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ROUGH HOLLOW SOUTH SHORE II MASTER COVENANT

(A Master Planned Community in Travis County, Texas)

NOTE: NO PORTION OF THE PROPERTY DESCRIBED ON EXHIBIT "A" IS SUBJECT TO THE TERMS OF THIS MASTER COVENANT UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PORTION OF THE PROPERTY IS FILED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, IN ACCORDANCE WITH SECTION 9.05 BELOW.

Declarant: ROUGH HOLLOW DEVELOPMENT, LTD., a Texas limited partnership

**Armbrust
& Brown
LLP**

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ROUGH HOLLOW SOUTH SHORE II
MASTER COVENANT

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ROUGH HOLLOW SOUTH SHORE II

MASTER COVENANT

This Rough Hollow South Shore II Master Covenant (the "**Master Covenant**") is made by **ROUGH HOLLOW DEVELOPMENT, LTD.**, a Texas limited partnership ("**Declarant**"), and is as follows:

RECITALS:

A. Declarant, together with Las Ventanas Land Partners, Ltd., a Texas limited partnership ("**Las Ventanas**") and JH West Land Ventures, Ltd., a Texas limited partnership ("**JH West**"), collectively own certain real property located in Travis County, Texas, as more particularly described on Exhibit "A" attached hereto (the "**Property**").

B. Declarant, Las Ventanas and JH West desire to create and carry out a uniform plan for the development, improvement, and sale of the Property, subject to the terms and provisions hereof, and with Declarant to hold all right, title and interest of the Declarant hereunder. Las Ventanas and JH West have each executed this Master Covenant for the purposes of evidencing their consent to the terms and provisions hereof, to the inclusion of the portions of the Property owned by each of them in the Property, and to the vesting in Declarant in each of its rights hereunder.

C. No portion of the Property will be subject to this Master Covenant unless and until a Notice of Applicability for such portion of the Property has been filed pursuant to *Section 9.05* below. Once a Notice of Applicability is filed pursuant to *Section 9.05*, the portion of the Property described therein will constitute the Development (as defined below) and will be governed by and fully subject to this Master Covenant. In turn, the Development will be comprised of separate Development Areas (as defined below) which will be governed by and subject to separate Development Area Declarations (as defined below) in addition to this Master Covenant.

No portion of the Property is subject to the terms and provisions of this Master Covenant until a Notice of Applicability (as defined in *Section 9.05*) is filed in the Official Public Records of Travis County, Texas. A Notice of Applicability may only be filed by Declarant. If Declarant is not the owner of any portion of the Property then being made subject to the terms and provisions of the Master Covenant, the owner of the Property must execute the Notice of Applicability evidencing its consent to its recordation.

Property versus Development versus Development Area

"Property"- Described on *Exhibit A*. This is the land that may be made subject to this Master Covenant, from time to time, by the filing of one or more Notices of Applicability.

"Development" This is the portion of the land described on *Exhibit A* that has been made subject to this Master Covenant through the filing of a Notice of Applicability.

"Development Area" This is a portion of the Development. In most circumstances, a Development Area will comprise a separately platted subdivision within the Development.

D. By the filing of this Master Covenant, Declarant serves notice that upon the further filing of one or more Notices of Applicability pursuant to the requirements of *Section 9.05* below, portions of the Property identified in such notice or notices will be subjected to the terms and provisions of this Master Covenant.

NOW, THEREFORE, it is hereby declared that: (i) those portions of the Property as and when subjected to this Master Covenant pursuant to Section 9.05 below will be held sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each owner thereof; and (ii) that each contract or deed conveying those portions of the Property which are subjected to this Master Covenant pursuant to *Section 9.05* will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

This Master Covenant uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Master Covenant, the text will control.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Master Covenant will have the meanings hereinafter specified:

1.01. "Approval or Consent" as used in the Master Restrictions means advance written approval or consent that may be granted or withheld in the sole discretion of the party whose consent or approval is required.

1.02. "Architectural Reviewer" means Declarant until Declarant no longer owns or has the option to acquire all or any portion of the Property. When Declarant no longer owns or

has any option to acquire all or any portion of the Property, the rights of the Architectural Reviewer will automatically be transferred to the Architectural Control Committee appointed by the Board.

1.03. "Assessment" or "Assessments" means assessments imposed by the Association under this Master Covenant.

1.04. "Assessment Unit" has the meaning set forth in *Section 5.09(b)*.

1.05. "Association" means Rough Hollow South Shore II Master Community, Inc., a Texas nonprofit corporation, which will be created by Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Master Covenant.

1.06. "Area of Common Responsibility" means all of the properties and facilities for which the Association has responsibility under the Master Restrictions, or for which the Association otherwise agrees to assume responsibility, regardless of ownership. The Area of Common Responsibility includes the Master Community Facilities, Special Common Area, and may also include Lots and Condominium Units or portions thereof, and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in *Section 3.08*.

1.07. "Board" means the Board of Directors, which is the governing body of the Association.

1.08. "Bulk Rate Contract" or "Bulk Rate Contracts" means one or more contracts which are entered into by the Association for the provision of utility services or other services of any kind or nature to the Lots and/or Condominium Units. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick up services, propane service, natural gas service, lawn maintenance services and any other services of any kind or nature which are considered by the Board to be beneficial. The Board has no obligation to enter into any Bulk Rate Contracts for the provision services to Owners or Occupants.

1.09. "Bylaws" means the Bylaws of the Association as adopted and as amended from time to time.

1.10. "Certificate" means the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

1.11. "Commercial Lot" means any portion of the Development designated by Declarant or shown as a subdivided lot on a Plat, other than a Residential Lot, Condominium Lot, Master Community Facilities, or Special Common Area, that is intended and designated for business or commercial use. Business or commercial use shall include, but not be limited to, all office, retail, wholesale, manufacturing, and service activities, and shall also be deemed to

include multi family, duplex and apartment housing of various densities other than a condominium regime.

1.12. **"Community Council"** means the Rough Hollow South Shore II Community Council, Inc., if created by Declarant pursuant to *Section 2.05* below. Declarant has no obligation to create the Community Council.

1.13. **"Community Covenant"** means the Community Covenant for Rough Hollow South Shore II which creates the Community Council and includes additional provisions regarding the operation thereof, if created by Declarant pursuant to *Section 2.05* below. Declarant has no obligation to establish the Community Covenant.

1.14. **"Condominium Lot"** means any portion of the Development designated by Declarant or shown as a subdivided lot on a Plat, other than a Residential Lot, Commercial Lot, Master Community Facilities, or Special Common Area, on which a condominium regime has been established.

1.15. **"Condominium Unit"** means an individual unit, including any common element assigned thereto, within a condominium regime, if any, established within the Development. A Condominium Unit may be intended and designated in any Development Area Declaration for residential, commercial or live/work purposes.

1.16. **"Declarant"** means **ROUGH HOLLOW DEVELOPMENT, LTD.,** a Texas limited partnership, its successors or assigns; provided that any assignment(s) of the rights of Declarant must be expressly set forth in writing and recorded in the Official Public Records of Travis County, Texas.

The "Declarant" is the party who causes the Property to be developed for actual residential and commercial use. Declarant enjoys special privileges to help protect its investment in the Development. These special rights are described in this Master Covenant. Many of these rights do not terminate until either Declarant: (i) has sold all Lots or Condominium Units which may be created out of the Property; or (ii) voluntarily terminates these rights by a written instrument recorded in the Official Public Records of Travis County, Texas.

1.17. **"Design Guidelines"** means the standards for design, construction, landscaping, and exterior items placed on any Lot or Condominium Unit adopted by the Architectural Reviewer pursuant to *Section 6.06(b)*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Development.

1.18. "Development" refers to any and all portions of the Property that are made subject to this Master Covenant pursuant to *Section 9.05* of this Master Covenant.

1.19. "Development Area" means any part of the Development (less than the whole) which may be subject to Development Area Declarations in addition to being subject to this Master Covenant.

1.20. "Development Area Declaration" means, with respect to any Development Area, the separate instrument(s) containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Development Area is subjected.

1.21. "Development Period" means the period in which either Declarant, Las Ventanas Land Partners, Ltd., a Texas limited partnership or JHI West Land Ventures, Ltd., a Texas limited partnership, owns or has the option to acquire all or any portion of the Property.

1.22. "Governmental Entity" means (i) a public improvement district created pursuant to Chapter 372, Subchapter B of the Texas Local Government Code; (ii) a municipal utility district created pursuant to Article XVI, Section 59 of the Constitution of Texas and Chapters 49 and 54, Texas Water Code; or (iii) any other similarly constituted governmental entity created for the purpose of providing benefits or services to the Development and/or the Property.

1.23. "Homebuilder" means an Owner (other than the Declarant) who acquires a Lot for the construction of a single family residence for resale to a third party.

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

1.25. "Lot" means any portion of the Development designated by Declarant or shown as a subdivided lot on a Plat, other than Master Community Facilities or Special Common Area, or a Lot on which a condominium regime has been established, and shall include Commercial Lots, Residential Lots and Condominium Lots.

1.26. "Manager" has the meaning set forth in *Section 3.07(h)*.

1.27. "Master Community Facilities" means property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or

benefit of more than one Lot or Condominium Unit. The Master Community Facilities also include any property that the Association holds possessory rights under a lease, license or any easement in favor of the Association. Some Master Community Facilities will be for the common use and enjoyment of the Development's Occupants, *e.g.*, subdivision swimming pools or internal pocket parks, while some portion of the Master Community Facilities may be for the use and enjoyment of the public, *e.g.*, open space, parks, and recreational facilities. Open space, parks and/or recreational facilities dedicated to the public may be classified as Master Community Facilities under this Master Covenant to permit the Association to provide maintenance services to such facilities. No portion of any Master Community Facilities dedicated in whole or in part for public use may be designated as Special Common Area. Declarant, from time to time and at any time, may designate Master Community Facilities.

1.28. "**Master Restrictions**" means the restrictions, covenants, and conditions contained in this Master Covenant, any Development Area Declaration, the Design Guidelines, Bylaws, or in any rules and regulations promulgated by the Association pursuant to this Master Covenant or any Development Area Declaration, as adopted and amended from time to time. See *Table 1* for a summary of the Master Restrictions.

1.29. "**Member**" means every person or entity that holds membership privileges in the Association.

1.30. "**Membership Agreement**" means an agreement in the form specified by the Board for execution by each Member, evidencing such Member's acknowledgment of and agreement to be bound by the terms of this Master Covenant. As provided in *Section 3.02(b)* below, the Board may elect to require each Member to execute a Membership Agreement.

1.31. "**Mortgage**" or "**Mortgages**" means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot or Condominium Unit.

1.32. "**Mortgagee**" or "**Mortgagees**" means the holder(s) of any Mortgage(s).

1.33. "**Notice of Applicability**" has the meaning set forth in *Section 9.05*.

1.34. "**Occupant**" means any person, including any Owner, having a right to occupy or use all or any portion of a Lot or Condominium Unit for any period of time.

1.35. "**Owner**" means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot or a Condominium Unit, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot or Condominium Unit pursuant to foreclosure of the lien of its Mortgage.

1.36. "**Plat**" means a subdivision plat of any portion of the Development as recorded in the Official Public Records of Travis County, Texas, and any amendments thereto.

1.37. "Property" means all of that certain real property described on Exhibit "A", attached hereto, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 9.03* and *Section 9.04* of this Master Covenant.

1.38. "Residential Lot" means a portion of the Development shown as a subdivided lot on a Plat, other than Master Community Facilities and Special Common Area, which is intended and designated solely for single-family residential use.

1.39. "Rules and Regulations" means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Development, including any amendments to those instruments.

1.40. "Service Area" means a group of Lots and/or Condominium Units designated as a separate Service Area pursuant to this Master Covenant for purpose of receiving benefits or services from the Association which are not provided to all Lots and Condominium Units. A Service Area may be comprised of more than one housing type or structure and may include noncontiguous Lots. A Lot or Condominium Unit may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in *Section 2.04*.

1.41. "Service Area Assessments" means Assessments levied against the Lots and/or Condominium Units in a particular Service Area to fund Service Area Expenses, as described in *Section 5.05*.

