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Instrument Number: 72246

ERecordings-RP

DECLARATION

Recorded On: April 22, 2021 01:32 PM

Number of Pages: 55

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" Examined and Charged as Follows: "

Total Recording: \$242.00

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**File Information:**

Document Number: 72246  
Receipt Number: 20210422000561  
Recorded Date/Time: April 22, 2021 01:32 PM  
User: Joy R  
Station: Station 19

**Record and Return To:**

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COUNTY OF DENTON

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Juli Luke  
County Clerk  
Denton County, TX

**DECLARATION OF  
COVENANTS, CONDITIONS  
& RESTRICTIONS  
FOR  
WESTPORT LAKEVIEW VILLAS**

**A Townhome Community located in  
The Colony, Denton County, Texas**

**Declarant**

**Westport Villas, LLC**

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**DECLARATION OF  
COVENANTS, CONDITIONS & RESTRICTIONS  
FOR  
WESTPORT LAKEVIEW VILLAS**

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This Declaration of Covenants, Conditions & Restrictions for Westport Lakeview Villas is made by Westport Villas, LLC, a Texas limited liability company (“**Declarant**”). Declarant owns the real property (“**Property**”) described in Exhibit A of this Declaration, together with the improvements thereon, and desires to subject the Property to the terms and conditions of this Declaration.

Declarant desires to establish a general plan of development for the Townhome community to be known as Westport Lakeview Villas. Declarant further desires to provide for the preservation, administration, and maintenance of portions of Westport Lakeview Villas, and to protect the value, desirability, and attractiveness of Westport Lakeview Villas. As an integral part of the development plan, Declarant will create a property owners association to perform these functions and activities more fully described in this Declaration and the other Governing Documents described below.

Declarant **DECLARES** that the Property will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, which run with the Property and bind all parties having or acquiring any right, title, or interest in any part of the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of any part of the Property.

**ARTICLE 1  
DEFINITIONS**

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

Section 1.01. “**Applicable Law**” means the statutes and public laws and ordinances in effect at the time a provision of the Governing Documents is applied, and pertaining to the subject matter of the Governing Document provision. Statutes and ordinances specifically referenced in the Governing Documents are “**Applicable Law**” on the date of the Governing Document, and are not intended to apply to the Property or this Declaration if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

Section 1.02. “**Architectural Reviewer**” means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant or Declarant’s designee. Thereafter, the Board-appointed Architectural Control Committee is the Architectural Reviewer.

Section 1.03. “**Area of Common Responsibility**” means that portion of the Property and those components of the Townhomes for which the Association has maintenance responsibilities, as described with more particularity in Article 5 of this Declaration.

Section 1.04. “**Assessment**” means any charge levied against a Lot or Owner by the Association, pursuant to the Governing Documents or State law, including but not limited to Regular

Assessments, Special Assessments, Individual Assessments, and Deficiency Assessments, as set forth in Article 9 of this Declaration.

Section 1.05. “**Association**” means the association of Owners of all Lots in the Property, initially organized as Westport Lakeview Villas Property Owners Association, a Texas nonprofit corporation, and serving as the “property owners' association” defined in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration and the bylaws.

Section 1.06. “**Board**” means the Board of Directors of the Association.

Section 1.07. “**City**” means the City of The Colony, Texas.

Section 1.08. “**Common Area**” means portions of real property and improvements thereon that are owned and/or maintained by the Association, as described in Article 4 below, including, without limitation, including, without limitation, the Private Amenity (defined below), any recreational facilities, areas within public rights-of-way, easements (public and private), portion of a Lot, public parks, landscaping, entry features, fence or similar areas that either the Board deems necessary or appropriate to maintain for the common benefit of the Members or that is shown on a recorded plat of the Property or portion thereof as being maintained by the Association.

Section 1.09. “**Declarant**” means Westport Villas, LLC, a Texas limited liability company, which is developing the Property, or the successors and assigns of Westport Villas, LLC, which acquire any portion of the Property for the purpose of development and which are designated a Successor Declarant by Westport Villas, LLC, or by any such successor and assign, in a recorded document.

Section 1.10. “**Declaration**” means this document, as it may be amended from time to time.

Section 1.11. “**Development Period**” means the period of time beginning on the date when this Declaration has been recorded, and ending at such time as Declarant no longer owns a Lot, unless earlier terminated by Declarant. Declarant may terminate the Development Period by an instrument executed by Declarant and recorded. The Development Period is the period in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property, and the right to direct the size, shape and composition of the Property. During the Development Period Declarant has certain rights, including those set forth on Exhibit C.

Section 1.12. “**Governing Documents**” means, singly or collectively as the case may be, this Declaration, the Plat, the bylaws, the Association's Certificate of Formation, and the rules of the Association, as any of these may be amended from time to time. An Exhibit, exhibit, schedule, or certification accompanying a document is a part of that document.

Section 1.13. “**Lot**” means a portion of the Property intended for independent ownership, on which there is or will be constructed a Townhome, as shown on the Plat. As a defined term, “Lot” does not refer to Common Areas, even if platted and numbered as a Lot. Where the context indicates or requires, “Lot” includes all improvements thereon and any portion of a driveway or right-of-way that customarily is used exclusively by and in connection with the Lot.

Section 1.14. “**Majority**” means more than half. A reference to “a Majority of Owners” in any Governing Document or Applicable Law means “Owners of at least a Majority of the Lots,” unless a different meaning is specified.

Section 1.15. “**Member**” means a member of the Association, each member being an Owner of a Lot, unless the context indicates that member means a member of the Board or a member of a committee of the Association. In the context of votes and decision-making, each Lot has only one membership, although it may be shared by co-Owners of a Lot.

Section 1.16. “**Owner**” means a holder of recorded fee simple title to a Lot. Declarant is the initial Owner of all Lots. Contract sellers and mortgagees who acquire title to a Lot through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a member of the Association. A reference in any Governing Document or Applicable Law to a percentage or share of Owners or Members means Owners of at least that percentage or share of the Lots, unless a different meaning is specified.

Section 1.17. “**Plat**” means all Plats, singly and collectively, recorded in the Official Public Records of Dallas County, Texas, and pertaining to the Property, including all dedications, limitations, restrictions, easements, notes, and reservations shown on the Plat, as it may be amended from time to time. The Final Plat of Westport Lakeview Villas was recorded on May 29, 2018, as Document No. 2018-237, Plat Records, Denton County, Texas.

Section 1.18. “**Property**” means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The Property is located on land described in Exhibit A to this Declaration, and includes every Lot and any Common Area thereon.

Section 1.19. “**Resident**” means an occupant of a Townhome, regardless of whether the person owns the Lot.

Section 1.20. “**Rules**” means rules and regulations of the Association adopted in accordance with the Governing Documents or Applicable Law. The initial Rules may be adopted by Declarant for the benefit of the Association.

Section 1.21. “**Townhome**” means the attached single-family dwelling on each individually-owned Townhome Lot. “**Townhome Building**” means the structure containing multiple Townhomes. Although all components of a Townhome Building are owned by the respective Lot Owners, some components may be maintained by the Association as Areas of Common Responsibility.

## ARTICLE 2 PROPERTY SUBJECT TO DOCUMENTS

Section 2.01. **PROPERTY.** The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property or any portion thereof.

Section 2.02. ADJACENT LAND USE. Declarant makes no representations of any kind as to current or future uses - actual or permitted - of any land that is adjacent to or near the Property, regardless of what the Plat shows as potential uses of adjoining land.

Section 2.03. STREETS WITHIN PROPERTY. Because streets, alleys, and cul-de-sacs within the Property (hereafter "streets") are capable of being converted from publicly dedicated to privately owned, and vice versa, this Section addresses both conditions. If the Property has private streets, the streets are part of the Common Area which is governed by the Association. Public streets are part of the Common Area only to the extent they are not maintained or regulated by the City or county. To the extent not prohibited by public law, the Association, acting through the Board, is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for use of the streets - whether public or private - including but not limited to:

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

Section 2.04. PRIVATE AMENITY. The Declarant currently intends to construct an amenity center in the future (the "Private Amenity") with a community pool, dog park and open space for use by Members and their guests and invitees. The Private Amenity will be of a design and contain features as determined solely by Declarant, and Declarant makes no representation, warranty or guaranty as to any part of the Private Amenity to be constructed, or the timing of construction and completion. The Board may establish from time-to-time the hours of operation of the Private Amenity and other rules and regulations relating to operation of the Private Amenity. This may include, among other things, operation during morning or evening hours, as well as increased traffic to and from the Private Amenity.

### ARTICLE 3 PROPERTY EASEMENTS AND RIGHTS

Section 3.01. GENERAL. In addition to other easements and rights established by the Governing Documents, the Property is subject to the easements and rights contained in this Article.

Section 3.02. OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted a right and easement of enjoyment over the Common Areas and to use of improvements therein, subject to other rights and easements contained in the Governing Documents. An Owner who does not occupy a Lot delegates this right of enjoyment to the Residents of his Lot.

Section 3.03. OWNER'S MAINTENANCE EASEMENT. Every Owner is granted an access easement over adjoining Lots, Common Areas, and Areas of Common Responsibility for the maintenance or reconstruction of his Townhome and other improvements on his Lot, provided exercise of the easement does not damage or materially interfere with the use of the adjoining Townhome or Common Area. Requests for entry to an adjoining Townhome or Common Area must be made to the Owner of the adjoining Townhome, or the Association in the case of Common Areas, in advance for a time reasonably convenient for the adjoining Owner, who may not unreasonably withhold consent. If an Owner damages an adjoining Townhome, Area of Common Responsibility, or Common Area in exercising this easement, the Owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

Section 3.04. TOWNHOME EASEMENT. Every Owner of a Lot is granted a perpetual easement over, under, and through every other Lot in the same Townhome Building in which his Townhome is located for the limited purpose of installing, maintaining, and replacing wires, cables, conduit, and pipes, that serve his Townhome, but only to the extent that use of this easement is reasonable and necessary. In the event of dispute, the Board is the arbiter of whether the anticipated use of this easement is reasonable and necessary. Reciprocally, the Owner of a Townhome that contains wire, cables, conduit, or pipes that serve one or more other Townhomes has a duty to refrain from interfering with or damaging those items. This easement and reciprocal responsibility anticipates that the electrical meters for all the Townhomes in one building may be grouped at one end of the Townhome Building. It also anticipates that attic or roofline installations of wiring may be the most cost effective and least unsightly way of accommodating future needs for cable services.

