

**DECLARATION OF
COVENANTS, CONDITIONS & RESTRICTIONS
FOR
KINGDOM ESTATES OF LINDALE
PHASE 1

LINDALE, SMITH COUNTY, TEXAS**

**DECLARANT
KINGDOM BUILDERS DEVELOPMENT, LLC**

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**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS
FOR
KINDOM ESTATES OF LINDALE**

This Declaration of Covenants, Conditions & Restrictions for Kingdom Estates of Lindale is made by KINGDOM BUILDERS DEVELOPMENT, LLC, a Texas corporation (**Declarant**), on the date signed below. Declarant owns the real property described in **Exhibit A** of this Declaration, together with the improvements thereon.

Declarant is developing the real property with a residential community known as "Kingdom Estates of Lindale" (herein so called). Declarant desires to provide for the preservation and maintenance of the Kingdom Estates of Lindale, and to protect the value, desirability, and attractiveness of Kingdom Estates of Lindale. Declarant deems it advisable to create and association to administer the functions and activities more fully described in this Declaration.

Declarant hereby declares that the real property described in **Exhibit A** is subject to this Declaration.

**ARTICLE ONE
DEFINITIONS**

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

- 1.1 Areas of Common Responsibility** means portions of Units or Dwellings that are maintained by the Association, as a common expense.
- 1.2 Articles of Incorporation or Articles** means The Articles of Incorporation of KINGDOM ESTATES OF LINDALE OWNERS ASSOCIATION, INC., as filed with the Secretary of State of the State of Texas.
- 1.3 Assessment** means any charge levied against a Unit or Owner by the Association, pursuant to the Documents, and include Base Assessments, Special Assessments, and Individual Assessments, as defined in Article 5 of this Declaration.
- 1.4 Association** means the Association of Owners of Units in the Property, to be organized as a Texas non-profit corporation named KINGDOM ESTATES OF LINDALE OWNERS ASSOCIATION, INC.
- 1.5 Board** means the Board of Directors of the Association.
- 1.6 Bylaws** means the Bylaws of the Association, as they may be amended from time to time.
- 1.7 Common Area** means certain real and personal property owned or to be owned by the Association for the use and enjoyment of the Members. The initial Common Area is described in Article 2 below.

- 1.8 **Declarant** means KINGDOM BUILDERS DEVELOPMENT, LLC, a Texas corporation, or its successor, who is developing the Property.
- 1.9 **Declarant Control Period** means that period of time, beginning the date this Declaration is recorded, during which Declarant controls the operation and management of the Association, pursuant to **Exhibit D** of this Declaration.
- 1.10 **Declaration** means this document, as it may be amended from time to time.
- 1.11 **Development Period** means that period of time during which the Property is being developed, constructed, or marketed, and extends from the date this Declaration is recorded until title to all of the Units that may be created has been conveyed to Owners other than builders or other persons who purchase Units for the purpose of constructing Dwellings for resale to Owners. The Development Period may not exceed twenty (20) years.
- 1.12 **Director** means a member of the Association's Board.
- 1.13 **Documents** means, singly or collectively as the case may be, this Declaration, the Plat, the Bylaws, the Association's certificate of formation, and the Rules and architectural restrictions of the Association, as any of these may be amended from time to time.
- 1.14 **Dwelling** means the front-entry single-family residence on a Unit, and all other improvements on the Unit. Where the context indicates or requires, "Dwelling" includes the Unit.
- 1.15 **Majority** means more than half.
- 1.16 **Member** means a Member of the Association, each Member being an Owner of a Unit, unless the context indicates that member means a member of the Board or a member of a committee of the Association.
- 1.17 **Mortgage** means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first deed of trust lien against a Unit.
- 1.18 **Officer** means an Officer of the Association and shall include, but shall not be limited to the offices of President (**President**), Secretary (**Secretary**), Treasurer (**Treasurer**), Vice President (**Vice President**) and such other Officers as the Board may designate.
- 1.19 **Owner** means a holder of recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Contract sellers and Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or judicial foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.
- 1.20 **Plat** means all Plats, singly and collectively, recorded or to be recorded in the Real Property Records of Smith County, Texas, and pertaining to Kingdom Estates of Lindale, an

addition to the City of Lindale, including all dedications, limitations, restrictions, easements, and reservations shown on the Plat, as the Plats may be amended from time to time. At any such time that a Plat is recorded, the legal description attached as **Exhibit A** shall be amended to incorporate such Plat.