1.42. "Service Area Expenses" means the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Master Covenant.

1.43. "Special Common Area" means any interest in real property or Improvements which is designated by Declarant in a Notice of Applicability filed pursuant to *Section 9.05*, in a Development Area Declaration or in any written instrument recorded by Declarant in the Official Public Records of Travis County, Texas (which designation will be made in the sole and absolute discretion of Declarant) as Master Community Facilities which benefit one or more, but less than all of the Lots, Condominium Units, Owners or Development Areas, and is or will be conveyed to the Association, or otherwise held by Declarant for the benefit of the Owners of property to which such Special Common Area benefits. The Notice of Applicability, Development Area Declaration, or other written notice will identify the Lots, Condominium Units, Owners or Development Areas benefited by such Special Common Area. By way of illustration and not limitation, Special Common Area might include such things as private roadways or gates, entry features, walkways or landscaping which Declarant desires to dedicate for the exclusive use of certain Lots and/or Condominium Units. All costs associated with maintenance, repair, replacement, and insurance of Special Common Area will be assessed as a Special Common Area Assessment against the Owners of the Lots and/or Condominium Units

to which the Special Common Area is assigned. No portion of any Master Community Facilities, which is open to the public use, may be designated as Special Common Area.

TABLE 1: MASTER RESTRICTIONS

Master Covenant (recorded in the Official Public Records of Travis County, Texas)	Creates obligations that are binding upon the Association and all present and future owners of Property made subject to the Master Covenant by the filing of a Notice of Applicability.
Notice of Applicability (recorded in the Official Public Records of Travis County, Texas)	Describes the portion of the Property being made subject to the terms and provisions of the Master Covenant.
Development Area Declaration (recorded in the Official Public Records of Travis County, Texas)	Contains additional covenants, conditions and restrictions governing portions of the Development.
Certificate of Formation (filed with the Secretary of State)	Establishes the Association as a Texas nonprofit corporation.
Bylaws (adopted by the Board of the Association)	Govern the Association's internal affairs, such as elections, meetings, etc.
Design Guidelines (adopted by the Architectural Reviewer and recorded in the Official Public Records of Travis County, Texas)	Govern the design and architectural standard for the construction of Improvements and modifications thereto.
Rules and Regulations (adopted by the Board of the Association)	Regulate the use of property, activities, and conduct within the Development.
Board Resolutions (adopted by the Board of the Association)	Establish rules, policies, and procedures for internal governance and activities of the Association.

ARTICLE 2 GENERAL RESTRICTIONS

2.01 General.

(a) Conditions and Restrictions. All Lots and Condominium Units within the Development, for which a Notice of Applicability has been filed in accordance with *Section 9.05*, will be owned, held, encumbered, leased, used, occupied and enjoyed subject to: (i) the applicable conditions, restrictions, reservations, and easements contained in this Master Covenant; (ii) any applicable conditions, restrictions, reservations, and easements contained in the Development Area Declaration covering the Development Area in which such Lot or Condominium Unit is located; (iii) the Design Guidelines, as amended or modified as to such Lots or Condominium Units; and (iv) any rules and regulations adopted by the Board. **NO PORTION OF THE PROPERTY WILL BE SUBJECT TO THE TERMS AND PROVISIONS OF THIS MASTER COVENANT UNTIL A NOTICE OF APPLICABILITY HAS BEEN FILED FOR SUCH PROPERTY IN ACCORDANCE WITH SECTION 9.05 OF THIS MASTER COVENANT.**

(b) Ordinances. In addition to the terms of the Master Restrictions, the Property is also subject to any additional covenants, conditions, restrictions, and easements filed of record in the Official Public Records of Travis County, Texas. Ordinances, requirements and regulations imposed by applicable governmental authorities are applicable to all Lots and Condominium Units within the Development. Compliance with the Master Restrictions is not a substitute for compliance with such ordinances, requirements and regulations. Please be advised that the Master Restrictions do not list or describe each requirement which may be applicable within the Development. Compliance with the Master Restrictions is not a substitute for compliance with the applicable governmental or regulatory ordinances, rules and regulations. Each Owner is advised to review all encumbrances affecting the use and improvement of his property prior to submitting plans to the Architectural Reviewer for approval. Furthermore, approval by the Architectural Reviewer does not ensure that any Improvement constructed or proposed to be constructed by an Owner complies with the terms and provisions of all encumbrances which may affect the Owner's Lot or Condominium Unit. Certain encumbrances may benefit parties whose interests are not addressed by the Architectural Reviewer.

(c) City of Lakeway. As of the date of this Master Covenant, the City of Lakeway has in force an architectural review and approval process that is separate from, and in addition to, the architectural review process described herein. Accordingly, each Owner will be obligated to secure architectural approval by the City of Lakeway prior to seeking architectural from the Architectural Reviewer. Any approval granted by the Architectural Reviewer, or any notation on the plans signifying the Architectural Reviewer's approval, is conditional and no Improvements may be constructed until the

Owner has submitted to the Architectural Reviewer a copy of the plans and specifications approved by the City of Lakeway for such Improvements and the Architectural Reviewer has issued to the Owner a "Notice to Proceed." Each Owner is advised to contact the City to obtain a current version of the City's requirements and procedures.

(d) Highland Lakes Watershed Ordinance. The Development is currently subject to the Highland Lakes Watershed Ordinance of the Lower Colorado River Authority. This ordinance provides that, in addition to approval by the Architectural Reviewer, development or construction of Improvements within the Development may require an LCRA development permit or other permit required by any successors and assigns of the LCRA. The ordinance may also limit the amount of impervious cover that can be constructed upon a Lot. While the ordinance provides for certain exceptions to the permit requirement, **EACH OWNER IS ADVISED TO REVIEW THE ORDINANCE TO DETERMINE WHETHER IT APPLIES TO THE OWNER'S PROPERTY, AND IS SOLELY RESPONSIBLY FOR COMPLYING WITH THE PERMITTING AND OTHER REQUIREMENTS OF THE ORDINANCE.**

(e) District Requirements. In addition to the terms of the Master Restrictions and the foregoing-listed restrictions, the Property may also be subject to certain rules and requirements pertaining to the use and development of the Property imposed by a municipal utility district having jurisdiction over the Property. Such requirements may include, but are not limited to, restrictions concerning water and wastewater, erosion controls, landscaping and the use of fertilizers, pesticides and herbicides.

NOTICE

The Master Restrictions are subject to change from time to time. By owning or occupying a Lot or Condominium Unit, you agree to remain in compliance with the Master Restrictions, as amended or modified.

2.02 Incorporation of Development Area Declarations. Upon recordation of a Development Area Declaration in the Official Public Records of Travis County, Texas, such Development Area Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Master Covenant, to the extent not in conflict with this Master Covenant, but will apply only to the Development Area described in and covered by such Development Area Declaration.

2.03 Conceptual Plans. All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Development and/or the Property (collectively, the "**Conceptual Plans**") are conceptual in nature and are intended to be used for illustrative purposes only. The land uses reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property may include uses which are not shown on the Conceptual Plans.

Neither Declarant nor any Homebuilder or other developer of any portion of the Property and/or the Development makes any representation or warranty concerning such land uses and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans in making the decision to purchase any land or Improvements within the Property and/or the Development. Each Owner acknowledges that the Development is a master planned community, the development of which is likely to extend over many years, and agrees that the Association will not have the authority to engage in or use Association funds to support, protest, challenge, or make any other form of objection to changes in the Conceptual Plans.

The Development is a master planned community which will be developed over a number of years. Changes may be made to the plans for the Development from time to time.

2.04 Provision of Benefits and Services to Service Areas.

(a) Declarant Designation. Declarant, in a Notice of Applicability (as described in *Section 9.05*) or in any written notice recorded in the Official Public Records of Travis County, Texas, may assign Lots and/or Condominium Units to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Lots and/or Condominium Units in addition to those which the Association generally provides to the Development. Such benefits or services may include landscape maintenance. During the Development Period, Declarant may unilaterally amend any Notice of Applicability or any written notice that it has recorded in the Official Public Records of Travis County, Texas, to re-designate Service Area boundaries or to terminate any Service Area. All costs associated with the provision of services or benefits to a Service Area will be assessed against the Lots and/or Condominium Units within the Service Area as a Service Area Assessment.

(b) Owner Petition. In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots and/or Condominium Units as a Service Area for the purpose of receiving from the Association: (i) special benefits or services which are not provided to all Lots and/or Condominium Units, or (ii) a higher level of service than the Association otherwise provides. Upon receipt of a petition signed by Owners of a majority of the Lots and/or Condominium Units within the proposed Service Area, the Board will investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the charge to be made therefor, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge will apply at a uniform rate per Lot and/or Condominium Unit among all Service Areas receiving the same service). Upon

written approval of: (i) the proposal by Owners of at least sixty-seven percent (67%) of the Lots and/or Condominium Units within the proposed Service Area; and (ii) during the Development Period, the Declarant, the Association will provide the requested benefits or services on the terms set forth in the proposal. The cost and administrative charges associated with such benefits or services will be assessed against the Lots and/or Condominium Unit within such Service Area as a Service Area Assessment.

2.05 Rough Hollow South Shore II Community Council.

(a) Community Programs. Declarant hereby reserves the right, but will have no obligation, to create Rough Hollow South Shore II Community Council, which may serve as a means to encourage and support community interaction within Rough Hollow South Shore II. The Rough Hollow South Shore II Community Council, if created, will exist to encourage and provide a means for certain Owners and Occupants to participate in community-oriented affairs, services, programs, and activities. Declarant may limit membership of Rough Hollow South Shore II Community Council to Owners and Occupants of non-Commercial Lots. The Association may contribute money, real or personal property, or services to such entity.

(b) Community Covenant. If created, the Rough Hollow South Shore II Community Council will have rights and responsibilities set forth in the Community Covenant and the organizational documents of the Rough Hollow South Shore II Community Council. To secure and facilitate Declarant's ability to record a Community Covenant in the Official Public Records of Travis County, Texas, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other person, by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, shall thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and person's irrevocable attorney-in-fact, with full power of substitution, only for the purpose of recording the Community Covenant in the Official Public Records of Travis County, Texas which will subject each Owner to the terms and provisions thereof. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee, and/or person, shall be deemed, conclusively, to be coupled with an interest and shall survive the dissolution, termination, insolvency, bankruptcy, incompetency, and death of an Owner, Mortgagee, and/or person and shall be binding upon the legal representatives, administrators, executors, successors, heirs, and assigns of each such party.

ARTICLE 3 THE ASSOCIATION

3.01 Organization. The Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas nonprofit

corporation. Neither the Certificate nor the Bylaws will for any reason be amended, otherwise changed, or interpreted so as to be inconsistent with this Master Covenant.

3.02 Membership.

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

If you acquire a Lot or Condominium Unit you automatically become a member of the Association. Membership is Mandatory!

(b) Membership Agreement. If required by the Board, each Owner, other than Declarant, must execute a Membership Agreement and deliver the same to the Association prior to or concurrently with the recording of a deed conveying fee title to a Lot or Condominium Unit to such Owner. Each Owner must notify the immediate transferee of his Lot or Condominium Unit of such transferee's obligation to execute and deliver a Membership Agreement, but the failure to notify a transferee will not relieve such transferee of his obligations under this *Section 3.02(b)*. The failure to execute a Membership Agreement will not prevent any person from being a Member or Owner under the terms of the Certificate, Bylaws or Master Restrictions, or excuse any Member from the payment of Assessments. If a Membership Agreement is required by the Board, an Owner who has not executed and delivered a Membership Agreement will automatically forfeit his right to the use and enjoyment of the Master Community Facilities and applicable Special Common Area. Such Owner will not be entitled to restoration of his rights in the Master Community Facilities or applicable Special Common Area until execution and delivery of a Membership Agreement by such Owner. However, the Board may, at the Board's sole discretion, provide that a Member will be entitled to the full privileges of membership in the Association, notwithstanding the failure to execute a Membership Agreement. In the event Members are entitled to a key, membership card or other token evidencing or facilitating the right to use any Improvements erected or placed on the Master Community Facilities or Special Common Area, the Board may require any Member who has not executed a Membership Agreement to return the same to the Board immediately.