Section 3.05. OWNER'S INGRESS/EGRESS EASEMENT. Every Owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his Lot.

Section 3.06. OWNER'S ENCROACHMENT EASEMENT. Every Owner is granted an easement for the existence and continuance of any encroachment by his Lot on any adjoining Lot or Common Area now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the improvement stands.

Section 3.07. RIGHTS OF CITY. The City, including its agents and employees, has the right of immediate access to the Common Areas at all times if necessary for the welfare or protection of the public, to enforce City ordinances, or for the preservation of public property. If the Association fails to maintain the Common Areas to a standard acceptable to the City, the City may give the Association a written demand for maintenance. If the Association fails or refuses to perform the maintenance within a reasonable period of time after receiving the City's written demand (at least 90 days), the City may maintain the Common Areas at the expense of the Association after giving written notice of its intent to do so to the Association. To fund or reimburse the City's cost of maintaining the Common Areas, the City may levy an assessment against every Lot in the same manner as if the Association levied a special assessment against the Lots. The City may give its notices and demands to any officer, director, or agent of the Association, or alternatively, to each Owner of a Lot as shown on the City's tax rolls. The rights of the City under this Section are in addition to other rights and remedies provided by law.

Section 3.08. ASSOCIATION'S ACCESS EASEMENT. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon – including the Townhome and yards – for the below-described purposes.

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

- i) To inspect the Property for compliance with maintenance and architectural standards.
- ii) To perform maintenance that is permitted or required of the Association by the Governing Documents or by Applicable Law.



- iii) To perform maintenance that is permitted or required of the Owner by the Governing Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- iv) To enforce architectural standards.
- v) To enforce use restrictions.
- vi) The exercise of self-help remedies permitted by the Governing Documents or by Applicable Law.
- vii) To enforce any other provision of the Governing Documents.
- viii) To respond to emergencies.
- ix) To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- x) To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by Applicable Law.
- xi) To mow the front yard, side yard and back yard (including the fenced in portion) of each Lot.

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

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

Section 3.09. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over Common Areas for utilities, roads, and other purposes necessary for the proper operation of the Property. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Board. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, telephone, master or cable television, and security.

Section 3.10. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. *Each Owner and Resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property.* Each Owner and Resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner and Resident further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

Section 3.11. RISK. Each Resident uses all Common Areas at his own risk. All Common Areas are unattended and unsupervised. Each Resident is solely responsible for his own safety and

that of his guests. The Association disclaims any and all liability or responsibility for injury or death occurring from use of the Common Areas.

Section 3.12. EASEMENT FOR STREET MAINTENANCE & FIXTURES. The Association is granted a perpetual five-foot wide "Street Easement" on every Lot, along and within the Lot's boundary adjoining a private street, for the installation, operation, maintenance, repair, replacement, relocation, improvement, and removal of the Property's private streets and the monuments, signs, lights, control devices, and other fixtures, equipment, and improvements related to the private streets (the "Street Fixtures"). In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much of the surface of the burdened Lot as may be reasonably necessary for the Association to perform its contemplated work on the Street Easement. The Owner of the burdened Lot may not prevent the Association's exercise of the Street Easement on the Owner's Lot, and must not remove, deface, cover, or screen a street fixture or otherwise interfere with the intended use and purpose of the street fixture.

#### ARTICLE 4 COMMON AREA

Section 4.01. OWNERSHIP. The designation of real property as a Common Area is determined by the Plat and this Declaration, and not by the ownership of the Property. This Declaration contemplates that the Association will eventually hold title to every Common Area capable of independent ownership by the Association. The Declarant may install, construct, or authorize certain improvements on Common Areas in connection with the initial development of the Property, and the cost thereof is not a common expense of the Association. Thereafter, all costs attributable to Common Areas, including maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the Common Areas, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

Section 4.02. ACCEPTANCE. By accepting an interest in or title to a Lot, each Owner is deemed to accept the Common Area of the Property, and any improvement thereon, in its then-existing "as is" condition; to acknowledge the authority of the Association, acting through its Board of directors, for all decisions pertaining to the Common Area; to acknowledge that transfer of a Common Area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and to acknowledge the continuity of maintenance of the Common Area, regardless of changes in the Association's Board or management.

Section 4.03. COMPONENTS. The Common Area of the Property consists of the following components on or adjacent to the Property, even if located on a Lot or a public right-of-way:

- (a) All of the Property, save and except the Townhome Lots.
- (b) Any area shown on the Plat as Common Area or an area to be maintained by the Association.
- (c) The formal entrances to the Property, including (if any) the signage, landscaping, electrical and water installations, planter boxes and fencing related to the entrance.
- (d) The screening walls, fences, or berms along the side of the Property.
- (e) The landscape buffer along the side of the Property.
- (f) Landscaping on islands on any street within or adjacent to the Property, to the extent it is not maintained by the City.

- (g) Any property adjacent to Westport Lakeview Villas if the maintenance of same is deemed by the Board to be in the best interests of the Association, and if not prohibited by the Owner or operator of said property.
- (h) Any modification, replacement, or addition to any of the above-described areas and improvements.
- (i) Personal property owned by the Association, such as books and records, office equipment, and supplies.

**ARTICLE 5  
LOTS, TOWNHOMES & AREA OF COMMON RESPONSIBILITY**

Section 5.01. **LOTS.** The Property is platted into Lots, the boundaries of which are shown on the Plat, and which may not be obvious on visual inspection of the Property. Portions of the Lots are designated by this Declaration to be Areas of Common Responsibility, and are burdened with easements for the use and benefit of the Association, Owners, and Residents.

Section 5.02. **TOWNHOMES.** Each Residential Lot is to be improved with a Townhome. The Owner of a Lot owns every component of the Lot and Townhome, including all the structural components and exterior features of the Townhome. Nevertheless, this Declaration identifies components of the Townhomes as Areas of Common Responsibility, to be maintained by the Association as a common expense.

Section 5.03. **AREA OF COMMON RESPONSIBILITY.** The initial designation of the Areas of Common Responsibility is located in the column so titled in the Maintenance Responsibility Chart attached hereto as Exhibit B.

Section 5.04. **SIZE OF TOWNHOME.** The size of a Townhome may be measured different ways for different purposes, such as for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the Lot's building lines. The Townhome's partition wall cavities and/or its perimeter wall cavities may or may not be included. The Townhome's garage area, attic area, front porch, and/or balcony space, if any, may or may not be included.

Section 5.05. **ALLOCATION OF INTERESTS.** The interests allocated to each Lot are calculated by the following formulas.

(a) Common Expense Liabilities. The percentage or share of liability for common expenses allocated to each Lot is uniform for all Lots, regardless of the value, size, or location of the Lot or Townhome.

(b) Votes. The one vote appurtenant to each Lot is uniform and weighted equally with the vote for every other Lot, regardless of any other allocation appurtenant to the Lot.

**ARTICLE 6  
ARCHITECTURAL COVENANTS AND CONTROL**

Section 6.01. **PURPOSE.** Because the Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that

may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a Lot, including but not limited to Townhomes, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

Section 6.02. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, neither the Association, the Board of directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with any aspect of architectural approval related to the Property. During the Development Period, the Architectural Reviewer for new Townhomes on vacant Lots is the Declarant or its designee.

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

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

Section 6.03. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC, will assume jurisdiction over architectural control.

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

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

Section 6.04. PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the Architectural Reviewer's prior written approval, a person may not make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to a Townhome or any other part of the Property (including, but not limited to, the roof and back yard of each Lot), if it will be visible from a street, another Townhome, or the Common Area. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.

Section 6.05. ARCHITECTURAL APPROVAL. To request architectural approval, an Owner must make written application and submit to the Architectural Reviewer two identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the Owner may but is not required to submit letters of support or non-opposition from Owners of Lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files.

(a) No Verbal Approval. Verbal approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's manager does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

(b) No Deemed Approval. The failure of the Architectural Reviewer to respond to an application may not be construed as approval of the application. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed.

(c) No Approval Required. Approval is not required for an Owner to remodel or repaint the interior of a Townhome, provided the work does not impair the structural soundness of the building.

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

(e) Neighbor Input. The Architectural Reviewer may solicit comments on the application, including from Owners or Residents of Townhomes that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant is

solely at the discretion of the Architectural Reviewer. The Architectural Reviewer is not required to respond to the commenters in ruling on the application.

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

## ARTICLE 7 CONSTRUCTION AND USE RESTRICTIONS

Section 7.01. VARIANCE. The use of the Property is subject to the restrictions contained in this Article, and subject to Rules adopted by Declarant or the Board pursuant to this Article. The Board or the Architectural Reviewer, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance.

Section 7.02. PROHIBITION OF CONSTRUCTION, ALTERATION AND IMPROVEMENT. Without the Architectural Reviewer's prior written approval, a person may not commence or continue any construction, alteration, addition, improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction and property use that may adversely affect the general value or appearance of the Property.

Section 7.03. LIMITS TO RIGHTS. No right granted to an Owner by this Article or by any provision of the Governing Documents is absolute. The Governing Documents grant rights with the expectation that the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article and the Governing Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. The rights granted by this Article and the Governing Documents are at all times subject to the Board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Governing Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

Section 7.04. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its Board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. In addition to the restrictions contained in this Article, each Lot is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

- (a) Use of Common Areas and Areas of Common Responsibility.
- (b) Hazardous, illegal, or annoying materials or activities on the Property.
- (c) The use of Property-wide services provided through the Association.
- (d) The consumption of utilities billed to the Association.