- 1.21 Property** means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The Property consists of land located within Kingdom Estates of Lindale. The Property is located entirely in the City of Lindale, Smith County, Texas. The Property is located on land described in **Exhibit A** to this Declaration, as shown on the Plat.
- 1.22 Resident** means an occupant of a Dwelling, regardless of whether the person owns the Unit.
- 1.23 Rules** means rules and regulations adopted by the Board in accordance with the Documents.
- 1.24 Underwriting Lender** means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (FHA), Federal National Mortgage Association (Fannie Mae), or Veterans Administration (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner's financing options or as a representation that the Property is approved by an institution.
- 1.25 Unit** means a portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy or a detached residence for single family and Townhouse. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, condominium units, townhouse units, cluster homes, patio or zero Unit lines homes and single-family detached houses on separately platted Units, as well as vacant land intended for development as such, but shall not include Common Areas, or property dedicated to the public. Following the date that this document is recorded with the real property records of Smith County, any owner that acquires multiple Units shall be entitled to one (1) vote per Unit acquired, along with one (1) assessment per Unit acquired, regardless of any subsequent replatting. In the case of a parcel of vacant land or land on which improvements are "under construction," the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Plat or the site plan approved by Declarant, whichever is more recent, until such time as a revised subdivision plat is filed or record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph. The phrase "under construction" when used in this context, shall refer to the time period prior to the issuance of a certificate of occupancy for the structure comprising the residential single-family dwelling.

ARTICLE TWO THE PROPERTY

2.1 PROPERTY. The real property described in Exhibit A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including exhibits to this Declaration, which run with the real property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

2.2 SUBJECT TO DOCUMENTS. The real property subject to this Declaration is also subject to the Plat as shown in Exhibit B, the Bylaws, the Association's Certificate of Formation, and the Rules and Architectural Restrictions, if any, of the Association, as any of these may be amended from time to time.

2.3 DECLARANT'S RIGHTS & RESERVATIONS. The Property and the Documents are subject to the representations, rights, and reservations of Declarant, as stated in Exhibit D of this Declaration. If a provision of Exhibit D conflicts with any other provision of the Documents, the terms of Exhibit D control. Declarant's representations, rights, and reservations are intentionally segregated as an exhibit to facilitate use of this Declaration by Owners after the Declarant-related provisions are obsolete. This Section and every other provision of the Documents that benefits Declarant may not be amended without evidence of Declarant's consent on the instrument of amendment.

2.4 COMMON AREAS. The Common Areas of the Property consist of the following, and any modification of, replacement of, or addition to these:

2.4.1 Park Area. The land described on Exhibit B as Common Area Land. The Declarant will develop these areas in phases as they deem fit.

2.4.2 Maintenance Easement. The sidewalks, lawns, landscaping, and sprinklers and the fence throughout the Property, regardless of whether on a Unit or a public right-of-way.

2.4.3 Property Entrances. (1) signage; (2) planter boxes and fencing; (3) electrical and water installations on utility meters in the Association's name; (4) grass, shrubs, ground cover, and trees served by the Association's sprinkler lines.

2.4.4 Lighting. Any lighting on the Property that is used for common area, to the extent it is not maintained by the City of Lindale.

2.4.5 Personality. Any personal property owned by the Association, such as books and records, office equipment, furniture, etc...

2.4.6 Private Alleys & Gates. The alleys and gates will be deemed accepted by the Association after acceptance and approval by the City of Lindale, regardless of any construction marks on the streets. The Declarant will assign any warranties given by the paving contractor but does not give, make, or provide any other warranties.

2.5 OWNERSHIP OF COMMON AREA LAND. Before the end of the Development Period, Declarant will convey the land and any improvements to the Association by special warranty deed. If title to the land is clear, the Association may not refuse to accept the deed. Until the Common Area Land is conveyed to the Association, Declarant will pay property taxes and

governmental assessments on the land. Notwithstanding Declarant title to the Common Area Land, the Association has exclusive use and benefit of the improvements thereon, and will maintain and insure same as a common expense.