(c) Owner Information. Within thirty (30) days after acquiring legal title to a Lot or Condominium Unit, each Owner must provide the Association with: (1) a copy of the recorded deed by which the Owner has acquired title to the Lot or Condominium Unit; (2) the Owner's address, phone number, and driver's license number, if any; (3) any

Mortgagee's name and address; and (4) the name and phone number of any Occupant other than the Owner.

You may be required to execute a Membership Agreement before using any of the Association's property.

Your obligation to pay assessments to the Association and comply with this Master Covenant, any applicable Development Area Declaration, the Design Guidelines, or the Rules and Regulations will not be affected by your failure to execute a Membership Agreement.

You must provide certain information to the Association upon acquiring a Lot or Condominium Unit.

(d) Easement of Enjoyment – Master Community Facilities. Every Member will have a right and easement of enjoyment in and to all of the Master Community Facilities and an access easement by and through any Master Community Facilities, which easements will be appurtenant to and will pass with the title to such Member's Lot or Condominium Unit, subject to *Section 3.02(b)* above and subject to the following restrictions and reservations:

- (i) The right of the Association to suspend the Member's voting rights and right to use the Master Community Facilities for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such member is in violation of any provision of this Master Covenant;
- (ii) The right of the Association and Declarant (during the Development Period) to dedicate or transfer all or any part of the Master Community Facilities to any public agency, authority or utility for such purpose;
- (iii) The right of the Association and Declarant (during the Development Period) to grant easements or licenses over and across the Master Community Facilities;
- (iv) The right of the Association to borrow money for the purpose of improving the Master Community Facilities and, in furtherance thereof, mortgage the Master Community Facilities;

(v) The right of the Association to make reasonable rules and regulations regarding the use of the Master Community Facilities and any Improvements thereon; and

(vi) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

(e) Easement of Enjoyment – Special Common Area. Each Owner of a Lot or Condominium Unit which has been designated as a beneficiary of Special Common Area in a Notice of Applicability or Development Area Declaration will have a right and easement of enjoyment in and to all of such Special Common Area, and an access easement by and through such Special Common Area, which easement will be appurtenant to and will pass with title to such Owner's Lot or Condominium Unit, subject to *Section 3.02(b)* above and subject to the following restrictions and reservations:

(i) The right of Declarant to restrict the use of the Special Common Area to the beneficiaries designated in a Notice of Applicability filed pursuant to *Section 9.05* or a Development Area Declaration;

(ii) The right of the Association to suspend the Member's voting rights and right to use the Special Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Master Covenant;

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

(iv) The right of the Association and Declarant (during the Development Period) to grant easements or licenses over and across the Special Common Area to any third party;

(v) The right of the Association to borrow money for the purpose of improving the Special Common Area, and, in furtherance thereof, mortgage the Special Common Area;

(vi) The right of the Association to make reasonable rules and regulations regarding use of the Special Common Area and any Improvements thereon; and

(vii) The right of the Association to contract for services with any third parties on such terms as the Association may determine.

3.03 Neighborhoods.

(a) Generally. Due to the number of Lots that may be developed in the Development, during the Development Period, Declarant may, but is not obligated to, institute a representative system of voting known as "**Neighborhood Voting**". If Declarant elects to institute Neighborhood Voting, Lots and Condominium Units will be grouped into "**Neighborhoods**" to: (i) facilitate a system of representative voting on matters which this Master Covenant or any Development Area Declaration require approval of the Association's membership; and (ii) to promote a sense of community and belonging by permitting Owners and Occupants within a Neighborhood to share, discuss and take action on issues unique to their Neighborhood. A Neighborhood may be comprised of any number of Lots and/or Condominium Units and may include Lots of more than one type, as well as Lots that are not contiguous to one another. Each Neighborhood will elect one "**Neighborhood Delegate**" to cast the votes allocated to all Lots in that Neighborhood on matters requiring a vote of the Owners, as described below in this *Article 3*.

(b) Notice. If Declarant elects to institute Neighborhood Voting, Declarant will record in the Official Public Records of Travis County, Texas a notice which confirms that Declarant has elected to commence Neighborhood Voting, and sets forth the initial assignment of Lots and/or Condominium Units to one or more Neighborhoods. Thereafter, for so long as Neighborhood Voting is in effect, each Notice of Applicability filed pursuant to *Section 9.05* for the purpose of annexing additional portions of the Property into the Development shall initially assign the property described therein to a specific Neighborhood which may then be existing or newly created. During the Development Period, Declarant may record a written notice in the Official Public Records of Travis County, Texas to designate or change Neighborhood boundaries, to terminate Neighborhood Voting, or to re-commence Neighborhood Voting after a prior termination.

3.04 Voting Groups. "**Voting Groups**" permit groups with dissimilar interests within any Neighborhood the opportunity to be represented on the Board and to avoid situations in which one group is able to appoint or elect all Board members allocated to a particular Neighborhood. The Declarant hereby reserves the right to create and group certain Owners or Neighborhoods into Voting Groups by recording an instrument in the Official Public Records of Travis County, Texas identifying the Voting Groups and designating which Owners or Neighborhoods belong to which Voting Groups. If established, then upon the expiration or termination of the Development Period, the Owners within each Voting Group will vote on a separate slate of candidates for election of Directors, with each Voting Group electing an equal number of Directors and any additional Director elected at large by all Members, represented by the Neighborhood Delegates, which Directors will serve until their respective successors have been duly elected or appointed. Voting Groups will be established, if at all, not later than the date of the expiration of the Development Period. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration of the Development

Period by recording in the Official Public Records of Travis County, Texas an amendment to any previously recorded written notice to designate or change the composition of any Voting Group.

3.05 Voting Rights.

(a) If Neighborhood Voting Has Not Been Established. During any period in which Neighborhood Voting is not in effect, the vote or votes (or fraction thereof) attributable to each Lot and Condominium Unit will be exercised by the Owner thereof.

(b) If Neighborhood Voting Has Been Established.

(i) *Representative System.* During any period in which Neighborhood Voting is in effect, the Owners of Lots in each Neighborhood shall elect a "**Neighborhood Delegate**" and an alternate Neighborhood Delegate, in the manner provided below, to cast the votes of all Lots in the Neighborhood on matters requiring a vote of the membership, except where this Master Covenant specifically requires a vote of the Owners.

(ii) *Candidates.* Candidates for election as the Neighborhood Delegate and alternate Neighborhood Delegate from a Neighborhood shall be Owners of Lots or Condominium Units in the Neighborhood. The Neighborhood Delegate and the alternate Neighborhood Delegate shall be elected on a biennial basis (once every two years), either by written ballot or at a meeting of the Owners within each Neighborhood, as the Board determines; provided, upon written petition signed by Owners holding at least ten percent (10%) of the votes within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Owners representing at least twenty-five percent (25%) of the total votes in a Neighborhood shall constitute a quorum at any Neighborhood meeting.

(iii) *Election.* The Board shall call for the first election of a Neighborhood Delegate from a Neighborhood not later than ninety (90) days after Declarant has recorded in the Official Public Records of Travis County, Texas a notice creating such Neighborhood. Subsequent elections shall, if necessary, be held within thirty (30) days of the same date each year. The candidate for each position who receives the greatest number of votes shall be elected to serve until his or her successor is elected.

(iv) *Removal.* Any Neighborhood Delegate may be removed, with or without cause, upon the vote or written petition of Owners holding a

majority of the votes allocated to the Lots and Condominium Units in the Neighborhood that the Neighborhood Delegate represents.

(v) *Voting.* The Neighborhood Delegate or, in his or her absence, the alternate Neighborhood Delegate attends Association meetings and casts all votes allocated to Lots and Condominium Units in the Neighborhood that he or she represents on any matter as to which such Neighborhood Delegate is entitled to vote under this Master Covenant. A Neighborhood Delegate may cast all votes allocated to Lots and Condominium Units in the Neighborhood in such delegate's discretion and may, but need not, poll the Owners of Lots and Condominium Units in the Neighborhood which he or she represents prior to voting.

(vi) *Authority.* Neighborhood Delegates are subordinate to the Board and their responsibility and authority does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

(c) Board of Directors.

(i) *Control by Declarant.* **Notwithstanding the foregoing or any provision to the contrary in this Master Covenant, until expiration or termination of the Development Period, Declarant will be entitled to appoint and remove all members of the Board and their successors (any appointment of a successor will be deemed a removal of the Board member being replaced by such appointment). Declarant, at its option, may assign or delegate, in whole or in part, its rights and powers to the Association, the Board or any other entity provided such designation is in writing. Declarant may terminate its right as to the appointment and removal of one or all the Board members by the recordation of a termination notice executed by Declarant and recorded in the Official Public Records of Travis County, Texas. In the event Declarant terminates its right to appointment and remove less than all of the Board members, the Board positions to which the termination applies will be elected by the Neighborhood Delegates. Each Board member elected by the Neighborhood Delegates in accordance with the foregoing sentence will be elected for a term of one (1) year.**

(ii) *Post-Development Period.* At such time as Declarant no longer has the right to appoint and remove all members of the Board as provided in *Section 3.05(b)(i)* above, the Board will be increased to five (5) members. The President of the Association will thereupon call a meeting of the Members of the Association where the Members will elect one (1)

Director for a three (3) year term, two (2) Directors for a two (2) year term, and two (2) Directors for a one (1) year term. Upon expiration of the term of a Director elected by the Members as provided herein, his successor will be elected for a term of two (2) years. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation or removal, will hold office until his successor is elected or appointed. If Neighborhoods are created pursuant to *Section 3.03* above, the aforementioned Board positions will be elected by the Neighborhood Delegates or alternate Neighborhood Delegates on behalf of the Members. However, if Voting Groups are established by Declarant during the Development Period, the Owners within each Voting Group will vote on a separate slate of candidates for election of Directors as designated by Declarant in the Recorded designation of Voting Groups, with each Voting Group electing an equal number of Directors and any additional Director elected at large by the Neighborhood Delegates on behalf of the Members. Such Directors will serve until their respective successors have been duly elected or appointed.

(d) Co-Owners. In any situation in which an Owner is entitled personally to exercise the vote allocated to such Owner's Lot or Condominium Unit, if there is more than one Owner of a portion of the fee simple interest in the Lot or Condominium Unit, the vote for such Lot or Condominium Unit shall be exercised as the co-Owners holding a majority of the ownership interest in the Lot or Condominium Unit determine among themselves and designate in writing to the Secretary of the Association (or as designated in the Membership Agreement relating to such Lot if required by the Board) prior to the close of balloting. Any co-Owner may cast the vote for the Lot or Condominium Unit, and majority agreement shall be conclusively presumed unless another co-Owner of the Lot or Condominium Unit protests promptly to the President or other person presiding over the meeting on the balloting, in the case of a vote taken outside of a meeting. In the absence of a majority agreement, the Lot or Condominium Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently. In no event will the vote for such Lot or Condominium Unit exceed the total votes to which such Lot or Condominium Unit is otherwise entitled pursuant to *Section 3.06* below. Notwithstanding the foregoing, all co-Owners of a Lot or Condominium Unit shall be Members of the Association.

(e) Suspension. The right of any Owner to vote may be suspended by the Association, acting through the Board, for any time period during which any Assessment against such Owner's Lot or Condominium Unit remains past due, for any period during which such Owner or such Owner's Lot(s) or Condominium Unit(s) are in violation of this Master Covenant and, as provided in *Section 3.02(b)* above, for any period during which such Owner has failed to execute and deliver a Membership Agreement, if required by the

Board. In addition, Declarant may suspend the right of any Owner to vote during the period such Owner's Lot or Condominium Unit is exempt from Assessments in accordance with *Section 5.09(f)*.