- (e) The use, maintenance, and appearance of exteriors of Townhomes and Lots.
- (f) Landscaping and maintenance of yards.
- (g) The occupancy and leasing of Townhomes, including rules to facilitate the efficient move-in of Residents following the initial closings.
- (h) Animals.
- (i) Vehicles.
- (j) Disposition of trash and control of vermin, termites, and pests.
- (k) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for Residents.

**Section 7.05. ANIMALS.** No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for a commercial purpose or for food. Customary domesticated household pets may be kept subject to the Rules. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, locations, and behavior of animals at the Property. The Board may require or effect the removal of any animal determined to be in violation of this Section or the Rules. Unless the Rules provide otherwise:

- (a) **Number.** No more than four pets may be maintained in each Townhome. Of the four pets, no more than two may be cats or dogs. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board.
- (b) **Disturbance.** Pets must be kept in a manner that does not disturb the peaceful enjoyment of Residents of other Lots. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time. The Board is the sole arbiter of what constitutes a disturbance or annoyance.
- (c) **Indoors/Outdoors.** A permitted pet must be maintained inside the Townhome, and may not be kept on a patio or in a yard area. No pet is allowed on the Common Area unless carried or leashed.
- (d) **Pooper Scooper.** Each Resident is responsible for the removal of his pet's wastes from the Property. Unless the Rules provide otherwise, a Resident must prevent his pet from relieving itself on the Common Area, the Area of Common Responsibility, or the Lot of another Owner.
- (e) **Liability.** An Owner is responsible for any property damage, injury, or disturbance caused or inflicted by an animal kept on the Lot. The Owner of a Lot on which an animal is kept is deemed to indemnify and to hold harmless the Board, the Association, and other Owners and Residents, from any loss, claim, or liability resulting from any action of the animal or arising by reason of keeping the animal on the Property.

**Section 7.06. ANNOYANCE.** No Lot or Common Area may be used in any way that: may reasonably be considered annoying to neighbors; may be calculated to reduce the desirability of the Property as a Residential neighborhood; may endanger the health or safety of Residents of other

Lots; may result in the cancellation of insurance on the Property; or violates any law. The Board has the sole authority to determine what constitutes an annoyance.

Section 7.07. APPEARANCE. Both the Lot and the Townhome must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. The Architectural Reviewer is the arbitrator of acceptable appearance standards.

Section 7.08. ACCESSORY SHEDS. Accessory structures and sheds – such as dog houses, gazebos, metal storage sheds, playhouses, and greenhouses – are not allowed on any Lot.

Section 7.09. BARBECUE. Exterior fires are prohibited on the Property, except within an Owner's Lot.

Section 7.10. COLOR CHANGES. The colors of buildings, fences, exterior decorative items, window treatments, and all other improvements on a Lot are subject to regulation by the Architectural Reviewer. Because the relative merits of any color are subjective matters of taste and preference, the Architectural Reviewer determines the colors that are acceptable to the Association. Do not change or add colors that are visible from the street, a Common Area, or another Lot without the prior written approval of the Architectural Reviewer.

Section 7.11. DECORATION. Residents must refrain from individualizing and decorating the exteriors of their Townhomes. What is appealing and attractive to one person, may be objectionable to another. For that reason, the Association prohibits exterior "decorations" by Owners without the prior written approval of the Architectural Reviewer. Examples of exterior decorations are windsocks, potted plants, benches, name signs on tiles, hanging baskets, bird feeders, awnings, window sill birdfeeders, yard gnomes, and clay frogs. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another Lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, (2) antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or (3) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located (a) inside the structure (such as in an attic or garage), (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot where an acceptable quality signal can be obtained. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law. A radio transmitting or receiving tower, such as used with ham radios, is not permitted on a Lot if it is readily visible from a street.

Section 7.12. DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

Section 7.13. DRIVEWAYS. The driveway portion of a Lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage. Without the Board's prior approval, a driveway may not be used: for storage purposes, including storage of boats, trailers, and inoperable vehicles; or for repair or restoration of vehicles.



Section 7.14. FIRE SAFETY. No person may use, misuse, cover, disconnect, tamper with, or modify the fire and safety equipment of the Property, including the sprinkler heads and water lines in and above the ceilings of the Townhome, or interfere with the maintenance and/or testing of same by persons authorized by the Association or by public officials.

Section 7.15. GARAGES. Without the Board's prior written approval, the original garage area of a Townhome may not be enclosed or used for any purpose that prohibits the parking of two standard-size operable vehicles therein. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

Section 7.16. GUNS. Hunting and shooting are not permitted anywhere on or from the Property.

Section 7.17. LANDSCAPING. No person may perform landscaping, planting, or gardening on the Common Area or Areas of Common Responsibility, without the Board's prior written authorization. No person may perform landscaping, planting, or gardening on their Lot without the prior written approval of the Architectural Reviewer.

Section 7.18. LEASING OF TOWNHOMES. An Owner may lease the Townhome on his Lot. Whether or not it is so stated in a lease, every lease is subject to the Governing Documents. An Owner is responsible for providing his tenant with copies of the Governing Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Governing Documents, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The Owner of a leased Lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Governing Documents against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Governing Documents against the Owner's tenant.

Section 7.19. NOISE AND ODOR. A Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy Residents of neighboring Townhomes. The rules may limit, discourage, or prohibit noise-producing activities and items in the Townhomes and on the Area of Common Responsibility.

Section 7.20. NOT SOUNDPROOFED. Although the Townhomes are constructed to reduce the transmission of sound between adjoining Townhomes, the Townhomes are not soundproofed. Some noise transmission between adjoining Townhomes is possible.

Section 7.21. OCCUPANCY - NUMBERS. The Board may adopt Rules regarding the occupancy of Townhomes. If the Rules fail to establish occupancy standards, no more than two persons per bedroom may occupy a Townhome, subject to the exception for familial status. The Association's occupancy standard for Residents who qualify for familial status protection under the fair housing laws may not be more restrictive than the minimum (i.e., the fewest people per Townhome) permitted by the U. S. Department of Housing and Urban Development. Other than the living area of the Townhome, no thing or structure on a Lot, such as the garage, may be occupied as a residence at any time by any person.

Section 7.22. OCCUPANCY – TYPES. A person may not occupy a Townhome if the person constitutes a direct threat to the health or safety of other persons, or if the person's occupancy would result in substantial physical damage to the property of others. This Section does not and may not be construed to create a duty for the Association or a selling Owner to investigate or screen purchasers or prospective purchasers of Townhomes. By owning or occupying a Townhome, each person acknowledges that Westport Lakeview Villas is subject to local, state, and federal fair housing laws and ordinances. Accordingly, this Section may not be used to discriminate against classes or categories of people.

Section 7.23. RESIDENTIAL USE. The use of a Townhome is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using a Townhome for personal business or professional pursuits provided that: the uses are incidental to the use of the Townhome as a residence; the uses conform to applicable governmental ordinances; there is no external evidence of the uses; the uses do not entail visits to the Townhome by employees or the public in quantities that materially increase the number of vehicles parked on the street; and the uses do not interfere with Residents' use and enjoyment of neighboring Townhomes.

Section 7.24. SIGNS. No signs, including signs advertising the Townhomes for sale or lease, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Townhome without written authorization of the Board. If the Board authorizes signs, the Board's authorization may specify the location, nature, dimensions, number, and time period of any advertising sign. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. The Association may affect the immediate removal of any sign or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.

Section 7.25. STRUCTURAL INTEGRITY. No person may directly or indirectly impair the structural soundness or integrity of a building or another Townhome, nor do any work or modification that will impair an easement or real property right.

Section 7.26. TELEVISION. Each Resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas and receiving or transmitting towers that are visible from a street or from another Lot are prohibited within the Property, except reception-only antennas designed to receive television broadcast signals, antennas that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or antennas that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, in a fenced yard, or attached to or mounted on the rear wall of a structure below the eaves. If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot where an acceptable quality signal can be obtained. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

Section 7.27. TRASH. Each Resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the City for that purpose. Trash must be placed entirely within the designated receptacle. The Board may adopt,

amend, and repeal rules regulating the disposal and removal of trash from the Property. If the rules fail to establish hours for curbside trash containers, the container may be in the designated area from dusk on the evening before trash pick-up day until dusk on the day of trash pick-up. At all other times, trash containers must be kept inside the garage and may not be visible from a street or another Townhome.

Section 7.28. VARIATIONS. Nothing in this Declaration may be construed to prevent the Architectural Reviewer from establishing standards for one building, type of building, or phase in the Property that are different from the standards for other buildings or phases, or approving a system of controlled individualization of Townhome exteriors.

Section 7.29. VEHICLES. All vehicles on the Property, whether owned or operated by the Residents or their families and guests, are subject to this Section and Rules adopted by the Board. The Board may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The Board may affect the removal of any vehicle in violation of this Section or the Rules without liability to the Owner or operator of the vehicle.

(a) Parking in Street. Vehicles that are not prohibited below may park on public streets only if the City allows curbside parking, and in designated parking areas, subject to the continuing right of the Association to adopt reasonable rules if circumstances warrant.

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

Section 7.30. WINDOW TREATMENTS. **Get architectural approval before you invest in window coverings.** Each Townhome building in Westport Lakeview Villas is designed to have a uniform window appearance. Therefore, the color and condition of all windows panes, window screens, and window treatments must conform to the building standard. All window treatments within the Townhome, that are visible from the street or another Townhome, must be maintained in good condition and must not detract from the appearance of the Property. All window treatments within a Townhome building must be uniform, although styles of window treatments may vary from Townhome building to Townhome building. The Architectural Reviewer may require an Owner to change or remove a window treatment, window film, window screen, or window decoration that the Architectural Reviewer determines to be inappropriate, unattractive, or inconsistent with the Property's uniform window standard. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments. If the Rules fail to establish a different standard, all window treatments – as seen from the street – must be white in color and the style must be approved by the ACC.

