee.

Section 2. Use Restrictions.

- (a) All Lots shall be used solely for single-family residential purposes.
- (b) No Lot or improvements thereon shall be leased or rented for less than thirty (30) days. Any lease or rental agreement must be in writing and must be subject to this Declaration, the Bylaws and the rules and regulations. Except for the foregoing, nothing in this Declaration shall prevent the rental of any Lot and improvements thereon by the Owner thereof for residential purposes.

Section 3. Building Restrictions. All dwellings shall have a garage suitable for parking at least one (1) standard size automobile, and no more than two (2) standard size automobiles.

ARTICLE X
MORTGAGEE PROTECTION CLAUSES

Section 1. Rights of Mortgagees. No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of any Mortgage on any Lot made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, unless otherwise provided herein.

Section 2. Notice to Mortgagees, Insurers and Guarantors. All Mortgagees including FNMA and FHLMC that have filed with the Association an appropriate written request which includes its name and address as well as the Lot encumbered by its Mortgage (the "Eligible Mortgagees") as well as all insurers of a Lot and governmental guarantors of a Mortgage that have filed with the Association such an appropriate written request ("Eligible Insurers" and "Eligible Guarantors", respectively), shall be entitled to receive the following notices in writing from the Association:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee, Eligible Insurer or Eligible Guarantor, as applicable;
- (b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a Mortgage held, insured or guaranteed by such Eligible Mortgagee, Eligible Insurer or Eligible Guarantor, which remains uncured for a period of sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified herein.

Section 3. Additional Rights and Eligible Mortgages. To the extent permitted by applicable law, Eligible Mortgages shall also be afforded the following rights:

- (a) Any restoration or repair of the Property, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with this Declaration and the original plans and specifications, unless other action is approved by Eligible Mortgagees of Lots to which at least fifty-one percent (51%) of the votes in the Association have been allocated;
- (b) No reallocation resulting from a partial condemnation or partial destruction of the Property may be effected without the prior approval of Eligible Mortgagees of the remaining Lots whether existing in whole or in part, to which have been allocated at least fifty-one percent (51%) of the votes in the Association of all remaining Lots subject to Mortgages held by Eligible Mortgagees;
- (c) No amendment of the Declaration, Bylaws or Articles which authorizes the alteration or destruction of one or more Lots or Common Areas may be effected without the consent of the Mortgagees of the Owners of such Lots or Common Areas.

Section 4. Mortgage Priority. Notwithstanding any language contained in this Declaration to the contrary, no Owner or other party shall have priority over any rights of the Mortgagee of any Lot pursuant to its Mortgage in the case of a distribution to the Owner of such Lot of insurance proceeds or condemnation awards for losses to or taking of all or a portion of such Lot and/or Common Areas. Institutional lenders shall have the right to examine the books and records of the Association at all reasonable times during regular business hours of the Association.

Section 5. Compliance With FHLMC and FNMA Regulations. The Declarant intends that the Property shall comply with all requirements of the FHLMC and the FNMA pertaining to the purchase by FHLMC and FNMA of conventional home loans. Declarant and all Owners therefore agree that, notwithstanding anything to the contrary contained herein, in the event the Property or the Declaration or Bylaws do not comply with the FHLMC and FNMA requirements, if permitted under applicable law, the Board shall have the power (on behalf of the Association and each and every Owner) to amend the terms of this Declaration and the Bylaws and to enter into any agreement with FHLMC and FNMA (or their designees) or the Mortgagees of the Lots reasonably required by FHLMC and FNMA or the Mortgagees to allow the Property to comply with such requirements.

Section 6. Taxes, Assessments and Charges Which May Become Liens. All taxes, assessments and charges which may become liens prior to any first lien Mortgage under local law shall relate only to the individual Lots and not to the Property as a whole.

ARTICLE XI
GENERAL PROVISIONS

Section 1. Duration. This Declaration and the covenants, restrictions, charges, and liens set out herein shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant and every Owner of any part of the Property, and their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years beginning on the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless terminated by a majority vote of the total votes of each class of the membership of the Association as set forth herein, with each class voting separately. Any such changes shall be effective when an instrument is filed for record in the Official Public Records of Williamson County, Texas, with the signatures of the requisite number of Owners of the Property.

Section 2. Amendment.

- (a) By Declarant. This Declaration or any Supplemental Declaration may be amended by the Declarant acting alone until December 31, 2015 or until Declarant no longer holds a majority of the votes in the Association, whichever occurs last. No amendment by Declarant after December 31, 2015, shall be effective until there has been recorded in the Official Public Records of Williamson County, Texas, an instrument executed and acknowledged by Declarant and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Association certifying that the Declarant had the requisite number of votes. Notwithstanding the foregoing, Declarant may amend this Declaration at any time (i) to correct typographical and grammatical errors, and (ii) in order to comply with VA or FHA requirements for approval of the Property.
- (b) By Owners. In addition to the method in Article XI, Section 2(a), after December 31, 2015, this Declaration may be amended by the recording in the Official Public Records of Williamson County, Texas, of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by the Owners entitled to cast at least sixty-seven percent (67%) of the number of votes entitled to be cast pursuant hereto.