ARTICLE THREE MAINTENANCE OBLIGATIONS

3.1 OVERVIEW. Generally, the Association maintains the Common Areas, and the Owner maintains his Unit and Dwelling. If an Owner fails to maintain his Unit, the Association may perform the work at the Owner's expense

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

3.2.1 All Common Areas.

3.2.2 All Areas of Common Responsibility, if any.

3.2.3 Real and personal property owned by the Association but which is not a Common Area, such as a Unit owned by the Association.

3.2.4 Any area, items, easements or service, the maintenance of which is assigned to the Association by the Plat or this Declaration.

3.3 OWNER RESPONSIBILITY. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property.

3.3.1 Unit Maintenance. Each Owner, at the owner's expense, must maintain his Unit and all improvements on the Unit, including but not limited to the Dwelling, fences, mailboxes, sidewalks, driveways, and public right-of-way area in front of Unit to behind city curb, except any area designated as an Area of Common Responsibility. Maintenance includes, as needed, mowing, weeding, erosion control, preventative maintenance, repairs, and replacement. Each Owner is expected to maintain his Unit at a level, to a standard, and with an appearance that is commensurate with other Units in the Property.

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

3.3.3 Responsible for Damage. In addition to being responsible for his own Unit maintenance as provided above, an Owner is responsible for his own willful or negligent acts and those of the Resident(s), his or the Resident(s) family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the Common Areas or the property of another Owner.

3.3.4. Owner's Default in Maintenance. If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state,

with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an Individual Assessment against the Owner and his Unit. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

**BEFORE ACQUIRING AN OWNERSHIP INTEREST IN A UNIT, EACH
PROSPECTIVE PURCHASER IS STRONGLY ENCOURAGED TO CONTACT
THE ASSOCIATION TO OBTAIN AND REVIEW THE MOST RECENT
DESIGNATION OF AREAS OF COMMON RESPONSIBILITY, WHICH IS
SUBJECT TO CHANGE FROM TIME TO TIME**

3.4 AREA OF COMMON RESPONSIBILITY. The Association, acting through its Members only, has the right but not the duty to designate, from time to time, portions of Units or Dwellings as Areas of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association as a common expense. A designation applies to every Unit having the designated feature. The cost of maintaining Areas of Common Responsibility is added to the annual budget and assessed against the Units as a Base Assessment as provided in Section 5.4 hereof, unless Owners of at least 67% of the Units decide to assess the costs as Individual Assessments.

3.4.1 Change in Designation. The Association may, from time to time, change the designation of Areas of Common Responsibility, or provide for no Areas of Common Responsibility. Because the designation is subject to change, the Association will maintain at all times a dated list of the Areas of Common Responsibility for distribution to Owners and prospective purchasers. Additions, deletions, or changes in designation must be:

3.4.1.1 Approved by the Board of Directors.

3.4.1.2 Published and distributed to an Owner of each Unit.

3.4.1.3 Reflected in the Association's annual budget and reserve funds.

3.4.1.4 Initial Designation. All future designations must be recorded, as well as the initial designation of Common Responsibility is stated here for the purpose of illustration only.

3.5 PARTY WALLS.

3.5.1 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhouses upon the Properties and place on the dividing line between the Units shall constitute a Party Wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding Party Walls and liability

for property damage due to negligence or willful acts or omissions shall apply thereto. If the Party Wall is on one (1) Unit or another due to an error in construction, such wall shall, nevertheless, be deemed to be on the dividing line and constitute a Party Wall for purposes of this Section. Reciprocal easements shall exist upon and in favor of the adjoining Townhouse Units for the maintenance, repair, and reconstruction of Party Walls.

3.5.2 Maintenance Costs. The Owners of the adjoining Units share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the wall, that Owner will bear the entire cost of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Smith County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien; provided the claim of lien is filed within ninety (90) days after the date of repairs or replacements to the Party Wall, and suit is filed within one (1) year after the date the lien is filed. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

3.5.3 Alterations. The Owner of a Unit sharing a Party Wall may not cut openings in the wall or alter or change the wall in any manner that affects the use, condition, or appearance of the wall to the adjoining Unit. The Party Wall will always remain in the same location as when erected.