Section 7.31. LIGHTING. Exterior lighting is installed along and around each Townhome. If the light is controlled by a switch in the Townhome, the Owner is responsible for replacement of the bulb in the fixture when the bulb is inoperative. Although a light may not be

controlled by a switch in the Townhome, the light fixture will be wired so that it is included in the electric service provided to the Townhome, and the electric cost of operating the lighting fixture will be paid by the Owner, and not by the Association.

## **ARTICLE 8 ASSOCIATION AND MEMBERSHIP RIGHTS**

**Section 8.01. BOARD.** Unless the Governing Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Governing Documents to the "Association" may be construed to mean "the Association acting through its Board of directors."

**Section 8.02. THE ASSOCIATION.** The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents. Among its duties, the Association levies and collects assessments, maintains the Common Areas and Areas of Common Responsibility, and pays the expenses of the Association, such as those described in Section 9.04 below. The Association comes into existence on the earlier of issuance of its corporate charter or the initial levy of assessments against the Lots and Owners. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

**Section 8.03. GOVERNANCE.** The Association will be governed by a Board of directors elected by the Members. Unless the Association's bylaws or Certificate of Formation provide otherwise, the Board will consist of at least three persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the bylaws. Unless the Governing Documents provide otherwise, following the Development Period, any action requiring approval of the Members may be approved in writing by Owners of at least a Majority of all Lots, or at a meeting by Owners of at least a Majority of the Lots that are represented at the meeting.

**Section 8.04. MEMBERSHIP.** Each Owner is a member of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one person or entity, each co-Owner is a member of the Association and may exercise the membership rights appurtenant to the Lot. A member who sells his Lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all assessments attributable to his Lot until fee title to the Lot is transferred.

**Section 8.05. VOTING.** One vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Development Period as provided in Exhibit C. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's bylaws.

Section 8.06. VOTING BY CO-OWNERS. The one vote appurtenant to a Lot is not divisible. If only one of the multiple co-Owners of a Lot is present at a meeting of the Association, that person may cast the vote allocated to the Lot. If more than one of the co-Owners is present, the Lot's one vote may be cast with the co-Owners' unanimous agreement. Co-Owners are in unanimous agreement if one of the co-Owners casts the vote and no other co-Owner makes prompt protest to the person presiding over the meeting. Any co-Owner of a Lot may vote by ballot or proxy, and may register protest to the casting of a vote by ballot or proxy by the other co-Owners. If the person presiding over the meeting or balloting receives evidence that the co-Owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.

Section 8.07. BOOKS & RECORDS. The Association will maintain copies of the Governing Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to Applicable Law.

Section 8.08. INDEMNIFICATION. The Association indemnifies every officer, director, committee chair, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors' and officers' liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

Section 8.09. OBLIGATIONS OF OWNERS. Without limiting the obligations of Owners under the Governing Documents, each Owner has the following obligations:

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

(b) Comply. Each Owner will comply with the Governing Documents as amended from time to time.

(c) Reimburse. Each Owner will pay for damage to the Property caused by the Owner, a Resident of the Owner's Lot, or the Owner or Resident's family, guests, employees, contractors, agents, or invitees.

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

Section 8.10. HOME REALES. This Section applies to every sale or conveyance of a Lot or an interest in a Lot by an Owner other than Declarant:

(a) Resale Certificate. An Owner intending to sell his home will notify the Association and will request a resale certificate from the Association.

(b) No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Lot to the Association.

(c) Reserve Fund Contribution. At time of transfer, a fee in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) will be paid to the Association, to be deposited in the Association's replacement reserve funds. The fee may be paid by the seller or buyer, and will be collected at closing. If the fee is not collected at closing, the buyer remains liable to the Association for the fee until paid. The reserve fund contribution is not refundable and may not be regarded as a prepayment of or credit against regular or special assessments.

(d) Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Lot, including but not limited to fees for resale certificates, estoppel certificates, copies of Governing Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind, and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the Board or the manager to levy transfer-related fees.

(e) Information. Within 30 days after acquiring an interest in a Lot, an Owner will provide the Association with the following information: a copy of the settlement statement or deed by which Owner has title to the Lot; the Owner's email address (if any), U.S. postal address, and phone number; any mortgagee's name, address, and loan number; the name and phone number of any Resident other than the Owner; the name, address, and phone number of Owner's managing agent, if any.

(f) Exclusions. This requirements of this Section, including the obligation for the reserve fund contribution and other transfer-related fees, do not apply to the following transfers: the initial conveyance from Declarant to the first homeowner; foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; transfer to, from, or by the Association; voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent; a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or a disposition by a government or governmental agency.

## ARTICLE 9 COVENANT FOR ASSESSMENTS

Section 9.01. PURPOSE OF ASSESSMENTS. The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of Owners and Residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of assessments is final.

Section 9.02. **PERSONAL OBLIGATION.** An Owner is obligated to pay assessments levied by the Board against the Owner or his Lot. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

Section 9.03. **CONTROL FOR ASSESSMENT INCREASES.** Following the Development Period, this Section of the Declaration may not be amended without the approval of Owners of at least two-thirds of the Lots. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget:

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

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

Section 9.04. **TYPES OF ASSESSMENTS.** There are four types of assessments: Regular, Special, Individual, and Deficiency.

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

- i) Maintenance, repair, and replacement, as necessary, of the Common Area, including the private streets and alleys.
- ii) Maintenance, repair, and replacement, as necessary, of the Area of Common Responsibility.
- iii) Utilities billed to the Association.
- iv) Services billed to the Association and serving all Lots.
- v) Taxes on property owned by the Association and the Association's income taxes.
- vi) Management, legal, accounting, auditing, and professional fees for services to the Association.

- vii) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- viii) Premiums and deductibles on insurance policies and bonds required by this Declaration or deemed by the Board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance.
- ix) Contributions to the reserve funds.
- x) Any other expense which the Association is required by law or the Governing Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Governing Documents.

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

- i) Acquisition of real property, other than the purchase of a Lot at the sale foreclosing the Association's lien against the Lot.
- ii) Construction of additional improvements within the Property, but not replacement of original improvements.
- iii) Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

(c) **Individual Assessments.** In addition to regular and special assessments, the Board may levy an individual assessment against a Lot and its Owner. Individual assessments may include, but are not limited to: amounts owed under Sections 8.09(c) or 8.09(d); interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Governing Documents; fines for violations of the Governing Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.

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

**Section 9.05. BASIS & RATE OF ASSESSMENTS.** The share of liability for common expenses allocated to each Lot is uniform for all Lots, regardless of a Lot's location or the value and size of the Lot or Townhome.

**Section 9.06. DECLARANT OBLIGATION.** A Lot that is owned by Declarant during the Development Period is exempt from mandatory assessment by the Association. Declarant has a right to reimbursement for any assessment paid to the Association by Declarant during the



Development Period, but only after the Development Period. This provision may not be construed to prevent Declarant from making a loan or voluntary monetary donation to the Association, provided it is so characterized.

Section 9.07. ANNUAL BUDGET. The Board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or its summary available to an Owner of each Lot, although failure to receive a budget or summary does not affect an Owner's liability for assessments. The Board will provide copies of the detailed budget to Owners who make written request and pay a reasonable copy charge.

Section 9.08. DUE DATE. The Board may levy regular assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular assessments are initially due monthly and are due on the first day of the month. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association within ten days following the due date.

Section 9.09. RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair. The Association must budget for reserves and may fund reserves out of regular assessments.

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

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

Section 9.10. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of Owners of at least a Majority of Lots. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

Section 9.11. LIMITATIONS OF INTEREST. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Governing Documents or any other document or agreement executed or made in connection with the Association's collection of assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by Applicable Law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the Owner if those assessments are paid in full.

**ARTICLE 10  
ASSESSMENT LIEN**

Section 10.01. ASSESSMENT LIEN. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the Lot and is secured by a continuing lien on the Lot. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his Lot.

Section 10.02. SUPERIORITY OF ASSESSMENT LIEN. The assessment lien is superior to all other liens and encumbrances on a Lot, except only for real property taxes and assessments levied by governmental and taxing authorities, a deed of trust or vendor's lien recorded before this Declaration, and a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due. The assessment lien is subordinate and inferior to a recorded deed of trust lien that secures a first or senior purchase money mortgage, a deed of trust or vendor's lien recorded before this Declaration, a FHA-insured mortgage or a VA-guaranteed mortgage.

Section 10.03. EFFECT OF MORTGAGEE'S FORECLOSURE. Foreclosure of a superior lien extinguishes the Association's claim against the Lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale.

Section 10.04. NOTICE AND RELEASE OF NOTICE. The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's Real Property Records. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing Owner.

Section 10.05. POWER OF SALE. By accepting an interest in or title to a Lot, each Owner grants to the Association a private power of nonjudicial sale in connection with the Association's assessment lien. The Board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board meeting.

Section 10.06. FORECLOSURE OF LIEN. The assessment lien may be enforced by judicial or nonjudicial foreclosure. A foreclosure must comply with the requirements of Applicable Law, such as Chapter 209 of the Texas Property Code. A nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the bylaws and Applicable Law, such as Chapter 209 of the Texas Property Code. The Association has the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same. The Association may not foreclose the assessment lien if the debt consists solely of fines and/or a claim for reimbursement of attorney's fees incurred by the Association.

Section 10.07. EFFECT OF NONPAYMENT OF ASSESSMENTS. An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association, acting through the Board, is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to Applicable Laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

Section 10.08. INTEREST. Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the Board fails to establish a rate, the rate is 10 percent per annum.

Section 10.09. LATE FEES. Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.

Section 10.10. COSTS OF COLLECTION. The Owner of a Lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys' fees and processing fees charged by the manager.