Section 3. Enforcement. Each Owner of any part of the Property, the Association, and Declarant shall have the right (but not the duty) to enforce any of the covenants and restrictions set out in this Declaration, as same may be amended as herein provided. Enforcement of the covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Property or any part thereof, to enforce any lien created by these covenants; and failure by Declarant, the Association or any Owner to enforce any such covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Consent to Modification of Plat. Declarant hereby reserves unto itself the exclusive right and power at any time and from time to time to modify, change, resubdivide or amend, in any lawful manner, the subdivision plat of the Property without the necessity of obtaining the written consent of any Owner of any part of the Property prior to such modification, change, resubdivision or amendment; provided, however, that no such modification, change or amendment shall alter the flood plain, easements, utility commitments or streets within, to, or abutting any Lot, or otherwise encumber such Lot, without the written consent of the Owner of such Lot. In that regard, each Owner of any part of the Property hereby consents to the foregoing reservation and hereby waives any and all right to consent to any modification, change or amendment of the subdivision plat by Declarant.

Section 5. Successor Declarant. Declarant may at any time, or from time to time, sell, assign or transfer all or any part of its rights hereunder and/or its right, title and interest in the Property to any person or entity, and such assignee shall thereafter have such rights and powers of Declarant as are so transferred or assigned. In the event Declarant shall convey all of its rights hereunder, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such assignee shall be obligated to perform all such duties and obligations of Declarant effective when an instrument effecting such assignment is filed for record in the Official Public Records of Williamson County, Texas.

Section 6. Easements.

- (a) Reserved Easements. All dedications, limitations, restrictions and reservations shown on the recorded subdivision plat of the Property, 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 shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes and additions to the easements and rights-of way for the purpose of efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone, cable television, and drainage) in favor of any person or entity, along and on either or both sides of any Lot line, but only along that part of a Lot line which is beyond the building Setback Line shown on the recorded Plat for the Property, which easement shall have a maximum width of 7.5 feet on each side of such Lot line.
- (b) Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities, including, but not limited to, gas, water, electricity, telephone, cable television, drainage and appurtenances thereto. By virtue of this easement, it shall be expressly

permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any improvement constructed on the Lots. Notwithstanding any provision contained in this Section, no utility lines or appurtenances thereto may be relocated on the Property until approved by the Architectural Control Committee.

- (c) Drainage Easement. Each Owner covenants to provide easements for drainage and water flow as contours and the arrangement of improvements constructed on the Lots require. There shall be no construction of improvements, temporary or permanent, in any drainage easement, except as provided in writing by the Architectural Control Committee and the City of Georgetown.
- (d) Surface Areas. The surface of easement areas for underground utility services may, with the written permission of the City of Georgetown, be used for the planting of shrubbery, trees, lawns or flowers. However, neither Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants, or assigns, to any of the above mentioned vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in such easement area.

Section 7. Construction and Sale. Notwithstanding any provisions contained in the Declaration to the contrary, so long as the initial sale of Lots shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Property such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the sale of such Lots, including, but not limited to, construction offices, business offices, signs, and sales offices, and the Declarant shall have an easement for access to such facilities, such use to be limited, however, to Lots owned by Declarant. This Section may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Section shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon the Declarant's recording a written statement that all sales activity has ceased.

Section 8. Indemnification. The Association shall indemnify every officer and director against any and all expense, including attorneys' fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and

forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association may, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 9. Severability of Provisions. 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 thereto. 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.

Section 10. 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.

Section 11. Assignment by Declarant. Notwithstanding anything herein to the contrary, Declarant reserves the right to transfer, assign, mortgage, or pledge any and all of the respective privileges, rights, title, and interest hereunder, or in the Property or any part thereof, by means of recording an assignment of such in the Official Public Records of Williamson County, Texas. Upon such assignment, Declarant shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from or after the recording of such assignment. No successor assignee of the rights of Declarant shall have or incur any liability for the obligations or acts of any predecessor in interest.

EXECUTED this _____ of January, 2006.

GAVURNIK BUILDERS, L.P
a Texas limited partnership

By: Gavurnik Group, Inc.
a Texas corporation, General Partner

By: _____
John J. Gavurnik, President

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

This Declaration was executed on January ____, 2006, by John J. Gavurnik, President of Gavurnik Group, Inc., a Texas corporation, General Partner of GAVURNIK GROUP, L.P., a Texas limited partnership, on behalf of said partnership.

Notary Public, State of Texas

AFTER RECORDING, RETURN TO:
The Law Offices of Glenn K. Weichert, P.C.
3821 Juniper Trace, Suite 106
Austin, Texas 78738