3.5.4 Weatherproofing. Notwithstanding any other provision of this Section, an Owner, who by his negligent or willful act causes the Party Wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements.

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

3.5.6 Arbitration. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section each party shall choose one (1) arbitrator. Those arbitrators shall in turn choose one (1) additional arbitrator, and the decision shall be by a Majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.

3.6 PARTY WALL FENCES. A fence located on or near the dividing line between two (2) Units and intended to benefit both Units constitutes a Party Wall Fence and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding Party Walls and liability for property damage due to negligence, willful acts, or omissions.

3.6.1 Encroachments & Easements. If the Party Wall Fence is on one Unit or another due to an error in construction, the fence is nevertheless deemed to be on the dividing line for purposes of this Section. Each Unit sharing a Party Wall Fence is subject to an easement for the existence and continuance of any encroachment by the fence as a result of construction, repair, shifting, settlement, or movement in any portion of the fence, so that the encroachment may remain undisturbed as long as the fence stands. Each Unit is

subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall Fence.

3.6.2 Right to Repair. If the Party Wall Fence is damaged or destroyed from any cause, the Owner of either Unit may repair or rebuild the fence to its previous condition, and the Owners of both Units, their successors and assigns, have the right to the full use of the repaired or rebuilt fence.

3.6.3 Maintenance Costs. The Owners of the adjoining Units have equally the costs of repair, reconstruction, or replacement of the Party Wall Fence, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the fence, that Owner will bear the entire cost of repair or replacement of the Party Wall Fence, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Smith County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien; provided the claim of lien is filed within ninety (90) days after the date of repairs or replacements to the Party Wall Fence, and suit is filed within one (1) year after the date the lien is filed. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

3.6.4 Alterations. The Owner of a Unit sharing a Party Wall Fence may not cut openings in the fence or alter or change the fence in any manner that affects the use, condition, or appearance of the fence to the adjoining Unit. The Party Wall Fence will always remain in the same location as when erected.

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

3.6.6 Disputes. In the event of any dispute arising concerning a Party Wall Fence, each affected Owner shall choose one (1) arbitrator at such Owner's sole cost and expense. Those arbitrators shall in turn choose one (1) additional arbitrator, whose cost and expense shall be shared equally between (or among as the case may be), the applicable Owners, and decision shall be by a majority of all the arbitrators. Should any affected Owner refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE FOUR ASSOCIATION AND MEMBERSHIP RIGHTS

4.1 THE ASSOCIATION. The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a property owners association and a non-profit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

4.2 MEMBERSHIP. Each Owner is a Member of the Association, ownership of a Unit being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Unit. An attempt to separate membership in the Association from ownership of the Unit is void and will not be recognized by the Association. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association.

4.2.1 Co-Owners. If a Unit is owned by more than one person or entity, each Co-Owner is a Member of the Association and may exercise the membership rights appurtenant to the Unit.

4.2.2 Contract Purchasers. A Member who sells his Unit under a contract for deed may delegate his membership rights, including the voting rights, to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all Assessments attributable to his Unit until fee title to the Unit is transferred.

4.3 VOTING. One vote is appurtenant to each Unit. The total number of votes equals the total number of Units in the Property. Each vote is uniform and equal to the vote appurtenant to every other Unit, except during the Development Period as permitted in **Exhibit D**. Votes may be cast by written proxy, according to the requirements of the Bylaws. Cumulative voting is not allowed. The vote appurtenant to a Unit is not divisible by Co-Owners, who are subject to the following provisions:

4.3.1 Co-Owners Voting by Proxy or Unit. If only one of the multiple Co-Owners of a Unit is present at a meeting of the Association, that person may cast the vote allocated to the Unit. If more than one of the Co-Owners is present, the Unit's one vote may be cast with the Co-Owners' unanimous agreement. Co-Owners are in unanimous agreement if one of the Co-Owners casts the vote and no other Co-Owner makes prompt protest to the person presiding over the meeting.

4.3.2 Co-Owners Voting by Proxy or Unit. Any Co-Owner of a Unit may vote by Unit or proxy, and may register protest to the casting of a vote by Unit or proxy by the other Co-Owners. If the person presiding over the meeting or Uniting receives evidence that the Co-Owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.