Section 10.11. ACCELERATION. If an Owner defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting Owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

Section 10.12. SUSPENSION OF USE AND VOTE. If an Owner's account has been delinquent for at least 30 days, the Association may suspend the right of Owners and Residents to use Common Areas and common services during the period of delinquency. The Association may also suspend the right to vote appurtenant to the Lot. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay assessments.

Section 10.13. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an Owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

Section 10.14. NOTICE TO MORTGAGEE. The Association may notify and communicate with the holder of any lien against a Lot regarding the Owner's default in payment of assessments.

Section 10.15. FORECLOSURE OF ASSESSMENT LIEN. As provided by this Declaration, the Association may foreclose its lien against the Lot by judicial or nonjudicial means.

Section 10.16. APPLICATION OF PAYMENTS. The Board may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment

does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Lot's account.

## ARTICLE 11 ENFORCING THE DOCUMENTS

Section 11.01. NOTICE AND HEARING. Before the Association may exercise certain of its remedies for a violation of the Governing Documents or damage to the Property, the Association must give an Owner written notice and an opportunity for a hearing, according to the requirements and procedures in the bylaws and in Applicable Law, such as Chapter 209 of the Texas Property Code. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorneys' fees incurred by the Association.

Section 11.02. REMEDIES. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Governing Documents and by law, the Association has the following right to enforce the Governing Documents, subject to applicable notice and hearing requirements (if any):

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

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

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

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

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

Section 11.03. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances the Association's position is not sufficiently strong to justify taking any or further action; the provision being enforced is or may be construed as inconsistent with Applicable Law; although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

Section 11.04. NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Governing Documents. Failure by the Association or by any Owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director, or member of the Association is liable to any Owner for the failure to enforce any of the Governing Documents at any time.

Section 11.05. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

## **ARTICLE 12 MAINTENANCE AND REPAIR OBLIGATIONS**

Section 12.01. OVERVIEW. Generally, the Association maintains the Common Areas, and the Owner maintains his Lot and Townhome. If an Owner fails to maintain his Lot, the Association may perform the work at the Owner's expense.

Section 12.02. ASSOCIATION MAINTAINS. The Association's maintenance duties will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on Lots or Common Areas.

- (a) The Common Areas.
- (b) The Areas of Common Responsibility, if any.
- (c) Any real and personal property owned by the Association but which is not a Common Area, such as a Lot owned by the Association.
- (d) Any property adjacent to Westport Lakeview Villas if maintenance of same is deemed by the Board to be in the best interests of the Association, and if not prohibited by the Owner or operator of said property.
- (e) Any area, item, easement, or service – the maintenance of which is assigned to the Association by this Declaration or by the Plat.

Section 12.03. AREA OF COMMON RESPONSIBILITY. The Association, acting through its members only, has the right but not the duty to designate, from time to time, portions of Lots or Townhomes as Areas of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association as a common expense. A designation applies to every Lot having the designated feature. The cost of maintaining components of Lots or Townhomes as Areas of Common Responsibility is added to the annual budget and assessed uniformly against all Lots as a regular assessment, unless Owners of at least a Majority of the Lots decide to assess the costs as individual assessments.

(a) Change in Designation. The Association may, from time to time, change or eliminate the designation of components of Lots or Townhomes as Areas of Common Responsibility. Any such change must be approved by Owners of a Majority of the Townhome Lots, or by Owners of two-thirds of the Townhome Lots represented at a meeting of the Association called for the purpose of changing the Area of Common Responsibility. Although the Maintenance Responsibility Chart is attached to this Declaration as Exhibit B, it may be amended, restated, and published as a separate instrument. Any amended or restated Maintenance Responsibility Chart must be published and distributed to an Owner of each Lot, reflected in the Association's annual budget and reserve funds, and recorded in the Official Public Records of Dallas County, Texas.

(b) Initial Designation. On the date of this Declaration, the initial designation of components of Lots and Townhomes as Areas of Common Responsibility is shown on Exhibit B of this Declaration.

Section 12.04. OWNER RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements of Article 6 and the use restrictions of Article 7.

(a) Townhome Building Repairs. All Townhomes will be maintained with an eye towards uniformity and architectural harmony. This Section is necessitated by periods during which the Association may be lax about enforcing architectural uniformity, or during periods in which the Area of Common Responsibility is limited.

- i) The exterior of each Townhome must be maintained and repaired in a manner that is consistent for the entire Townhome building.
- ii) If an Owner desires to upgrade a component of the exterior, such as replacing aluminum windows with wood windows, the decision to change a standard component of the Townhome building must be approved by the Owners of more than half the Townhomes in the Townhome building, in addition to the Architectural Reviewer. Thereafter, the new building standard will apply to repairs or replacement of the component, as needed, on other Townhomes in the building.
- iii) Unless a change of component has been approved, repairs, replacement, and additions to the exteriors of the Townhomes must conform to the original construction. For example, if the building was constructed with bronze colored window frames, replacement windows with white frames may not be used unless white frames have been approved as the new standard for the Townhome building. Similarly, the siding on one Townhome may not be replaced with wood, while another is replaced with vinyl, and a third is replaced with cement fiberboard.

- iv) Ideally, all the Townhome buildings in the Property will have the same architectural requirements, without building-to-building individuality. Nothing in this Section may be construed to prevent the Association from requiring uniform architectural standards for the entire Property. This Section may not be construed as authority for one building to "do its own thing."

(b) Townhome Foundation. Each Owner of a Townhome Lot is solely responsible for the maintenance and repair of the foundation on his Lot. However, if a licensed structural engineer determines that the failure to repair the foundation under one Townhome may adversely affect one or more other Townhomes in the building, then the cost of the foundation repair will be divided by the number of Townhomes in the building, and the Owner of each of those Townhomes will pay an equal share. If an Owner fails or refuses to pay his share of costs of repair of the foundation, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the county's real property records, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

(c) Townhome Roofs. Each Owner of a Townhome Lot is solely responsible for the maintenance, repair, and replacement of all components of the roof of his Townhome. However, if a roofing professional determines that the failure to repair the structural components of the roof of one Townhome may adversely affect one or more other Townhomes in the building, then the cost of the structural roof work will be divided by the number of Townhomes in the building, and the Owner of each Townhome will pay an equal share. If an Owner fails or refuses to pay his share of costs of repair of the roof, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the county's real property records, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

(d) Townhome Cooperation. Each Owner of a Townhome will endeavor to cooperate with the Owners of the other Townhomes in the building to effect the purposes and intent of the 2 preceding sections on Townhome foundations and Townhome roofs. If the Owners of Townhome Lots that share a building cannot cooperate, they may ask the Association to coordinate the required repairs.

(e) Townhome Maintenance. Each Owner, at the Owner's expense, must maintain all improvements on the Lot, including but not limited to the Townhome, fences, sidewalks, and driveways, except any area designated as an Area of Common Responsibility. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his Lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

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

(g) Responsible for Damage. An Owner is responsible for his own acts and those of his or the Resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Areas, the Area of Common Responsibility, or the property of another Owner.

Section 12.05. OWNER'S DEFAULT IN MAINTENANCE. If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an individual assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

Section 12.06. WARRANTY CLAIMS. If the Owner is the beneficiary of a warranty against major structural defects of the Area of Common Responsibility, the Owner irrevocably appoints the Association, acting through the Board, as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claim against the warranty that pertains to the Area of Common Responsibility.

Section 12.07. CONCRETE. Minor cracks in poured concrete, including foundations, garage floors, sidewalks, driveways, and patio slabs, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of the building. Such minor cracking is typically an aesthetic consideration without structural significance. The Association is not required to repair non-structural cracks in concrete components of the Area of Common Responsibility.

Section 12.08. SHEETROCK. Notwithstanding anything to the contrary in the Governing Documents, the Association is not responsible for the repair and replacement of sheetrock in any Townhome, or for any surface treatments on the sheetrock, regardless of the source of damage and the availability of insurance. This provision is provided for the benefit of the Association and is warranted by the difficulty of scheduling interior sheetrock work and the possibility that the Owner may not be satisfied with the quality or appearance of spot repairs. If the Association receives insurance proceeds for sheetrock damage to a Townhome and chooses to not perform the repairs, the Owner of the damaged Townhome is entitled to the proceeds in exchange for identification of the damage and a release from future claims for the same damage.

Section 12.09. MOLD. In the era in which this Declaration is written, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. Because many insurance policies do not cover damages related to mold, Owners should be proactive in identifying and removing visible surface mold, and in identifying and repairing sources of water leaks in the Townhome. To discourage mold in his Townhome, each Resident should maintain an inside humidity level under 60 percent. For more information about mold, the Owner should consult a reliable source, such as the U. S. Environmental Protection Agency.

Section 12.10. PARTY WALLS. A Townhome wall located on or near the dividing line between two Lots and intended to benefit both Lots constitutes a Party Wall and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) Encroachments & Easement. If the Party Wall is on one Lot or another due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each Townhome sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of construction, repair, shifting,



settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

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

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

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

### ARTICLE 13 INSURANCE

Section 13.01. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally:

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

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

Section 13.02. INSURANCE RATIONALE. The Owner insures all aspects of his Townhome.

Section 13.03. PROPERTY INSURANCE BY ASSOCIATION. To the extent it is reasonably available, the Association will obtain property insurance for all improvements insurable by the Association. This insurance must be in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. In insuring the Property, the Association may be guided by types of policies and coverages customarily available for similar types of properties. As used in this Article, "Building Standard" refers to the typical Townhome for the Property, as originally constructed, and as modified over time by changes in replacement materials and systems that are typical for the market and era.

- (a) Common Area. The Association will insure, as a common expense:
- i) Insurable improvements on the Common Area.
  - ii) Insurable improvements in the Area of Common Responsibility.
  - iii) The improvements on any Townhome Lot owned by the Association.
  - iv) Insurable property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

(b) Townhomes Not Insured by Association. The Association will not insure the Townhome buildings or any components thereof. Also, the Association does not insure an Owner or Resident's personal property. Each Owner and Resident is solely responsible for insuring his Townhome and the personal property in his Townhome and on the Property, including furnishings and vehicles. The Association strongly recommends that each Owner and Resident purchase and maintain insurance on his personal belongings.