3.06 Vote Allocation.

(a) Residential Owner Allocation. The Owner of each Residential Lot will be allocated one (1) vote for each Residential Lot so owned. In the event of the re-subdivision of any Residential Lot into two or more Residential Lots: (i) the number of votes to which such Residential Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Residential Lot resulting from such re-subdivision, e.g., each Residential Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Residential Lot resulting from the re-subdivision will be allocated one (1) Assessment Unit. In the event of the consolidation of two (2) or more Residential Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Residential Lots contained in such consolidated Residential Lot. Nothing in this Master Covenant will be construed as authorization for any re-subdivision or consolidation of Residential Lots, such actions being subject to the conditions and restrictions of the applicable Development Area Declaration.

(b) Commercial/Condominium Owner Allocation. Each Owner of a Commercial Lot or Condominium Unit will be allocated the number of votes for such Commercial Lot or Condominium Unit so owned as determined by Declarant and set forth in the Development Area Declaration for the Development Area within which such Commercial Lot or Condominium Unit is located. Declarant will determine such votes in its sole discretion, taking into account, among other things, the relationship of the Commercial Lots or Condominium Units to the entire Development. Declarant's determination regarding the number of votes to which such Owners will be entitled will be final, binding and conclusive. Such determination of Declarant may also be set forth in the notice filed by Declarant pursuant to *Section 9.05* below for the Development Area within which such Commercial Lot(s) or Condominium Unit(s) are located. Prior to the time any Commercial Lots or Condominium Units in a Development Area are conveyed by Declarant to any person or entity not affiliated with Declarant, Declarant may amend or modify its allocation of votes by filing an amended notice in the Official Public Records of Travis County, Texas, setting forth the amended allocation. In addition, Declarant, in its sole and absolute discretion, may modify or amend (which amendment or modification may be effected after Declarant's conveyance of any Commercial Lots or Condominium Units to any person not affiliated with Declarant) the number of votes previously assigned to a Commercial Lot or Condominium Unit if the Improvements actually constructed on the Commercial Lot or Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time a notice allocating votes thereto was originally filed. In the event of a modification to the votes allocated to a Commercial Lot or

Condominium Unit, Declarant will file of record an amended vote determination setting forth the revised allocation of votes attributable to such Commercial Lot Condominium Unit.

(c) Declarant Allocation. In addition to the votes to which Declarant is entitled by reason of *Section 3.06(a)* and *Section 3.06(b)*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

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

(a) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such Rules and Regulations and Bylaws not in conflict with this Master Covenant as it deems proper, covering any and all aspects of the Development (including the operation, maintenance and preservation thereof) or of the Association;

When you acquire a Lot or Condominium Unit, you are required to comply with the terms of ALL of the Master Restrictions!

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

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

(d) Assessments. To levy and collect assessments and to determine Assessment Units, as provided in *Article 5* below;

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon or into any Condominium Unit for the purpose of enforcing the Master Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Master Restrictions. The expense incurred by the Association in

connection with the entry upon any Lot or into any Condominium Unit and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot or the Condominium Unit so entered, will be deemed a special Assessment against such Lot or Condominium Unit, will be secured by a lien upon such Lot or Condominium Unit, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Master Restrictions. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Master Restrictions; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or their successors or assigns. The Association may not alter or demolish any Improvements on any Lot or Condominium Unit other than Master Community Facilities or Special Common Area in enforcing this Master Covenant before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) or Condominium Unit(s) has been obtained. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 3.07(e) (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE;**

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

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Master Community Facilities or Special Common Area, in compliance with the use and occupancy restrictions imposed by the Master Restrictions or by any governmental authority, for the purpose of constructing, erecting, operating or maintaining: (i) parks, parkways or other recreational facilities or structures; (ii) roads, streets, bridges, sidewalks, signs, street lights, walks, driveways, trails and paths; (iii) lines, cables, wires, conduits, pipelines or other devices for utility

purposes; (iv) sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or (v) any similar improvements or facilities;

(h) Manager. To retain and pay for the services of a person or entity (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Personnel may be employed directly by the Association or may be furnished by the Manager. Each contract entered into between the Association and the Manager will be terminable by the Association without cause upon sixty (60) days written notice to the Manager. To the extent permitted by law, the Board may delegate any other duties, powers and functions to the Manager. In addition, the Board may adopt transfer fees, resale certificate fees or any other fees associated with the provision of management services to the Association or its Members. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED;**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, gardening and all other utilities, services, repair and maintenance for any portion of the Property or the Development and any Master Community Facilities, including but not limited to private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes;

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to applicable law (including the Texas Business Organizations Code) or under the terms of the Master Restrictions or as determined by the Board;

(k) Construction. To construct new Improvements or additions to any property owned, leased, or licensed by the Association, subject to the approval of the Board;

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain any Master Community Facilities, Special Common Area, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members;

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise;

(n) Authority with Respect to Development Area Declaration. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce the provisions of any Development Area Declaration. Any decision by the Association to delay or defer the exercise of the power and authority granted by this *Section 3.07(n)* will not subsequently in any way limit, impair or affect ability of the Association to exercise such power and authority;

(o) Allocation of Votes. To determine votes when permitted pursuant to *Section 3.05* above;

(p) Membership Privileges. To establish Rules and Regulations governing and limiting the use of the Master Community Facilities, Special Common Area, and any Improvements thereon; and

(q) Owner Education. To implement procedures and rules pertaining to the use of pesticides, herbicides and fertilizers, maintaining wildfire defensible space, and mitigating and enhancing wildlife impact, and to periodically educate Owners, through newsletters or the distribution of appropriate written materials, about the sensitivity of the Texas Hill Country ecosystem and each Owner's potential impact on water quality, wildfire safety and wildlife.

3.08 Master Community Facilities, Special Common Area and Area of Common Responsibility.

(a) Transfers and Conveyance by Declarant. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant may transfer or convey to the Association interests in real or personal property within or for the benefit of the Development, or the Development and the general public, and the Association will accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Such property, rights, and/or obligations will be accepted by the Association and thereafter will be maintained as Master Community Facilities or Special Common Area, as applicable, by the Association for the benefit of the Development and/or the general public subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association for no payment to the extent conveyed in error or needed to make minor adjustments in property lines.

(b) Maintenance of Areas of Common Responsibility. The Association shall maintain the Area of Common Responsibility. The Area of Common Responsibility includes, but is not limited to:

(i) The Master Community Facilities including but not limited to all landscaping and other flora, parks, ponds, signage, structures, and improvements, including any private streets, and bike and pedestrian pathways/trails, situated upon the Master Community Facilities;

(ii) The Special Common Area;

(iii) Landscaping, sidewalks, street-lights, and signage within public rights-of-way within or abutting the Development, except to the extent that responsibility therefore is assigned to the Owners of adjacent Lots or Condominium Units;

(iv) Such portions of any additional property as may be included within the Area of Common Responsibility pursuant to this Master Covenant, any Development Area Declaration, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association, including property not owned by the Association, such as Lots, Condominium Units and property dedicated to the public; and

(v) Any property and facilities that Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and some or all of its Members. Declarant shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility and be maintained by the Association until Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(c) Cost Allocation. Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a common expense to be included in the Regular Annual Assessments levied by the Association, without prejudice to the Association's right to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Master Covenant, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair, and replacement of Special Common Area shall be a Service Area Expense assessed against the Service Area(s) to which the Special Common Area is assigned, notwithstanding that the Association may be responsible for performing such maintenance.

(d) Failure to Maintain. In the event that the Association fails properly to perform its maintenance responsibilities hereunder, Declarant during the Development Period may, upon not less than ten (10) days' notice and opportunity to cure such failure,

cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

(e) Relationships with Other Properties and Entities. The Association may contract with the owner of any neighboring property and any entity that provides services to all or any portion of the Members for the purpose of sharing costs associated with: (a) maintenance and operation of mutually beneficial properties or facilities; and (b) provision of mutually beneficial services.

(f) Relationships with Governmental Entities and Tax Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Master Community Facilities to Governmental Entities and/or nonprofit, tax-exempt organizations, the operation of which confers some benefit upon the Development, the Association, its Members, or Occupants. The Association may contribute money, real or personal property, or services to such entity. Any such contribution shall be a common expense to be included in the assessments levied by the Association and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code (the "Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time. The Association may maintain multiple-use facilities within the Development and allow use by tax-exempt organizations. Such use may be on a scheduled or "first-come, first-served" basis. A reasonable maintenance and use fee may be charged for the use of such facilities.

3.09 Indemnification. To the fullest extent permitted by applicable law but without duplication (and subject to) any rights or benefits arising under the Certificate or Bylaws of the Association, the Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

3.10 Insurance. The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee

member, employee, servant or agent of the Association against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability or otherwise.

3.11 Bulk Rate Contracts. Without limitation on the generality of the Association powers set out in *Section 3.07* hereinabove, the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election, add the charges payable by such Owner under such Bulk Rate Contract to the Assessments against such Owner's Lot or Condominium Unit. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Master Covenant with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot or Condominium Unit which is reserved under the terms and provisions of this Master Covenant. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such twelve (12) day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or the Occupant of such Owner's Lot or Condominium Unit) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or the Occupant of such Owner's Lot or Condominium Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

3.12 Community Technology.

(a) Contract Services. In connection with construction of the Property, community infrastructure may have been constructed in order that one or more services to be may be provided by vendors to the Lots on a contract basis, such as intrusion monitoring, data, video, and phone services. In exchange for such installations, Declarant may have contracted on behalf of the Owners for a period of service to all Lots. In that event, whether or not an Owner chooses to use the service, the Owner is required to pay the Lot's share of the contract for the contract period. The Association may serve as the

conduit for the service fees and payments, which may be considered Regular Annual Assessments or Individual Assessments. However, the Association is not the service provider and has no responsibility or liability for the availability or quality of the service, or for the maintenance, repair, or replacement of such infrastructure, including any wires, conduits, equipment, or other fittings relating to the contract service.

(b) Community Systems. Without limiting the generality of *Section 3.07*, the Association is specifically authorized to provide, or to enter into contracts with other persons to provide, central telecommunication receiving and distribution systems (e.g. cable television, high speed data/internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Development ("**Community Systems**"). Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Systems as the Board determines appropriate.

(c) Opportunities for Community Interaction. The Association may make use of computers, the internet, and expanding technology to facilitate community interaction and encourage participation in Association activities. For example, the Association may sponsor a community cable television channel, create and maintain a community intranet or Internet home page, maintain an "online" newsletter or bulletin board, and offer other technology related services and opportunities for Owners and Occupants to interact and participate in Association-sponsored activities. To the extent Texas law permits, and unless otherwise specifically prohibited in the Master Restrictions, the Association may send notices by electronic means, hold Board or Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means. The Board will specifically have the authority to adopt policies and procedures related to: (i) Community Systems access by Owners, Occupants and other parties; (ii) using the Community Systems for the purpose of sending any notice required by the Master Restrictions; and (iii) electronic voting and the establishment of any quorum.

3.13 Cooperation with the Community Council. The Association will cooperate with Rough Hollow South Shore II Community Council, if created, involving Rough Hollow South Shore II Community Council's obligations and responsibilities under the Community Covenant. For example, to the extent reasonable and financially feasible in the Board's discretion, the Association will permit use of Common Area by Rough Hollow South Shore II Community Council and "chartered clubs" and other volunteer groups operated by or through Rough Hollow South Shore II Community Council, for their offices, programs, activities, and services.

ARTICLE 4
INSURANCE; DAMAGE AND DESTRUCTION

4.01 Insurance. Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot or Condominium Unit. The Association will not be required to maintain insurance on the Improvements constructed upon any Lot or Condominium Unit. The Association may, however, obtain such insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance premiums for such policies will be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association will be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

ARE YOU COVERED?

The Association will not provide insurance which covers an Owner's Lot, a Condominium Unit, or any Improvements or personal property located on a Lot or contained within a Condominium Unit.