4.4 BOOKS & RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to Article 1396-2.23B. of the Texas Non-Profit Corporation Act, as it may be amended from time to time.

4.5 INDEMNIFICATION. The Association indemnifies every Officer, Director, the Declarant and Officers and Directors appointed by it, and each committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a common expense, the Association will

maintain adequate general liability and Directors and Officers liability insurance to fund this obligation, if it is reasonably available.

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

4.6.1 Information. Within thirty (30) days after acquiring an interest in a Unit; within thirty (30) days after the Owner has notice of a change in any information required by this Subsection; and on request by the Association from time to time, an Owner will provide the Association with the following information:

- 4.6.1.1 A copy of the recorded deed by which Owner has title to the Unit.
- 4.6.1.2 The Owner's address, phone number, and driver's license number, if any.
- 4.6.1.3 Any Mortgagee's name, address, and loan number.
- 4.6.1.4 The name and phone number of any Resident other than the Owner.
- 4.6.1.5 The name, address, and phone number of Owner's managing agent, if any.

4.6.2 Pay Assessments. Each Owner will pay Assessments properly levied by the Association against the Owner or his Unit, and will pay Base Assessments without demand by the Association.

4.6.3 Comply. Each Owner will comply with the Documents as amended from time to time.

4.6.4 Reimburse. Each Owner will pay for damage to the Property caused by the negligence or willful misconduct of the Owner, a Resident of the Owner's Unit, or the Owner or Resident's family, guests, employees, contractors, agents, or invitees.

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

ARTICLE FIVE COVENANT OF ASSESSMENTS

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

5.2 PERSONAL OBLIGATION. An Owner is obligated to pay Assessments levied by the Board against the Owner or his Unit. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment

of his Unit. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

5.3 CONTROL OF ASSESSMENT INCREASES. Subject to the terms and provisions regarding the Declarant Control Period referred to on **Exhibit D** attached hereto, this Article 5 of the Declaration, the Board of Directors has the power to increase assessments up to ten percent (10%) without the approval of the Owners. Any other assessment increase may not be imposed without the approval of Owners of at least sixty-seven percent (67%) of the Units. Subject to the terms and provisions regarding the Declarant Control Period referred to on **Exhibit D** attached hereto, in addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget:

5.3.1 Veto Increased Dues. At least thirty (30) days prior to the effective date of an increase in Base Assessments, the Board will notify an Owner of each Unit of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless Owners of at least 67% of the Units disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

5.3.2 Veto Special Assessment. At least thirty (30) days prior to the effective date of a Special Assessment, the Board will notify an Owner of each Unit of the amount of, the budgetary basis for, and effective date of the Special Assessment. The Special Assessment will automatically become effective unless Owners of at least 67% of the Units disapprove the Special Assessment by petition or at a meeting of the Association.

5.3.3 Approve Certain Special Assessments. The following actions must be funded by a Special Assessment approved by Owners of at least sixty-seven (67%) of the Units:

5.3.3.1 Construction of additional improvements within the Property, but not replacement of original improvements.

5.3.3.2 Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

5.4 TYPES OF ASSESSMENTS. There are three (3) types of Assessments: Base, Special, and Individual.

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

5.4.1.1 Maintenance, repair, and replacement, as necessary, of the Common Area and Areas of Common Responsibility.
5.4.1.2 Utilities billed to the Association.
5.4.1.3 Services billed to the Association and serving all Units.
5.4.1.4 Taxes on property owned by the Association, if any, and the Association's income taxes.
5.4.1.5 Management, legal, accounting, auditing, and professional fees for services to the Association.
5.4.1.6 Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
5.4.1.7 Insurance premiums and deductibles.
5.4.1.8 Contributions to the reserve funds.
5.4.1.9 Any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.

5.4.2 Special Assessments. In addition to Base Assessments and subject to Subsection 5.3.3 above, the Board may levy one or more Special Assessments against all Units for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds.

5.4.3 Individual Assessments. In addition to Base and Special Assessments, the Board may levy an Individual Assessment against a Unit and its Owner. 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 his Unit into compliance with the Documents; fines for violations of the Documents; insurance deductibles; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the Units, which may be assessed according to benefit received; and "pass through" expenses for services to units provided through the Association and which are equitably paid by each Unit according to benefit received.