Section 13.04. PROPERTY INSURANCE BY OWNER. The Owner of each Townhome must obtain and maintain a homeowner's insurance policy on the Townhome covering, at a minimum, the following components, at least to the Building Standard:

- (a) All structural components of the Townhome, such as foundations, load bearing walls, and roof trusses.
- (b) The exterior construction of the Townhome, such as the roof and roof stacks; exterior walls, windows, and doors; and patios, balconies, and decks.
- (c) The structural components of the floor/ceiling assemblies that partition the Townhome into levels or floors, including stairs connecting the floors.
- (d) Partition walls, countertops, cabinets, furr downs, interior doors, and fixtures within the Townhome.
- (e) Finish materials on walls, floors, and ceilings, such as carpet, paint, tile, mirror, and wallpaper.
- (f) Window treatments, lighting fixtures, tub enclosures, and decorative hardware.
- (g) Appliances and plumbing fixtures.

(h) Betterments and improvements to the components of the Townhome building such as an art glass window or a custom skylight.

(i) All utility systems and equipment serving the Townhome, including water heaters, air conditioning and heating equipment, electric wiring, ducts, and vents.

(j) All structural components of the Townhome building, such as foundations, load bearing walls, and roof trusses.

Section 13.05. VARIATIONS IN PROPERTY INSURANCE. Notwithstanding the foregoing rationale and allocation of insurance responsibilities, the Association's coverage decisions will be guided by types of policies and coverages customarily available for similar types of properties. The Association, acting through its Board, is hereby authorized to obtain and maintain property insurance for components of the Townhomes that are designated by this Article as the sole responsibility of the Owner if such an insurance purchase by the Association is in the best collective interests of the Westport Lakeview Villas Owners and if the Association gives the Owners at least 30 days prior written notice of the change of coverage.

(a) Board Determination to Reduce Risks. Notwithstanding the requirements of this Article, the Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an individual assessment.

(b) Overlapping Coverages. If at the time of a loss under a policy maintained by the Association, there is other insurance in the name of the Townhome Owner covering the same property covered by the Association's policy, the Owner's policy provides primary insurance, and the Association's policy provides excess coverage, if needed.

(c) Gap Construction. If it is not clear to the Association whether a particular component of the Property is required by this Article to be insured by the Owner or by the Association, the component is hereby deemed to be the responsibility of the Association.

(d) Betterments and Improvements. If the Association provides property insurance on the entire individual Townhome, the Owner will give the Association a written report of all structural changes, additions, betterments, or improvements to his Townhome, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply with reasonable requests by the Board for periodic inspection of the Townhome for purposes of insurance appraisal.

Section 13.06. LIABILITY INSURANCE BY ASSOCIATION. The Association will maintain a commercial general liability insurance policy over the Common Areas - expressly excluding the liability of each Owner and Resident within his Lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners. If available, the Association may obtain liability insurance over the Area of Common Responsibility for bodily injury and property damage resulting from the maintenance of the Area of Common Responsibility.

Section 13.07. LIABILITY INSURANCE BY OWNER. Notwithstanding anything to the contrary in this Declaration, to the extent permitted by Applicable Law, each Owner is liable for damage to the Property caused by the Owner or by persons for whom the Owner is responsible. Each Owner is hereby required to obtain and maintain general liability insurance to cover this liability as well as occurrences within his Townhome, in amounts sufficient to cover the Owner's liability for damage to the property of others in the Property and to the Area of Common Responsibility, whether such damage is caused willfully and intentionally, or by omission or negligence.

Section 13.08. DIRECTORS & OFFICERS LIABILITY. To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

Section 13.09. OTHER COVERAGES. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a mortgagee or an Owner.

Section 13.10. OWNER'S GENERAL RESPONSIBILITY FOR INSURANCE. Each Owner, at his expense, will maintain all insurance coverages required of Owners by the Association pursuant to this Article. Each Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on behalf of the Owner who will be obligated for the cost as an individual assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and Resident is solely responsible for insuring his personal property in his Townhome and on his Lot, including furnishings, vehicles, and stored items. If the Association is unable or unwilling to insure the components of the Townhome building described in this Section 13, then each Owner will obtain and maintain property insurance on all insurable improvements on his Townhome Lot, in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard.

## **ARTICLE 14 MORTGAGEE PROTECTION**

Section 14.01. INTRODUCTION. This Article establishes certain standards for the benefit of Mortgagees, as defined below. If a Mortgagee requests from the Association compliance with the guidelines of an Underwriting Lender, the Declarant, during the Development Period, and thereafter, the Board, without approval of Owners or mortgagees, may amend this Article and other provisions of the Governing Documents, as necessary, to meet the requirements of the Underwriting Lender. This Article is supplemental to, not a substitution for, any other provision of the Governing Documents. In case of conflict, this Article controls. As used in this Article, a "Mortgagee" is a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a Lot. Some sections of this Article apply to all known Mortgagees. Other sections apply to "Eligible Mortgagees," as defined below.

(a) Known Mortgagees. An Owner who mortgages his Lot will notify the Association, giving the complete name and address of his mortgagee and the loan number. An Owner will also provide that information on request by the Association from time to time. The Association's obligations to mortgagees under the Governing Documents extend only to those mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the mortgagees known to the Association, without regard to other holders of liens on Lots. The Association may rely on the information provided by Owners and mortgagees.

(b) Eligible Mortgagees. "Eligible Mortgagee" means a mortgagee that submits to the Association a written notice containing its name and address, the loan number, the identifying number and street address of the mortgaged Lot, and the types of actions for which the Eligible Mortgagee requests timely notice. A single notice per Lot will be valid so long as the Eligible Mortgagee holds a mortgage on the Lot. The Board will maintain this information. A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.

#### Section 14.02. MORTGAGEE RIGHTS.

(a) Termination. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by at least 51 percent of Eligible Mortgagees, in addition to the required consents of Owners. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least two-thirds of Eligible Mortgagees. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within 30 days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

(b) Inspection of Books. Mortgagees may inspect the Association's books and records, including the Governing Documents, by appointment, during normal business hours.

(c) Financial Statements. If a Mortgagee so requests, the Association will give the Mortgagee an audited statement for the preceding fiscal year within 120 days after the Association's fiscal year-end. A Mortgagee may have an audited statement prepared at its own expense.

Section 14.03. INSURANCE POLICIES. If an Underwriting Lender is a Mortgagee or an Owner, at the request of the Underwriting Lender the Association will comply with the Underwriting Lender's insurance requirements to the extent the requirements are reasonable and available, and do not conflict with other insurance requirements of this Declaration.

### ARTICLE 15 AMENDMENTS

Section 15.01. CONSENTS REQUIRED. This Declaration (including the Maintenance Responsibility Chart initially recorded as Exhibit B of this Declaration) may be unilaterally amended by Declarant during the Development Period, and thereafter amendments to this Declaration must be approved by Owners of at least a Majority of the Lots. Notwithstanding the foregoing, no amendment may subordinate any recorded deed of trust lien that secures a first or senior purchase money mortgage, a deed of trust or vendor's lien recorded before this Declaration, a FHA-insured mortgage or a VA-guaranteed mortgage to the assessment lien provided in this Declaration.

Section 15.02. METHOD OF AMENDMENT. For an amendment that requires the approval of Owners, this Declaration may be amended by any method selected by the Board from time to time, pursuant to the bylaws, provided the method gives an Owner of each Lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

Section 15.03. EFFECTIVE. To be effective, an amendment approved by the Owners or by the Board must be in the form of a written instrument referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners or directors and, if required, Eligible Mortgagees; and recorded in the Official Public Records of the county in which the Property is located, except as modified by the following section.

Section 15.04. DECLARANT PROVISIONS. Declarant has an exclusive right to unilaterally amend this Declaration during the Development Period. An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

Section 15.05. ORDINANCE COMPLIANCE. When amending the Governing Documents, the Association must consider the validity and enforceability of the amendment in light of current public law, including without limitation Dallas's Subdivision Regulation Ordinance.

Section 15.06. MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by Owners of at least a Majority of the Lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents within the Property, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

Section 15.07. TERMINATION. Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by Owners of at least two-thirds of the Lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by Owners of at least 80 percent of the Lots.

Section 15.08. CONDEMNATION. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the Common Area, the Association will be the exclusive representative of the Owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the Common Area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

**ARTICLE 16  
DISPUTE RESOLUTION**

**Section 16.01. INTRODUCTION & DEFINITIONS.** The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

(a) "Claim" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:

- i) Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.
- ii) Claims relating to the rights and/or duties of Declarant as Declarant under the Governing Documents.
- iii) Claims relating to the design, construction, or maintenance of the Property.

(b) "Claimant" means any Party having a Claim against any other Party.

(c) "Exempt Claims" means the following claims or actions, which are exempt from this Article:

- i) The Association's claim for assessments, and any action by the Association to collect assessments.
- ii) An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
- iii) Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
- iv) A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

(d) "Respondent" means the Party against whom the Claimant has a Claim.

**Section 16.02. MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

**Section 16.03. NOTICE.** Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

Section 16.04. NEGOTIATION. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

Section 16.05. MEDIATION. If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

Section 16.06. TERMINATION OF MEDIATION. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

Section 16.07. ALLOCATION OF COSTS. Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys' fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

Section 16.08. ENFORCEMENT OF RESOLUTION. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys' fees and court costs.

Section 16.09. GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

Section 16.10. LITIGATION APPROVAL & SETTLEMENT. To encourage the use of alternate dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of Owners of at least 75 percent of the Lots.



(a) Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a Majority of the Lots, except that no such approval is required to enforce provisions of this Declaration, including collection of assessments; to challenge condemnation proceedings; to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo.