4.02 Restoration. In the event of any fire or other casualty, the Owner will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials identical to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within one hundred and twenty (120) days after the occurrence of such damage or destruction, and thereafter prosecute same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner will be personally liable to the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by law, regulation or administrative or public body or tribunal from commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1½%) per month will be added to the Assessment chargeable to the Owner's Lot or Condominium Unit. Any such amounts added to the Assessments chargeable against a Lot or Condominium Unit will be secured by the liens reserved in the Master Covenant for Assessments and may be collected by any means provided in this Master Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot or Condominium Unit. **EACH SUCH OWNER WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND ITS**

OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.02, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

4.03 Mechanic's and Materialmen's Lien. Each Owner whose structure is repaired, restored, replaced or cleaned up by the Association pursuant to the rights granted under this Article 4, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration or replacement, such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

4.04 Damage and Destruction – Association Property.

(a) Claims. Promptly after damage or destruction by fire or other casualty to all or any part of the Master Community Facilities or Special Common Area covered by insurance, the Board, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the damage. Repair, as used in this *Section 4.04(a)*, means repairing or restoring the Master Community Facilities or Special Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) Repair Obligations. Any damage to or destruction of the Master Community Facilities or Special Common Area will be repaired unless a majority of the Board decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association within said period, then the period will be extended until such information will be made available.

(c) Restoration. In the event that it should be determined by the Board that the damage or destruction of the Master Community Facilities or Special Common Area will not be repaired and no alternative Improvements are authorized, then the affected portion of the Master Community Facilities or Special Common Area will be restored to its natural state and maintained as an undeveloped portion of the Master Community Facilities by the Association in a neat and attractive condition.

(d) Special Assessment. If insurance proceeds are paid to restore or repair any damaged or destroyed Master Community Facilities, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Assessment, as provided in *Article 5*, against all Owners. Additional Special Assessments may be made in like manner at any time during or following the completion of any repair.

(e) Special Common Area Assessments. If insurance proceeds are paid to restore or repair any damaged or destroyed Special Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Common Area Assessment, as provided in *Article 5*, against all Owners designated as a beneficiary of such Special Common Area. Additional Special Common Area Assessments may be made in like manner at any time during or following the completion of any repair.

(f) Proceeds Payable to Owners. In the event that any proceeds of insurance policies are paid to Owners, including but not limited to any proceeds of insurance policies paid to Owners as a result of any damage or destruction to any Master Community Facilities or any Special Common Area, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

ARTICLE 5 COVENANT FOR ASSESSMENTS

5.01 Assessments.

(a) Established by Board. Assessments established by the Board pursuant to the provisions of this *Article 5* will be levied against each Lot and Condominium Unit in amounts determined pursuant to *Section 5.09* below. The total amount of Assessments will be determined by the Board pursuant to *Section 5.03, 5.04, 5.05, 5.06 and/or 5.07*.

(b) Personal Obligation; Lien. Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot or Condominium Unit against which the Assessment is levied and will be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and all Improvements thereon and each such Condominium Unit (such lien, with respect to any Lot or Condominium Unit not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot or Condominium Unit is created). The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

(c) Declarant Subsidy. Declarant may, but is not obligated, to reduce Assessments which would otherwise be levied against Lots and Condominium Units for

any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by Declarant may be treated as a contribution or a loan, in Declarant's sole and absolute discretion. Any subsidy and the characterization thereof will be disclosed as a line item in the annual budget prepared by the Board and attributable to such Assessments. The payment of a subsidy in any given year will not obligate Declarant to continue payment of a subsidy to the Association in future years.

5.02 Maintenance Fund. The Board will establish one or more accounts into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under the Master Restrictions and the Texas Business Organizations Code. The funds of the Association may be used for any purpose authorized by the Master Restrictions and the Texas Business Organizations Code, as each may be amended from time to time.

5.03 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board will estimate the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under the Master Restrictions, including, but not limited to, the cost of all management, repair and maintenance, the cost of providing street and other lighting, the cost of administering and enforcing the covenants and restrictions contained herein, and will estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund. The budget prepared by the Association for the purpose of determining Regular Annual Assessments will exclude the maintenance, repair and management costs and expenses associated with any Special Common Area or Service Area. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner. All such Regular Annual Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.04 Special Common Area Assessments. Prior to the beginning of each fiscal year, the Board will prepare a separate budget covering the estimated expenses to be incurred by the Association to maintain, repair, or manage any Special Common Area. The budget will be an estimate of the amount needed to maintain, repair and manage such Special Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and surplus from the prior year's fund. The level of Special Common Area Assessments will be set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non-payment of any

individual Special Common Area Assessment, the Association may at any time, and from time to time, levy further Special Common Area Assessments in the same manner as aforesaid. All such Special Common Area Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.05 Service Area Assessments. Prior to the beginning of each fiscal year, the Board will prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses to be incurred by the Association in the coming year. The total amount of estimated Service Area Expenses for each Service Area will be allocated equally among all Lots and/or Condominium Units in the benefited Service Area and will be levied as a Service Area Assessment. All amounts that the Association collects as Service Area Assessments will be held in trust for and expended solely for the benefit of the Service Area for which they were collected and will be accounted for separately from the Association's general funds.

5.06 Individual Assessments. In The Board may also levy an Individual Assessment against an Owner and the Owner's Lot or Condominium Unit. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or the Owner's Lot or Condominium Unit into compliance with the Master Restrictions; fines for violations of the Master Restrictions; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; insurance deductibles; reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Occupants of the Owner's Lot; common expenses that benefit fewer than all of the Lots or Condominium Units, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot or per-Condominium Unit basis; and "pass through" expenses for services to Lots or Condominium Units provided through the Association and which are equitably paid by each Lot or Condominium Unit according to benefit received.

5.07 Special Assessments. In addition to the other Assessments provided for herein, the Board may authorize Special Assessments whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under this Master Covenant. The amount of any Special Assessments will be at the reasonable discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, authorize a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Master Community Facilities or Special Common Area. Any Special Assessment authorized by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Master Community Facilities will be levied against all Owners based on Assessment Units. Any Special Assessments authorized by the Association for the purpose of defraying in whole or in part, the cost of any construction,

reconstruction, repair or replacement of a capital improvement upon any Special Common Area will be levied against all Owners who have been designated as a beneficiary of such Special Common Area and will be allocated among such Owners in proportion to the number of Assessment Units allocated to their property pursuant to *Section 5.09* below. Prior to levying any Special Assessment, the Board shall provide written notice to the Owners describing the amount and purpose of the Special Assessment. The Special Assessment will be levied against the Owners within thirty (30) days of the date of the notice, unless prior to the expiration of such thirty (30) day period, a written petition executed by Members entitled to cast at least twenty percent (20%) of the total number of votes of the Association is provided to the President of the Association whereupon the Board will call a special meeting to discuss the Special Assessments. At the end of the meeting, the Board shall either modify, reaffirm or cancel such Special Assessment in its sole and absolute discretion.

5.08 Working Capital Fee.

(a) Due Upon Sale. Except as otherwise provided herein, a working capital fee, in such amount as may be determined by the Board from time to time in its sole and absolute discretion, will be payable upon the sale of each Lot and Condominium Unit. The working capital fee will be collected from the transferee when the sale of the Lot or Condominium Unit closes to an Owner. Contributions to the fund are not advance payments of any other Assessments levied hereunder and are not refundable. Declarant is not required to make contributions for any Lot or Condominium Unit owned or retained by Declarant, or for any Lot or Condominium Unit for which the contribution was not collected at closing. During the Development Period, Declarant must approve the amount of any working capital fee adopted by the Board.

(b) Exempt Transfers. Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent. Additionally, a Homebuilder will not be subject to the working capital fee; however, the working capital fee will be payable by any Owner who acquires a Lot and/or a Condominium Unit from a Homebuilder for residential living purposes or by any Owner who: (i) acquires a Lot and/or a Condominium Unit and is not in the business of constructing single-family residences for resale to a third party; or (ii) who acquires the Lot for any purpose other than constructing a single-family residence (including a Condominium Unit) thereon for resale to a third party. In the event of any dispute regarding the application of the working capital fee to a particular Owner, Declarant's determination regarding application of the exemption will be binding and conclusive without regard to any contrary interpretation of this *Section 5.08*. The working capital fee will be in addition to, not in lieu of, any other assessments levied in accordance with this *Article 5* and will not be considered an advance payment of such assessments. The working capital fee will be due and payable by the transferee to the Association

immediately upon each transfer of title to the Lot or Condominium Unit, including upon transfer of title from one Owner of such Lot or Condominium Unit to any subsequent purchaser or transferee thereof. The Association will have the power to waive the payment of any working capital fee attributable to a Lot or Condominium Unit by the recordation in the Official Public Records of Travis County, Texas of a waiver notice executed by a majority of the Board members of the Association.

5.09 Amount of Assessment.

(a) Assessments to be Levied. The Board will levy Assessments against each Lot and Condominium Unit in proportion to the number of "Assessment Units" allocated to the Lot or Condominium Unit as provided in *Section 5.09(b)*. Unless otherwise provided in this Master Covenant, Assessments levied pursuant to *Section 5.03* and *Section 5.07* will be levied against each Lot and Condominium Unit. Special Common Area Assessments levied pursuant to *Section 5.04* will be levied against only those Lots and/or Condominium Units that have been designated as a beneficiary of the Special Common Area to which such Special Common Area Assessment relates. Service Area Assessments levied pursuant to *Section 5.05* will be levied against only those Lots and/or Condominium Units that have been included in the Service Area to which such Service Area Assessment relates.

(b) Assessment Unit. Each Residential Lot will constitute one "Assessment Unit" unless otherwise provided in *Section 5.09(c)*. Each Commercial Lot and Condominium Unit will constitute that number of Assessment Units as determined by Declarant at the time that the Development Area Declaration is first recorded in the Official Public Records of Travis County, Texas for the Development Area within which such Commercial Lot or Condominium Unit is located. Declarant will determine such Assessment Units in its sole and absolute discretion, taking into account, among other things, the relationship of such Commercial Lots or Condominium Units to the entire Development. Declarant's determination regarding the number of Assessment Units applicable to each Commercial Lot or Condominium Unit will be final, binding and conclusive. Such determination of Declarant may also be set forth in the Notice of Applicability filed by Declarant pursuant to *Section 9.05* for the Development Area within which such Commercial Lot(s) or Condominium Unit(s) are located. Declarant, in its sole and absolute discretion, may modify or amend the number of Assessment Units previously assigned to a Commercial Lot or Condominium Unit if the Improvements actually constructed on the Commercial Lot or Condominium Unit differ substantially from the Improvements contemplated to be constructed thereon at the time the notice allocating Assessment Units thereto was originally recorded. In the event of a modification to the Assessment Units allocated to a Commercial Lot or Condominium Unit, Declarant will execute and record an amended notice setting forth the revised Assessment Units attributable to the Commercial Lot or Condominium Unit.

(c) Residential Assessment Allocation. Declarant, in Declarant's sole and absolute discretion, may elect to allocate more than one Assessment Unit to a Residential Lot. An allocation of more than one Assessment Unit to a Residential Lot must be made in a notice executed and recorded by Declarant pursuant to *Section 9.05* or in a Development Area Declaration for the Development in which the Residential Lot is located. Declarant's determination regarding the number of Assessment Units applicable to a Residential Lot pursuant to this *Section 5.09(c)* will be final, binding and conclusive.

(d) Modification of Allocation. Prior to the time any Lots or Condominium Units in such Development Area are conveyed to any person not affiliated with Declarant, Declarant may also modify its determination regarding the allocation of Assessment Units by filing a notice in the Official Public Records of Travis County, Texas, setting forth the amended allocation.

(e) Declarant Exemption. Notwithstanding anything in this Master Covenant to the contrary, no Assessments will be levied upon Lots or Condominium Units owned by Declarant.

(f) Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Development, Lot or Condominium Unit from Assessments; or (ii) exempt or delay the levy of Assessments against any un-platted, unimproved or improved portion of the Development, Lot or Condominium Unit during a specified period of time.

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

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

including reasonable attorneys fees. Such amounts will be levied as an Individual Assessment against the Lot or Condominium Unit owned by such Owner.

5.12 Application of Payments. The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Special Assessments, Service Area Assessments, Special Common Area Assessments and (lastly) Regular Annual Assessments. 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 Association'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 Owner's account.