5.5 BASIS & RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each Unit is subject Home Product type, but subject to lower rates of assessment for vacant Units. The rates of assessment are as follows:

5.5.1 Improved Unit. A Unit that has been improved with a Dwelling for which the City of Lindale issued a certificate of occupancy will at all times thereafter be assessed at the full rate.

5.5.2 Vacant Unit. A Unit that is vacant or on which a Dwelling is under construction is assessed a half of the full rate for first six (6) months of ownership, or in which the city issues a certificate of occupancy, whichever comes first, thereafter must pay full base rate, or unless the Unit is owned by Declarant. Such a Unit owned by the Declarant is not

subject to assessment during the Declarant Control Period, provided Declarant may, at its option, pay any operating deficits of the Association as they arise.

5.5.3 **Board Determination.** Notwithstanding the foregoing, the Board may revoke the reduced-rate status of a vacant Unit if it becomes necessary or desirable for the Association to spend money on or for the Unit, or if the Board determines that a completed Dwelling is eligible for a certificate of occupancy.

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

5.7 **DUE DATE.** Base Assessments are due on the first day of each month, and are delinquent if not received by the Association on or before the first day of the month. Special and Individual Assessments are due on the date stated in the notice of assessment or, if no date is stated, within ten (10) days after notice of the assessment is given.

5.8 **RESERVE FUNDS.** The Association will establish, maintain and accumulate reserves at a level sufficient to cover the cost of repairs and replacement reserves as well as operational or maintenance emergencies, contingencies, including the full amount of deductibles on insurance policies maintained by the Association.

5.8.1 The Board shall annually prepare reserve budgets for general purposes which take into account the number and nature of repair and replacements of the Common Area and Area of Common Responsibility. The Board shall set the required contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget with respect to amount and timing by annual Base Assessments over the budget period.

5.9 **ASSOCIATION'S RIGHT TO BORROW MONEY.** The Association is granted the right to borrow money, subject to the consent of Owners of at least 67% of Units and the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

5.10 **ASSESSMENT LIEN.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Unit and is secured by a continuing lien on the Unit. Each Owner, and each prospective Owner, is placed on notice that his title may be

subject to the continuing lien for Assessments attributable to a period prior to the date he purchased his Unit.

5.10.1 Superiority of Assessment Lien. The assessment lien (the "Assessment Lien") is superior to all other liens and encumbrances on a Unit, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) any interim construction lien, and (3) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date which the delinquent Assessment became due. The Assessment Lien is superior to any mechanic's lien for construction of improvements to the Unit or an assignment of the right to insurance proceeds on the Unit, regardless of when recorded or perfected.

5.10.2 Effect of Mortgagee's Foreclosure. A Mortgagee's foreclosure of its deed of trust lien extinguishes the Association's claim against the Unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the Mortgagee's foreclosure sale is liable for Assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as a Common Expense.

5.10.3 Perfection of Lien. The Association's lien for Assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's real property records. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing Owner.

5.10.4 Power of Sale. By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of judicial sale in connection with the Association's Assessment Lien. The Board may appoint, from time to time, an Association Officer, agent trustee, substitute trustee, or attorney to exercise the power of sale on behalf of the Association. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a Board meeting.

5.10.5 Foreclosure of Lien. The assessment lien may be enforced by judicial foreclosure. A judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 and/or Section 209.009-011 of the Texas Property Code, as they may be amended from time to time, or **in any manner permitted by law**. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at foreclosure sale and to acquire, hold, lease, mortgage, and convey the same.

ARTICLE SIX EFFECT OF NONPAYMENT OF ASSESSMENTS AND VIOLATION OF THE DOCUMENTS

6.1 **COLLECTING DELINQUENT ASSESSMENTS.** Owners who honor their obligations to the Association should not be burdened by Owners who default. The Board is responsible for taking action to collect delinquent Assessments. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an

Assessment. The following remedies are in addition to and not in substitution for all other rights and remedies that the Association has:

6.1.1 Delinquency. An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date.

6.1.2 Notice to Mortgagee. The Board may notify and communicate with the holder of any lien against a Unit regarding the Owner's default in payment of Assessments.