(b) Suit Against Declarant. Also, the Association may not initiate any judicial or administrative proceeding against Declarant without the approval of Owners representing at least 75 percent of the Lots.

(c) Funding Litigation. Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a special assessment, the Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

(d) Settlement. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

## ARTICLE 17 GENERAL PROVISIONS

Section 17.01. COMPLIANCE. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and Applicable Laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

Section 17.02. HIGHER AUTHORITY. The Governing Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Governing Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

Section 17.03. NOTICE. All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration may be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it.

Section 17.04. LIBERAL CONSTRUCTION. The terms and provision of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved in favor of the operation of the Association and its enforcement of the Governing Documents, regardless which party seeks enforcement.

Section 17.05. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

Section 17.06. CAPTIONS. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

Section 17.07. EXHIBITS. The following Exhibits are attached to this Declaration and incorporated herein by reference:

- A - Description of Subject Land
- B - Maintenance Responsibility Chart
- C - Declarant Representations & Reservations
- D - Initial Rules

Section 17.08. INTERPRETATION. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

Section 17.09. DURATION. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

*[Signature page follows.]*

DECLARANT:

WESTPORT VILLAS, LLC

By: [Signature]  
Printed Name: BRYAN K HARLAN  
Title: MANAGER

THE STATE OF TEXAS     §  
  §  
COUNTY OF DALLAS     §

This instrument was acknowledged before me on this 21<sup>st</sup> day of April, 2021 by Bryan K. Harlan, the MANAGER of Westport Villas, LLC, a Texas limited liability company, on behalf of said company for the purposes herein stated.

[Signature]  
Notary Public in and for the State of Texas

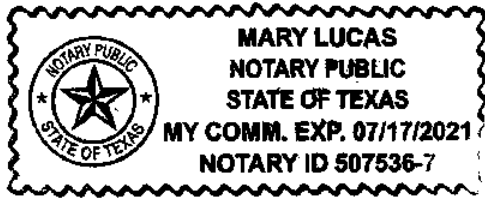


EXHIBIT A

DESCRIPTION OF SUBJECT LAND

All of the real property as shown on The Final Plat of Westport Lakeview Villas, recorded on May 29, 2018, as Document No. 2018-237, Plat Records, Denton County, Texas

**EXHIBIT B**

**MAINTENANCE RESPONSIBILITY CHART**

<b>COMPONENT OF PROPERTY</b>	<b>AREA OF COMMON RESPONSIBILITY – ASSOCIATION</b>	<b>OWNER RESPONSIBILITY</b>
Attics.	None.	All aspects.
Building foundations, patio slabs, and A/C slabs.	None.	All aspects, allowing for tolerance for minor cracks that are inevitable results of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and settling of the building.
Cable for television or internet	Standards for location and appearance of cable and/or conduit.	All other aspects.
Concrete driveways & sidewalks.	Structural aspects of flatwork outside of fenced yards, only.	All other aspects, such as routine cleaning & tolerance for minor cracks that are inevitable results of the natural expansion & contraction of soil, shrinkage during the curing of the concrete, and settling of the building.
Displays of street numbers on exterior doors or building surfaces.	All aspects.	None.
Exterior doors of townhomes, including garages.	Periodic paint or stain on garage and front doors, only.	All other aspects of the garage door, and all aspects of other doors, including paint, door frame, door, glass panes, hardware, locks, peepholes, thresholds, weatherstripping, and doorbells.
Exterior light fixtures on buildings.	None.	All aspects.

COMPONENT OF PROPERTY	AREA OF COMMON RESPONSIBILITY – ASSOCIATION	OWNER RESPONSIBILITY
Exterior vertical walls of buildings, other exterior features of buildings not specifically listed in chart.	Outermost materials only, such as siding, stucco, and brick, and any coatings or surface treatments on the material, such as paint or sealant.	All other aspects, including wall cavities and insulation.
Fences – Exterior Around Perimeter of Property	All aspects of exterior of fence facing away from Property, and interior of fence facing a Common Area.	All aspects of interior of fence facing yard.
Fences and gates (other than exterior fences) around private townhome yards.	None.	All aspects.
Garage Interiors.	None.	All aspects, except those noted for exterior doors for Association. Includes, routine interior cleaning, interior wall and ceiling materials, pedestrian door, automatic garage door opener, remote controls, interior light fixture, interior electrical outlets.
Grounds - outside the fenced yards.	All aspects.	None.
Grounds in private patio/yards.	All aspects.	None.
Heating and cooling systems & water heaters.	None.	All aspects.
Insulation & weatherstripping.	None.	All aspects.
Intrusion alarms on doors/windows, smoke/heat detectors, monitoring equipment.	None.	All aspects.
Pool area and dog park.	All aspects.	None.
Roof-mounted attachments.	None.	All aspects.

COMPONENT OF PROPERTY	AREA OF COMMON RESPONSIBILITY – ASSOCIATION	OWNER RESPONSIBILITY
Roofs.	Roof trusses, and decking, felt, shingles, and metal flashing, only.	All other aspects.
Sheetrock in townhomes (walls and ceilings) & treatments on walls.	None.	All aspects.
Surface and underground water systems.	All aspects, including collection drains and drain systems.	The Owner is responsible for maintaining the private yard on the Lot and may not alter or otherwise adversely affect the original intent of the drainage pattern and system installed by Declarant.
Townhome interiors, incl. improvements, fixtures, partition walls & floors within townhome.	None.	All aspects.
Water, sewer, electrical lines & systems.	The portions of any lines or services that are within the Common Area.	All aspects of lines and systems from the boundary of the Lot to the Townhome and within the Townhome.
Windows.	Periodic exterior caulking in connection with exterior painting.	All other aspects, including window frames, window sill flashings, window seals and sealants, screens, window locks, glass panes, glazing, interior caulking.
Yard irrigation system (sprinkler)	All aspects on Common Areas and on each Lot.	None.
Television antennas.	Standards for location and appearance of exterior-mounted devices.	All other aspects.

NOTE 1: "All aspects" includes maintenance, repair, and replacement, as needed.

NOTE 2: The Declaration may provide more specific maintenance requirements for an individual building or Lot and in that instance, the more specific requirements of the Declaration control over the terms of this Exhibit B.

NOTE 3: The components listed in the first column are applicable only if they exist, and may not be

construed to create a requirement to have such a component.

- NOTE 4: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, or damages a component, the Association may perform the work after giving required notices to the owner.
- NOTE 5: This chart's assignment of maintenance to an owner is not authorization for the owner to change the appearance of the component for which Owner has maintenance responsibility. This chart may not be used to evade the requirement of obtaining architectural approval.
- NOTE 6: The foregoing assignments may be modified by written agreement between the Association and an Owner, such as when architectural approval is granted contingent on the owner's assumption of maintenance responsibility for the modification. The agreement may be in the form of a publicly recorded covenant agreement.
- NOTE 7: This chart's assignment of maintenance to the Association is predicated on the component being original to the Property, or an authorized replacement thereof, or a component that was installed by the Association or with the approval of the Association. This chart may not be used to compel the Association to maintain a component installed by an Owner without the Association's approval, or a component approved subject to the owner assuming maintenance responsibility.
- NOTE 8: The Association's maintenance obligations will be discharged when and how the Board, in its sole discretion, deems appropriate.
- NOTE 9: To be effective, a revised Chart must be recorded in the Official Public Records of Dallas County, Texas. The Board may unilaterally amend this chart for the following limited purposes:
- (1) To identify a component that is omitted from the chart.
  - (2) To clarify a vague or ambiguous note or description of a component or maintenance obligation.
  - (3) To shift maintenance responsibility from the Owner to the Association.
- NOTE 10: This Maintenance Responsibility Chart may be revised unilaterally by the Declarant during the Development Period and thereafter by the Association, with the approval of owners representing at least a majority of the Lots in the Property. A revised Chart must be recorded in the Official Public Records of Dallas County, Texas.

(End of Exhibit B)



## EXHIBIT C

### DECLARANT REPRESENTATIONS & RESERVATIONS

#### A. GENERAL PROVISIONS.

- 1) Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Exhibit.
- 2) General Reservation & Construction. Notwithstanding other provisions of the Governing Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this Exhibit which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Exhibit and any other Governing Document, this Exhibit controls. This Exhibit may not be amended without the prior written consent of Declarant. The terms and provisions of this Exhibit must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.
- 3) Purpose of Development Period. This Exhibit gives Declarant certain rights during the Development Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees.

#### B. DECLARANT DEVELOPMENT PERIOD RESERVATIONS. Declarant reserves the following powers, rights, and duties during the Development Period:

- 1) Officers and Directors. During the Development Period, the Board may consist of three persons. During the Development Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be members or Owners, and each of whom is indemnified by the Association as a "Leader."
- 2) Weighted Votes. During the Development Period, the vote appurtenant to each Lot owned by Declarant is weighted three times that of the vote appurtenant to a Lot owned by another Owner. In other words, during the Development Period, Declarant may cast the equivalent of three votes for each Lot owned by Declarant on any issue before the Association. On termination of the Development Period and thereafter, the vote appurtenant to Declarant's Lots is weighted uniformly with all other votes.
- 3) Budget Funding. During the Development Period only, Declarant is responsible for the difference between the Association's operating expenses and the regular assessments received from Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. Such amounts paid by the Declarant shall be treated as a loan to the Association. Deficit Loans shall be repaid by the Association to Declarant as non-reserve funds become available. On termination of the Development Period, Declarant will cease being responsible for the difference between the Association's operating expenses and the assessments received from Owners other than Declarant.