5.13 Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this *Article 5* is, together with late charges as provided in *Section 5.10* and interest as provided in *Section 5.11* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01(b)* above, and will bind each Lot or Condominium Unit in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot or Condominium Unit, except only for tax liens and all sums secured by a first mortgage lien or first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot or Condominium Unit in question, provided such Mortgage was recorded in the Official Public Records of Travis County, Texas before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot or Condominium Unit covered by such lien and a description of the Lot or Condominium Unit. Such notice may be signed by one of the officers of the Association and will be recorded in the Official Public Records of Travis County, Texas. Each Owner, by accepting a deed or ownership interest to a Lot or Condominium Unit subject to this Master Covenant, will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. Such lien for payment of Assessments may be enforced by the non-judicial foreclosure of the defaulting Owner's Lot or Condominium Unit by the Association in like manner as a real property mortgage with power of sale under Tex. Prop. Code § 51.002. (For such purpose, Robert D. Burton of Travis County, Texas, is hereby designated as trustee for the benefit of the Association, with the Association retaining the power to remove any trustee with or without cause and to appoint a successor trustee without the consent or joinder of any other

person.) The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have by law and under this Master Covenant, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien judicially. In any foreclosure proceeding, whether judicial or non-judicial, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than thirty (30) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot or Condominium Unit; except, however, that in the event of foreclosure of any first-lien Mortgage securing indebtedness incurred to acquire such Lot or Condominium Unit, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the first lien Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.13*, the Association will, upon the request of the Owner, execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release will be signed by an officer of the Association. **NOTWITHSTANDING ANY PROVISION IN THIS SECTION 5.13 TO THE CONTRARY, THE ASSOCIATION WILL NOT HAVE THE AUTHORITY TO FORECLOSE ON A CONDOMINIUM UNIT FOR NON-PAYMENT OF ASSESSMENTS IF THE ASSESSMENTS CONSIST SOLELY OF FINES.** In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such twelve (12) day period) to such Owner, in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility or cable service provided through the Association and not paid for directly by a Owner or Occupant to the utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Utility or cable service will not be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by applicable law, the sale or transfer of a Lot or Condominium Unit will not relieve the Owner of such Lot or Condominium Unit or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner

conveys its Lot or Condominium Unit and on the date of such conveyance Assessments against the Lot or Condominium Unit remain unpaid, or said Owner owes other sums or fees under this Master Covenant to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot or Condominium Unit, and such sums will be paid in preference to any other charges against the Lot or Condominium Unit other than a first lien Mortgage or Assessment Liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot or Condominium Unit which are due and unpaid. The Owner conveying such Lot or Condominium Unit will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot or Condominium Unit also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot or Condominium Unit to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot or Condominium Unit from Declarant to a third party.

Yes, the Association *can* foreclose on your Lot or Condominium Unit!

If you fail to pay assessments to the Association, you may LOSE TITLE TO YOUR LOT OR CONDOMINIUM UNIT if the Association forecloses its assessment lien.

5.14 Exempt Property. The following area within the Development will be exempt from the Assessments provided for in this Article:

- (i) All area dedicated and accepted by public authority, by the recordation of an appropriate document in the Official Public Records of Travis County, Texas;
- (ii) The Master Community Facilities and the Special Common Area;
and
- (iii) Any portion of the Property or Development owned by Declarant.

No portion of the Property will be subject to the terms and provisions of this Master Covenant, and no portion of the Property (or any owner thereof) will be obligated to pay Assessments hereunder, unless and until such Property has been made subject to the terms of this Master Covenant by the filing of a Notice of Applicability in accordance with Section 9.05 below.

5.15 Fines and Damages Assessment.

- (a) Board Assessment. The Board may assess fines against an Owner for violations of any restriction set forth in this Master Covenant, any Development Area Declaration, the Design Guidelines, or any rules adopted by the Board which have been

committed by an Owner, an Occupant of the Owner's Lot or Condominium Unit, or the Owner or Occupant's family, guests, employees, contractors, agents or invitees. Any fine and/or charge for damage levied in accordance with this *Section 5.15* will be considered an Assessment pursuant to this Master Covenant. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Master Community Facilities or Special Common Area or any facilities located by the Owner or the Owner's family, guests, agents, Occupants, or tenants. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the rules and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

(b) Procedure. The procedure for assessment of fines and damage charges will be as follows:

- (i) the Association, acting through an officer, Board member or Manager, must give the Owner notice of the fine or damage charge not later than thirty (30) days after the assessment of the fine or damage charge by the Board;
- (ii) the notice of the fine or damage charge must describe the violation or damage;
- (iii) the notice of the fine or damage charge must state the amount of the fine or damage charge;
- (iv) the notice of a fine or damage charge must state that the Owner will have thirty (30) days from the date of the notice to request a hearing before the Board to contest the fine or damage charge; and
- (v) the notice of a fine must allow the Owner a reasonable time, by a specified date, to cure the violation and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months.

(c) Due Date. Fine and/or damage charges are due immediately after the expiration of the thirty (30) day period for requesting a hearing. If a hearing is requested, such fines or damage charges will be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

(d) Lien Created. The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot or Condominium Unit is, together with any late

charges as provided in *Section 5.10* and interest as provided in *Section 5.11* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 5.01(b)* of this Master Covenant. Unless otherwise provided in this *Section 5.15*, the fine and/or damage charge will be considered an Assessment for the purpose of this Article, and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this *Article 5*.

ARTICLE 6

ARCHITECTURAL COVENANTS AND CONTROL

6.01 Purpose. This Master Covenant creates rights to regulate the design, use, and appearance of the Lots and Condominium Units 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, inappropriate or peculiar in comparison to the then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing Improvements, including but not limited to dwellings, buildings, fences, landscaping, retaining walls, yard art, sidewalks, and driveways, and further including replacements or modifications of original construction or installation. Until expiration or termination of the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

6.02 Architectural Reviewer. The purposes of this Article shall be undertaken by the Architectural Reviewer. Until expiration or termination of the Development Period, the Architectural Reviewer shall mean Declarant or its designee. Upon expiration or termination of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Architectural Control Committee appointed by the Board as provided in *Section 6.04* below. In furtherance of the purposes of this Article, the Architectural Reviewer may adopt Design Guidelines as more fully set forth in *Section 6.06(b)* below.

6.03 Architectural Control by Declarant.

(a) **Declarant as Architectural Reviewer.** During the Development Period, the Architectural Reviewer shall mean Declarant or its designee, and neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of any Improvements. Declarant may designate one or more persons from time to time to act on its behalf as the Architectural Reviewer in reviewing and responding to applications pursuant to this Article.

(b) **Declarant's Rights Reserved.** Each Owner, by accepting an interest in or title to a Lot or Condominium Unit, 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 without the prior written approval of the Architectural Reviewer, which approval may be granted or withheld at the Architectural Reviewer's sole discretion. In reviewing and acting on an application for approval, the Architectural Reviewer may act solely in its self-interest and owes no duty to any other person or any organization.

(c) 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 as Architectural Reviewer under this Article 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 to: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) veto any decision which Declarant, in its sole discretion, determines to be inappropriate or inadvisable for any reason.

6.04 Architectural Control by Association.

(a) Association as Architectural Reviewer. Upon Declarant's delegation in writing of all or a portion of its reserved rights as Architectural Reviewer to the Board, or upon the expiration or termination of the Development Period, the Association, acting through an Architectural Control Committee (the "ACC") will assume jurisdiction over architectural control and will have the powers of the Architectural Reviewer hereunder.

(b) ACC. The ACC will consist of at least three (3) but not more than seven (7) persons appointed by the Board. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC will be construed to mean the Board. Members of the ACC need not be Owners or Occupants, 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.

6.05 Prohibition of Construction, Alteration and Improvement. No Improvement, or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction thereof may be constructed or occur unless approved in advance by the Architectural Reviewer. 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. Notwithstanding the foregoing, each Owner will have the right to modify, alter, repair, decorate, redecorate, or improve the interior of an

Improvement, provided that such action is not visible from any other portion of the Development or Property.

**NO IMPROVEMENT MAY BE CONSTRUCTED, ALTERED, OR MODIFIED
WITHOUT THE ADVANCE WRITTEN APPROVAL OF THE ARCHITECTURAL REVIEWER.**

6.06 Architectural Approval.

(a) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots or Condominium Units, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines or any additional rules adopted by the Architectural Reviewer, together with any review fee which is imposed by the Architectural Reviewer in accordance with *Section 6.06(b)*. Contact information for the Architectural Reviewer will be set forth in the Design Guidelines. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot or Condominium Unit, until the plans and specifications and the builder which the Owner intends to use to construct the proposed structure or Improvement have been approved in writing by the Architectural Reviewer. The Architectural Reviewer may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Architectural Reviewer or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Architectural Reviewer may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the Architectural Reviewer, in its sole discretion, may require. Site plans must be approved by the Architectural Reviewer prior to the clearing of any Lot, or the construction of any Improvements. The Architectural Reviewer may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot or Condominium Unit on any grounds that, in the sole and absolute discretion of the Architectural Reviewer, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(b) Design Guidelines. The Architectural Reviewer will have the power, from time to time, to adopt, amend, modify, or supplement the Design Guidelines. In the event of any conflict between the terms and provisions of the Design Guidelines and the terms and provisions of this Master Covenant, the terms and provisions of this Master Covenant will control. In addition, the Architectural Reviewer will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Master Covenant. Such charges will be held by the Architectural Reviewer and used to defray the administrative expenses incurred by the Architectural Reviewer in performing its duties hereunder; provided,

however, that any excess funds held by the Architectural Reviewer will be distributed to the Association at the end of each calendar year. The Architectural Reviewer will not be required to review any plans until a complete submittal package, as required by this Master Covenant and the Design Guidelines, is assembled and submitted to the Architectural Reviewer. The Architectural Reviewer will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for a compliance deposit, certificates of compliance or completion relating to any Improvement, and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Master Covenant, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(c) Failure to Act. In the event that any plans and specifications are submitted to the Architectural Reviewer as provided herein, and the Architectural Reviewer fails to either approve or reject such plans and specifications for a period of sixty (60) days following such submission, the plans and specifications will be deemed disapproved.

(d) Variances. The Architectural Reviewer may grant variances from compliance with any of the provisions of this Master Covenant or any Development Area Declaration, including, but not limited to, restrictions upon height, size, shape, floor areas, land area, placement of structures, set-backs, building envelopes, colors, materials, or land use, when, in the opinion of the Architectural Reviewer, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and, if Declarant has assigned its rights to the ACC, must be approved by at least a majority of the members of the ACC. Each variance must also be recorded in the Official Public Records of Travis County, Texas; provided, however, that failure to record a variance will not affect the validity thereof or give rise to any claim or cause of action against the Architectural Reviewer, including the Declarant or its designee, the Association, the Board or the ACC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Master Covenant or any Development Area Declaration will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of this Master Covenant, or any Development Area Declaration, for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of this Master Covenant or any Development Area Declaration.

(e) Duration of Approval. The approval of the Architectural Reviewer of any final plans and specifications, and any variances granted by the Architectural Reviewer will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such

one hundred and twenty (120) day period and diligently prosecuted to completion thereafter, the Owner will be required to resubmit such final plans and specifications or request for a variance to the Architectural Reviewer, and the Architectural Reviewer will have the authority to re-evaluate such plans and specifications in accordance with this *Section 6.06(e)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

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

6.07 Limits on Liability.

(a) The Architectural Reviewer has sole discretion with respect to taste, design, and all standards specified by this Article. The Architectural Reviewer shall have no liability for decisions made in good faith, and which are not arbitrary or capricious. The Architectural Reviewer is not responsible for: (i) errors in or omissions from the plans and specifications submitted to it; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

(b) THE ARCHITECTURAL REVIEWER WILL NOT BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL REVIEWER'S DUTIES UNDER THIS MASTER COVENANT, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS DUE TO THE WILLFUL MISCONDUCT OR BAD FAITH OF THE ARCHITECTURAL REVIEWER OR ONE OR MORE INDIVIDUALS ACTING ON ITS BEHALF, AS THE CASE MAY BE.

ARTICLE 7 MORTGAGE PROVISIONS

7.01 Applicability. The provisions of this *Article 7* are for the benefit of holders, insurers and guarantors of first Mortgages on Lots or Condominium Units within the Development. The provisions of this Article apply to the Master Covenant and the Bylaws of the Association.