- 4) Declarant Assessments. During the Development Period, any real property owned by Declarant is not subject to assessment by the Association.
- 5) Commencement of Assessments. During the initial development of the Property, Declarant may elect to postpone the Association's initial levy of regular assessments until a certain number of Lots are sold. During the Development Period, Declarant will determine when the Association first levies regular assessments against the Lots. Prior to the first levy, Declarant will be responsible for all operating expenses of the Association.
- 6) Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.
- 7) Budget Control. During the Development Period, the right of Owners to veto assessment increases or special assessments is not effective and may not be exercised.
- 8) Organizational Meeting. Within 60 days after the end of the Development Period, or sooner at the Declarant's option, Declarant will call an organizational meeting of the members of the Association for the purpose of electing, by vote of the Owners, directors to the Board. Written notice of the organizational meeting must be given to an Owner of each Lot at least 10 days before the meeting. For the organizational meeting, Owners of 10 percent of the Lots constitute a quorum. The directors elected at the organizational meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin.

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

- 1) Platting. The Declarant may amend or modify the Plat.
- 2) Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by a governmental entity, if applicable, and the Owner of the land or Lots to which the change would directly apply (if other than Declarant), Declarant may change the sizes, dimensions, and configurations of Lots and streets; change the minimum Townhome size; change the building setback requirements; and eliminate or modify any other feature of the Property.
- 3) Architectural Control. During the Development Period, Declarant has the absolute right to serve as the Architectural Reviewer pursuant to Article 6. Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under Article 6 and this Exhibit to an architectural control committee appointed by the Board, or a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. Declarant also has the unilateral right to exercise architectural control over vacant Lots in the Property. Neither the Association, the Board of directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new homes and related improvements on vacant Lots.

- 4) Amendment. During the Development Period, Declarant may amend this Declaration and the other Governing Documents, without consent of other Owners or any mortgagee, for any purpose, including without limitation the following purposes:
- a. To add real property to the Property.
  - b. To withdraw real property from the Property.
  - c. To create Lots, easements, and Common Areas within the Property.
  - d. To modify the designation of the Area of Common Responsibility.
  - e. To subdivide, combine, or reconfigure Lots.
  - f. To convert Lots into Common Areas.
  - g. To modify the construction and use restrictions of Article 7 of this Declaration.
  - h. To modify the Maintenance Responsibility Chart in Exhibit B of this Declaration.
  - i. To amend or modify the Rules in Exhibit D or this Declaration.
  - j. To merge the Association with another property Owners association.
  - k. To comply with requirements of an underwriting lender.
  - l. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Governing Documents.
  - m. To enable any reputable title insurance company to issue title insurance coverage on the Lots.
  - n. To enable an institutional or governmental lender to make or purchase mortgage loans on the Lots.
  - o. To change the name or entity of Declarant.
  - p. To change the name of the addition in which the Property is located.
  - q. To change the name of the Association.
  - r. For any other purpose, provided the amendment has no material adverse effect on any right of any Owner.
- 5) Completion. During the Development Period, Declarant has the right to complete or make improvements indicated on the Plat; the right to sell or lease any Lot owned by Declarant; and an easement and right to erect, construct, and maintain on and in the Common Area, Area of Common Responsibility, and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.
- 6) Easement to Inspect and Right to Correct. During the Development Period, Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Property, including the Lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a Lot may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or the Association.
- 7) Promotion. During the Development Period, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Residents, for purposes of promoting, identifying, and marketing the Property and/or Declarant's homes, Lots,

developments, or other products located outside the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events - such as open houses, MLS tours, and broker parties - at the Property to promote the sale of Lots.

D. **DIFFERENT RULES.** The developer has rights and privileges to use the property in ways that are not available to other Owners and Residents.

- 1) **Offices.** During the Development Period, Declarant reserves for itself the right to use Townhomes owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to Lots and Townhomes used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.
- 2) **Access.** During the Development Period, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for the homebuying public through any existing or future gate that restricts vehicular access to the Property in connection with the active marketing of Lots and homes by Declarant, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.
- 3) **Utility Easements.** During the Development Period, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the easements on any Lot, as shown on the Plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a Common Area of the Property or not owned by Declarant, Declarant must have the prior written consent of the land owner.
- 4) **Assessments.** For the duration of the Development Period, any Lot owned by Declarant is not subject to mandatory assessment by the Association until the date Declarant transfers title to an Owner other than Declarant. If Declarant owns a Lot on the expiration or termination of the Development Period, from that day forward Declarant is liable for assessments on each Lot owned by Declarant in the same manner as any Owner.
- 5) **Land Transfers.** During the Development Period, any transfer of an interest in the Property to or from Declarant is not subject to any transfer-related provision in the Governing Documents, including without limitation an obligation for transfer or resale certificate fees, and the transfer-related provisions of Article 8 of this Declaration. The application of this provision includes Declarant's sale of Lots to homebuyers.

E. **COMMON AREAS.** Declarant will convey title to the Common Areas to the Association by one or more deeds - with or without warranty. Any initial Common Area improvements will be installed, constructed, or authorized by Declarant, the cost of which is not a common expense of the Association. At the time of conveyance to the Association, the Common Areas will be free of encumbrance except for the property taxes accruing for the year of conveyance. Declarant's conveyance of title is a ministerial task that

does not require and is not subject to acceptance by the Association or the Owners. The transfer of control of the Association at the end of the Development Period is not a transfer of Common Areas requiring inspection, evaluation, acceptance, or approval of Common Area improvements by the Owners.

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

- 1) The amount of the contribution to this fund will be equal to Two Hundred Fifty and No/100 Dollars (\$250.00) and will be collected on the closing of the sale of the Lot to an Owner other than Declarant, a Successor Declarant, or a Declarant-affiliate.
- 2) If a Lot's contribution is not collected from the Owner at closing, neither Declarant nor the Owner of the Lot is thereafter liable for the contribution. Declarant acknowledges that this condition may create an inequity among the Owners, but deems it a necessary response to the diversification of marketing and closing Lot sales.
- 3) Contributions to the fund are not advance payments of regular assessments and are not refundable to the contributor by the Association or by Declarant. This may not be construed to prevent a selling Owner from negotiating reimbursement of the contribution from a purchaser.
- 4) Declarant will transfer the balance of the working capital fund to the Association on or before termination of the Development Period. Declarant may not use the fund to defray Declarant's expenses or construction costs.

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

[End of Exhibit C]

EXHIBIT D  
RULES AND REGULATIONS

PETS

1. **Permitted Pets.** A Resident may not keep or permit on the Property a pet or animal of any kind, at any time, except as permitted by these Rules and the Governing Documents. Subject to these Rules, a Resident may keep in his Townhome customary domesticated house pets, such as domesticated dogs, cats, caged birds, and aquarium fish, provided there are not more than two cats, or two dogs, or one cat and one dog.
2. **Prohibited Animals.** No Resident may keep a dangerous or exotic animal, pit bull terrier, trained attack dog, or any other animal deemed by the Board to be a potential threat to the well-being of people or other animals. No animal or house pet may be kept, bred, or maintained for any commercial purpose or for food.
3. **Indoors/Outdoors.** A permitted pet must be maintained inside the Townhome, and may not be kept on the balcony. No pet is allowed on Common Areas unless carried or leashed. No pet may be leashed to a stationary object on the Common Areas.
4. **Disturbance.** Pets must be kept in a manner that does not disturb another Resident's rest or peaceful enjoyment of his Townhome or the Common Areas. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time.
5. **Damage.** Resident is responsible for any property damage, injury, or disturbance his pet may cause or inflict. A Resident who keeps a pet on the Property is deemed to indemnify and agrees to hold harmless the Board, the Association, and other Owners and Residents, from any loss, claim, or liability of any kind or character whatever resulting from any action of his pet or arising by reason of keeping or maintaining the pet on the Property.
6. **Pooper Scooper.** No Resident may permit his pet to relieve itself on the Property, except in areas designated by the Board for this purpose. Resident is responsible for the removal of his pet's wastes from the Common Areas. The Board may levy a fine against a Townhome and its Owner each time feces are discovered on the Common Areas and attributed to an animal in the custody of that Townhome's Resident.
7. **Removal.** If a Resident or his pet violates these Rules, or if a pet creates a noise, odor, or other disturbance or nuisance, the Resident or person having control of the animal may be given a written notice by the Board to correct the problem. If the problem is not corrected within the time specified in the notice (not less than 10 days), the Resident, upon written notice from the Board, may be required to remove the animal. Each Resident agrees to permanently remove his violating animal from the Property within 10 days after receipt of a removal notice from the Board.

MOVE-IN

1. The Board may establish requirements and limitations for the number of "move-ins" on any particular day, it being understood that multiple move-ins of Townhomes on the same day will create traffic and other problems for Residents.

## COMMUNITY ETIQUETTE

1. Each Resident will endeavor to use his Townhome and the Common Areas in a manner calculated to respect the rights and privileges of other Residents of the Property.
2. A Resident will avoid doing or permitting anything to be done that will annoy, harass, embarrass, or inconvenience other Residents or their guests, or the Association's employees and agents.
3. Each Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb Residents of other Townhomes. The following are expressly prohibited: (1) installing speakers, subwoofers, or other noise or vibration emitting equipment in or on a party wall (a wall between 2 Townhomes); (2) creating any protrusion in a party wall (a wall between 2 Townhomes), through which sound may more easily transfer; (3) mounting a speaker in a ceiling at a point that is less than 5 feet from a party wall; and (4) loud vocalizations and boisterous conduct on Common Areas.
4. In planning private social functions at the Property, a Resident should be aware of the potential consequences on the Property's parking resources and on the sensibilities of other Residents. A Resident intending to use his Townhome for a party or other activity that may be expected to produce a higher-than-customary level or duration of noise or other disturbance will make a diligent effort to give Residents of adjoining Townhomes timely prior notice of the event, as a courtesy. If the event is expected to attract 20 or more guests to the Property, the Resident will also give the Board timely prior written notice of the event. In the event that any Resident desires to use any Common Area for any private social function, prior written approval shall be obtained from the Board.
5. Each Resident will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, or electronic reception on the Property.
6. The Association's employees and agents are not permitted or authorized to render personal services to Residents. Each Resident agrees that the Association is not responsible for any item or article left with or delivered to the Association's employees or agents on behalf of such Resident.

[End of Exhibit D]