7.02 Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name

and address of such holder, insurer, or guarantor and the street address of the Lot or Condominium Unit to which its Mortgage relates (thereby becoming an "Eligible Mortgage Holder"), will be entitled to timely written notice of:

- (i) any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot or Condominium Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or
- (ii) any delinquency in the payment of assessments or charges owed for a Lot or Condominium Unit subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Master Restrictions relating to such Lot or Condominium Unit or the Owner or Occupant which is not cured within sixty (60) days; or
- (iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

7.03 Examination of Books. The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

7.04 Taxes, Assessments and Charges. All taxes, assessments and charges that may become liens prior to first lien mortgages under applicable law will relate only to the individual Lots or Condominium Units and not to any other portion of the Development.

ARTICLE 8 EASEMENTS

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

8.02 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Development becoming subject to this Master Covenant are incorporated herein by reference and made a part of this Master Covenant for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way,

dedications, limitations, reservations and grants for the purpose of most efficiently and economically developing the Development.

8.03 Subdivision Entry, Fencing and Landscape Easements. Declarant hereby reserves, for itself and the Association, an easement over and across the Development for the installation, maintenance, repair or replacement of certain subdivision entry facilities, fencing and landscaping which serves the Development. Declarant will have the right, from time to time, to execute and record a written notice in the Official Public Records of Travis County, Texas, which identifies the subdivision entry facilities, fencing or landscaping to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities, fencing or landscaping as Master Community Facilities or Special Common Area by written notice recorded in the Official Public Records of Travis County, Texas. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or residence or Improvement constructed thereon.

8.04 Easement for Construction of Nature Trail. Declarant hereby reserves, for itself and the Association, an easement over and across the Development for the installation of a nature trail and related facilities in or in the vicinity of the Development (the "Nature Trail Facilities"), and for the maintenance, repair or replacement of the Nature Trail Facilities as may be necessary from time to time. Upon completion of the initial construction of the Nature Trail Facilities and upon completion of any addition thereto, Declarant will execute and record a written notice in the Official Public Records of Travis County, Texas which includes a legally sufficient description of the real property upon which the Nature Trail Facilities are located. Upon recordation of such notice, the easement retained in this *Section 8.04* shall run over and across only that real property described in such notice. Declarant may designate all or any portion of the Nature Trail Facilities as Master Community Facilities or Special Common Area by written notice recorded in the Official Public Records of Travis County, Texas. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or Condominium Unit or residence or Improvement constructed thereon which is approved by the Architectural Reviewer.

8.05 Easements for Special Events. Declarant hereby reserves, for itself and the Association, and their successors, assigns, and designees, a perpetual, non-exclusive easement over the Master Community Facilities or applicable Special Common Area for the purpose of: (i) conducting parades; (ii) running, fishing, biking or other sporting events; (iii) educational, cultural, artistic, musical and entertainment activities; and (iv) other activities of general community interest, at such locations and times as Declarant and/or the Association, in their reasonable discretion, deem appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot or Condominium Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the

Occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement.

ARTICLE 9 DEVELOPMENT RIGHTS

9.01 Development by Declarant. It is contemplated that the Development will be developed pursuant to a coordinated plan, which may, from time to time, be amended or modified. Declarant reserves the right, but not the obligation, to designate Development Areas, to create and/or designate Lots, Special Common Areas and Master Community Facilities and to subdivide with respect to any of the Development pursuant to the terms of this *Section 9.01*, subject to any limitations imposed on portions of the Development by any applicable Plat. These rights may be exercised with respect to any portions of the Property in accordance with *Section 9.05*. As each area is developed or dedicated, Declarant may record one or more Development Area Declarations and designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area. Any Development Area Declaration may provide its own procedure for the amendment of any provisions. All lands, Improvements, and uses in each area so developed will be subject to both this Master Covenant and the Development Area Declaration, if any, for that Development Area.

9.02 Special Declarant Rights. Notwithstanding any provision of this Master Covenant to the contrary, at all times, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots or Condominium Units in the Development; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Development. The construction placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 9.02* until two (2) years after Declarant no longer owns any portion of the Property. Declarant hereby retains an easement over and across the Master Community Facilities and Special Common Area to effectuate any purpose enumerated in this *Section 9.02*.

9.03 Addition of Land. Declarant may, at any time and from time to time, add additional lands to the Property. To add lands to the Property, Declarant will be required only to record in the Official Public Records of Travis County, Texas, a Notice of Addition of Land (which notice may be contained within any Development Area Declaration affecting such land) containing the following provisions: (i) a reference to this Master Covenant, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Master Covenant is recorded; (ii) a statement that such land will be considered Property for purposes of this Master Covenant, and that upon the further filing of a Notice of Applicability meeting the requirements of *Section 9.05* of this Master Covenant, all of the terms,

covenants, conditions, restrictions and obligations of this Master Covenant will apply to the added land; and (iii) a legal description of the added land. Upon the filing of a Notice of Addition of Land, such land will be considered part of the Property for purposes of this Master Covenant, and upon the further filing of a Notice of Applicability meeting the requirements of *Section 9.05* below, such added lands will be considered part of the Development subject to this Master Covenant and the terms, covenants, conditions, restrictions and obligations set forth in this Master Covenant, and the rights, privileges, duties and liabilities of the persons subject to this Master Covenant will be the same with respect to such added land as with respect to the lands originally covered by this Master Covenant.

9.04 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw from the Property, including the Development, and remove and exclude from the burden of this Master Covenant and the jurisdiction of the Association: (i) any portions of the Development which have not been included in a Plat; (ii) any portion of the Development included in a Plat if Declarant owns all Lots described in such Plat; and (iii) any portions of the Development included in a Plat even if Declarant does not own all Lot(s) described in such Plat, provided that Declarant obtains the written consent of all other Owners of Lot(s) described in such Plat. Upon any such withdrawal and removal, this Master Covenant and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development withdrawn. To withdraw lands from the Development hereunder, Declarant will be required only to record in the Official Public Records of Travis County, Texas, a Notice of Withdrawal of Land containing the following provisions: (i) a reference to this Master Covenant, which reference will state the volume and initial page number of the Official Public Records of Travis County wherein this Master Covenant is recorded; (ii) a statement that the provisions of this Master Covenant will no longer apply to the withdrawn land; and (iii) a legal description of the withdrawn land.

9.05 Notice of Applicability. Upon the filing in the Official Public Records of Travis County, Texas, this Master Covenant serves to provide notice that at any time, and from time to time, all or any portion of the Property may be made subject to the terms, covenants, conditions, restrictions and obligations of this Master Covenant. This Master Covenant will apply to and burden a portion or portions of the Property upon the filing of a Notice of Applicability describing such Property by a legally sufficient description and expressly providing that such Property will be considered a part of the Development and will be subject to the terms, covenants conditions, restrictions and obligations of this Master Covenant. To be effective, a Notice of Applicability must be executed by Declarant and the record title owner of the Property being made subject to this Master Covenant if such Property is not owned by Declarant, Las Ventanas Land Partners, Ltd. or JH West Land Ventures, Ltd, each a Texas limited partnership. Declarant may also cause a Notice of Applicability to be filed covering a portion of the Property for the purpose of encumbering such Property with this Master Covenant and any Development Area Declaration previously recorded by Declarant (which Notice of Applicability may amend, modify or supplement the restrictions, set forth in the

Development Area Declaration, which will apply to such Property). To make the terms and provisions of this Master Covenant applicable to a portion of the Property, Declarant will be required only to cause a Notice of Applicability to be recorded containing the following provisions:

- (i) a reference to this Master Covenant, which reference will state the volume and initial page number of the Official Public Records of Travis County, Texas wherein this Master Covenant is recorded;
- (ii) a reference, if applicable, to the Development Area Declaration which will apply to such portion of the Property (with any amendment, modification, or supplementation of the restrictions set forth in the Development Area Declaration which will apply to such portion of the Property), which reference will state the volume and initial page number of the Official Public Records of Travis County, Texas wherein the Development Area Declaration is recorded;
- (iii) a statement that all of the provisions of this Master Covenant will apply to such portion of the Property;
- (iv) a legal description of such portion of the Property; and
- (v) if applicable, a description of any Special Common Area which benefits the Property and the beneficiaries of such Special Common Area.

NOTICE TO TITLE COMPANY

NO PORTION OF THE PROPERTY IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS MASTER COVENANT AND THIS MASTER COVENANT DOES NOT APPLY TO ANY PORTION OF THE PROPERTY UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PROPERTY AND REFERENCING THIS MASTER COVENANT HAS BEEN RECORDED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

9.06 Assignment of Declarant's Rights. Notwithstanding any provision in this Master Covenant to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of their respective privileges, exemptions, rights, and duties under this Covenant or under any Development Area Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

ARTICLE 10 DISPUTE RESOLUTION

10.01 Agreement to Encourage Resolution of Disputes without Litigation.

(a) Bound Parties. Declarant, the Association, including its officers, directors, and committee members, Owners and all other parties subject to this Master Covenant (each, a "**Bound Party**," and collectively, the "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Development without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a "**Claim**" described in subsection (b) unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in *Section 10.02* in a good faith effort to resolve such Claim.

(b) Claims(s). As used in this Article, the term "Claim" or "Claims" will refer to any claim, grievance or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Master Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board;

(ii) the rights, obligations, and duties of any Bound Party under the Master Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board; or

(iii) the design or construction of Improvements within the Development, other than matters of aesthetic judgment under *Article 6*, which will not be subject to review.

(c) Not Considered Claims. The following will not be considered a "Claim" or "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 10.02*:

(i) any legal proceeding by the Association to collect assessments or other amounts due from any Owner;

(ii) any legal proceeding by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Master Covenant;

- (iii) any legal proceeding which does not include Declarant or the Association as a party, if such action asserts a Claim which would constitute a cause of action independent of the Master Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board;
- (iv) any legal proceeding in which any indispensable party is not a Bound Party;
- (v) any action by the Association to enforce the easements, architectural control, maintenance and/or use restrictions under this Covenant; and
- (vi) any legal proceeding as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 10.02(a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

10.02 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") will give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation.

(i) If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 10.02(a)* (or within such other period as the parties may agree upon), the Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Travis County, Texas.

(ii) If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

(iii) If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined 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. The Claimant will thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

(iv) Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) Settlement. 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 such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this *Section 10.02(d)*. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

10.03 Initiation of Litigation by Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association will not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the votes in the Association, excluding the votes held by Declarant, except that no such approval will be required for actions or proceedings:

- (i) initiated during the Development Period;
- (ii) initiated to enforce the provisions of the Master Covenant, any Development Area Declaration, the Design Guidelines, the Certificate, Bylaws, and rules and regulations adopted by the Board, including collection of assessments and foreclosure of liens;
- (iii) initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (iv) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (v) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against the Association.

This Section 10.03 will not be amended unless such amendment is approved by Members representing the same percentage of votes necessary to institute proceedings as provided above AND, during the Development Period, the Declarant.

ARTICLE 11

GENERAL PROVISIONS

11.01 Term. Upon the recording of a Notice of Applicability pursuant to *Section 9.05*, the terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Master Covenant will run with and bind the portion of the Property described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and its respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Master Covenant is recorded in the Official Records of Travis County, Texas, and continuing through and including January 1, 2059, after which time this Master Covenant will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved in a resolution adopted by Members entitled to cast at least seventy percent (70%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the recording of a certified copy of such resolution in the Official Public Records of Travis County, Texas. Notwithstanding any provision in this *Section 11.01* to the contrary, if any provision of this Master Covenant would be unlawful, void or voidable by reason of any Texas law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death or the last survivor of the now living descendants of Elizabeth II, Queen of England.

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

11.03 Amendment.

(a) During the Development Period.

(i) *By Declarant.* During the Development Period, this Master Covenant may be amended or terminated by the recording in the Official Public Records of Travis County, Texas of an instrument executed and acknowledged by the Declarant acting alone and unilaterally. Specifically, and not by way of limitation, during the Development Period, Declarant may unilaterally amend this Master Covenant and any Development Area Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or Condominium Unit; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots and/or Condominium Units; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

(ii) *By the Members.* During the Development Period, Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast in the Association may approve an amendment to this Master Covenant at a meeting duly called for such purpose. However, no such amendment shall be effective unless and until it has also been approved by the Declarant. To be effective, an instrument setting forth

the amendment must be executed by the Declarant and the President and the Secretary of the Association, and shall include a certification by the President and Secretary of the Association that the amendment has been approved by Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast by members of the Association.

(b) Upon Expiration or Termination of the Development Period. Upon expiration or termination of the Development Period, Members entitled to cast at least seventy percent (70%) of the number of votes entitled to be cast in the Association may approve an amendment to this Master Covenant at a meeting duly called for such purpose. To be effective, an instrument setting forth the amendment must be executed by the President and the Secretary of the Association, and shall include a certification by the President and Secretary of the Association that the amendment has been approved by Members entitled to cast at least seventy percent (70%) of the number of votes entitled in the Association.

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

NOTICE

Users of the Master Restrictions should periodically review statutes and court rulings that may modify or nullify the terms and provisions of those documents or their enforcement, or which may create rights or duties not contemplated therein.

11.05 Severability. If any provision of this Master Covenant is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Master Covenant, or, to the extent permitted by applicable law, the validity of such provision as applied to any other person or entity.

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

11.07 Gender. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

11.08 Acceptance by Grantees. Each grantee of Declarant of a Lot, Condominium Unit, or other real property interest in the Development, by the acceptance of a deed of conveyance, or each subsequent purchaser, accepts the same subject to all terms, restrictions,

conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Master Covenant or to whom this Master Covenant is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each grantee agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development, and will bind any person having at any time any interest or estate in the Development, and will inure to the benefit of each Owner in like manner as though the provisions of this Master Covenant were recited and stipulated at length in each and every deed of conveyance.

11.09 Declarant as Attorney in Fact. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of this Master Covenant, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of this Master Covenant. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party.

11.10 No Partition. Except as may be permitted in this Master Covenant or amendments thereto, no physical partition of the Master Community Facilities or Special Common Area or any part will be permitted, nor will any person acquiring any interest in the Development or any part seek any such judicial partition unless the Development in question has been removed from the provisions of this Master Covenant pursuant to *Section 9.04* below. This *Section 11.11* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Master Covenant, nor will this provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Texas Uniform Condominium Act.

11.11 Notices. Any notice permitted or required to be given to any person by this Master Covenant will be in writing and may be delivered either personally or by mail. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the

Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

11.12 Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant and the Association shall have the right to enforce all of the provisions of this Master Covenant. The Association may initiate, defend or intervene in any action brought to enforce any provision of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision hereof.

(b) Every act or omission whereby any provision of the Master Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner (at such Owner's own expense), Declarant or the Association.

(c) Any violation of any federal, state, or local law, ordinance, or regulation pertaining to the ownership, occupancy, or use of any portion of the Development is hereby declared to be a violation of this Master Covenant and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of the Master Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Master Restrictions.

11.13 View Impairment. Neither the Declarant nor the Association guarantee or represent that any view over and across the Lots, Condominium Units or any open space within the Development will be preserved without impairment. Neither the Declarant nor the Association shall have any obligation to relocate, prune, or thin trees or other landscaping to preserve or restore views. The Association (with respect to any Master Community Facilities or Special Common Area) will have the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

11.14 Safety and Security.

(a) **Owner Responsibility.** Each Owner and Occupant of a Lot or Condominium Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Development. The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to promote or enhance the level of safety or security which each person provides for himself and his property. However, neither the Association nor the Declarant shall in any way be considered insurers or guarantors of safety or security

within the Development, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) No Representation or Warranty. No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Development, cannot be compromised or circumvented; or that any such system or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Occupants of such Owner's Lot or Condominium Unit that the Association, its Board and committees, and the Declarant are not insurers or guarantors of security or safety and that each Person within the Development assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot or Condominium Unit and the contents of thereof, resulting from acts of third parties.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective on the date this instrument is recorded in the Official Public Records of Travis County, Texas.

DECLARANT:

ROUGH HOLLOW DEVELOPMENT, LTD., a
Texas limited partnership

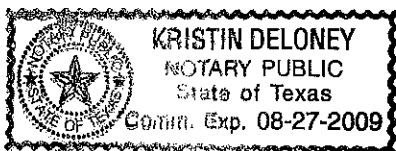
By: JHLV GP, Inc., a Texas corporation, its
General Partner

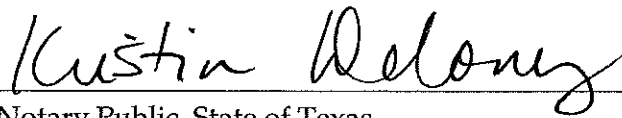
By: 
Haythem Dawlett, Vice President

STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me on the 6th day of April, 2009, by Haythem Dawlett, Vice President of JHLV GP, Inc., a Texas corporation, general partner of Rough Hollow Development, Ltd, a Texas limited partnership on behalf of said corporation and partnership.

[seal]





Notary Public, State of Texas

LAS VENTANAS:

LAS VENTANAS LAND PARTNERS, LTD., a
Texas limited partnership

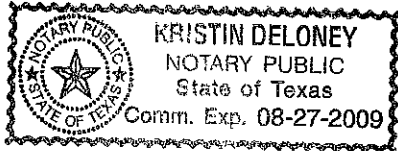
By: JHLV GP, Inc., a Texas corporation, its
General Partner

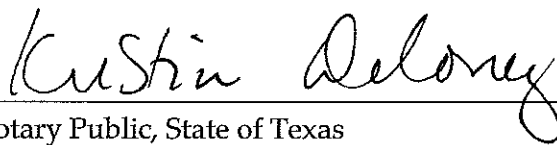
By: 
Haythem Dawlett, Vice President

STATE OF TEXAS §
 §
COUNTY OF Texas §

This instrument was acknowledged before me on the 6th day of April, 2009, by
Haythem Dawlett, Vice President of JHLV GP, Inc., a Texas corporation, general partner of Las
Ventanas Land Partners, Ltd, a Texas limited partnership on behalf of said corporation and
partnership.

[seal]




Notary Public, State of Texas

JH WEST:

JH WEST LAND VENTURES, LTD., a Texas
limited partnership

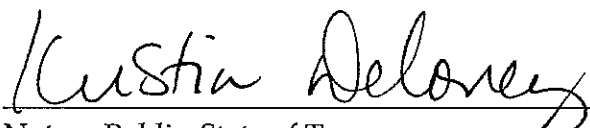
By: JHLV GP, Inc., a Texas corporation, its
General Partner

By: 
Haythem Dawlett, Vice President

STATE OF TEXAS §
 §
COUNTY OF Tarrant §

This instrument was acknowledged before me on the 6th day of April, 2009, by Haythem Dawlett, Vice President of JHLV GP, Inc., a Texas corporation, general partner of JH West Land Ventures, Ltd, a Texas limited partnership on behalf of said corporation and partnership.

[seal]


Notary Public, State of Texas

CONSENT OF MORTGAGEE

The undersigned, being the sole owner and holder of the liens established by those certain deeds of trust, each dated September 21, 2007, recorded as Document Nos. 2007180061, 2007180062, and 2007180063 in the Official Public Records of Travis County, Texas, each of which secures two notes of even date therewith, one in the original principal amount of \$29,112,868, and the other in the original principal amount of \$24,721,839, executes this Declaration solely for the purpose of evidencing its consent to this Declaration.

**FIRST HORIZON HOME LOANS, A DIVISION
OF FIRST TENNESSEE BANK NATIONAL
ASSOCIATION**

By: 

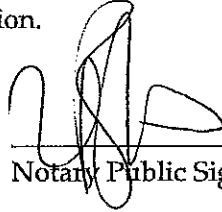
Printed Name: Damon Petticossi

Title: SUP

STATE OF Georgia §
§
COUNTY OF Fulton §

This instrument was acknowledged before me on this 6th day of April, 2009 by _____ of First Horizon Home Loans, a division of First Tennessee Bank National Association.

(seal)

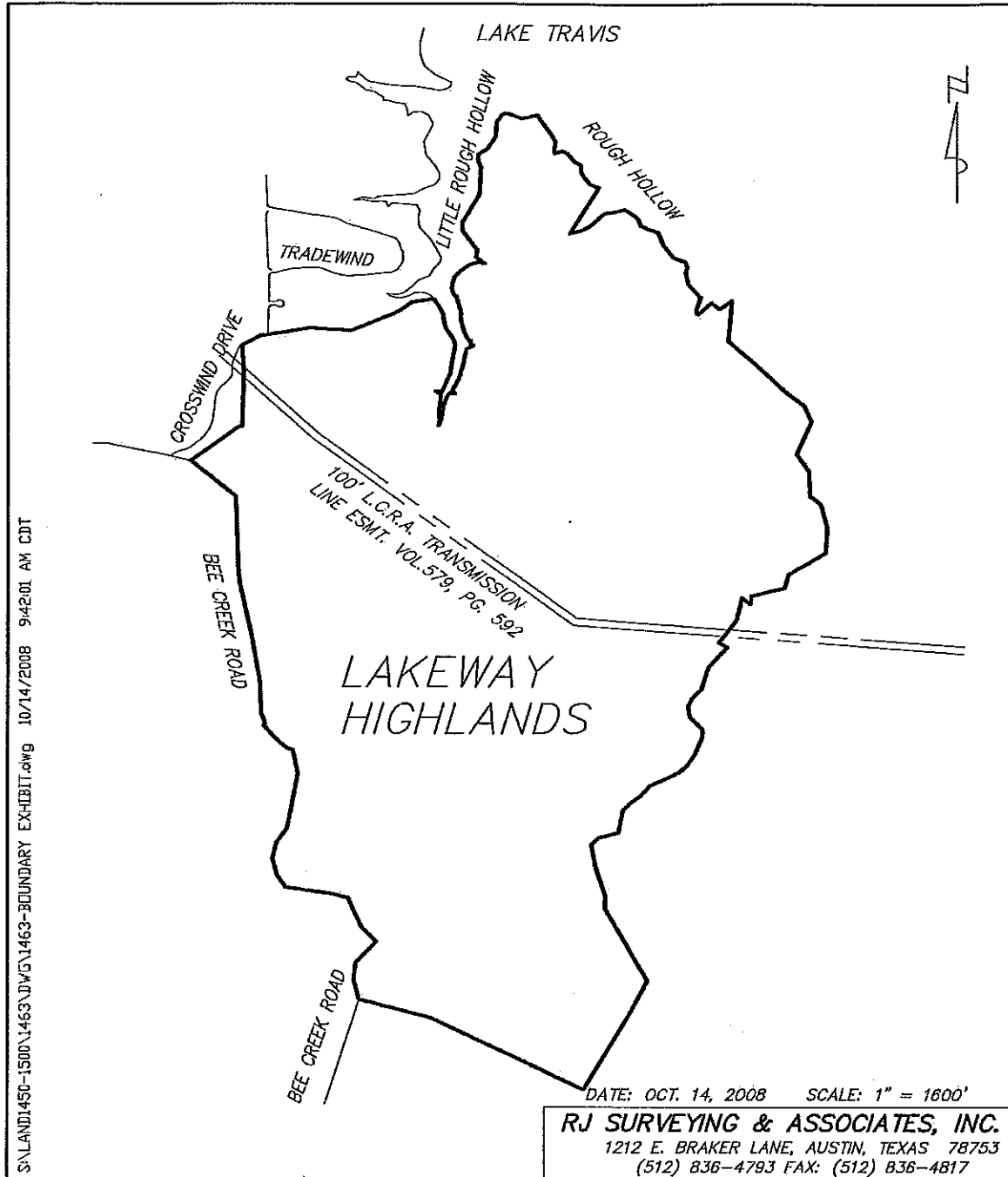


Notary Public Signature

V. RENEE WRIGHT
NOTARY PUBLIC
Gwinnett County
State of Georgia
My Comm. Expires July 18, 2009

EXHIBIT "A"

DESCRIPTION OF PROPERTY



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2009 Apr 09 09:56 AM 2009056508

BENAVIDESV \$288.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.