6.1.3 Interest. Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the lesser of eighteen percent (18%) or the maximum permitted by law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum. Interest is an Individual Assessment.

6.1.4 Late Fees. Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time. Late fees are an Individual Assessment.

6.1.5 Costs of Collection. The Owner of a Unit against which Assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, including attorneys' fees and processing fees charged by the manager. Collection costs are an Individual Assessment.

6.1.6 Acceleration. If an Owner defaults in paying an Assessment that is payable in installments, the Board may accelerate the remaining installments on ten (10) days' written notice to the defaulting Owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice.

6.1.7 Money Judgement. The Association may file suit seeking a money judgment against an Owner delinquent in the payment of Assessments, without foreclosing or waiving the Association lien for Assessments.

6.1.8 Foreclosure of Assessment Lien. As provided by Article 5 of this Declaration, the Association may foreclose its lien against the Unit by judicial means.

6.1.9 Application of Payments. The Board may adopt and amend policies regarding the application of payments. The Board may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Board'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 Unit's account

6.2 ENFORCING THE DOCUMENTS. The remedies provided in this Section for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents:

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

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

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

6.2.4 Self-Help. The Association has the right to enter any part of the Property, including Units, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Unit and Owner as an Individual Assessment. Unless an emergency situation exists in the good faith opinion of the Board, the Board will give the violating Owner fifteen (15) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, the Association may not alter or demolish an item of construction on a Unit without judicial proceedings.

6.2.5 No Waiver. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any Owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter.

6.3 NOTICE AND HEARING. Before levying a fine for violation of the Documents (other than nonpayment of Assessments), or before levying an Individual Assessment for property damage, the Association will give the Owner written notice of the levy and an opportunity to be heard. The Association's written notice must contain:

6.3.1 A description of the violation or property damage.

6.3.2 The amount of the proposed fine or damage charge.

6.3.3 A statement that not later than the 30th day after the date of the notice, the Owner may request a hearing before the Board to contest the fine or charge.

6.3.4 A stated date by which the Owner may cure the violation to avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months.

The Association may also give a copy of the notice to the Resident. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. The Owner may attend the hearing in person, or may be represented by another person or written communication. The Board may adopt additional procedures and requirements for notices and hearing.

ARTICLE SEVEN PROPERTY EASEMENTS AND RIGHTS

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

7.2 OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted a right and easement of enjoyment and use over the Common Areas, subject to other rights and easements contained in the Documents.

7.3 OWNER'S MAINTENANCE EASEMENT. Every Owner is granted an easement over adjoining Units and Common Areas for the maintenance or reconstruction of his Dwelling, subject to the consent of the Owner of the adjoining Unit, or the Association in the case of Common Areas, and provided the easement does not damage or materially interfere with the use of the adjoining Unit or Common Area. Requests for entry onto an adjoining Unit or Common Area will be made in advance for a time reasonably convenient for the adjoining Owner, who may not unreasonably withhold consent. If an Owner damages an adjoining Unit or Common Area in exercising this easement, the Owner is obligated to restore the damaged property to its original condition, at his expense, within a reasonable period of time.

7.4 OWNER'S INGRESS & EGRESS EASEMENT. Every Owner is granted a perpetual easement over the Property, as may be reasonably required, for ingress to and egress from his Unit.

7.5 ASSOCIATION'S ACCESS EASEMENT. The Association is granted an easement of access and entry to every Unit and Common Area to perform maintenance, to enforce architectural and use restriction, to respond to emergencies, and to perform any other duties required or allowed by the Documents.

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

7.7 ENCROACHMENT EASEMENT. If any portion of a Dwelling encroaches upon any Common Area or upon an adjoining Unit now existing or which may come into existence hereafter as a result of construction, overhangs, brick ledges, repair, shifting, settlement, or movement of any portion of a Dwelling, or as a result of condemnation or eminent domain proceedings, a valid easement for such encroachment shall exist and such encroachment shall remain undisturbed so long as the Dwelling stands.

**READERS, PLEASE PAY PARTICULAR HEED TO
THE NEXT PROVISION TITLED "SECURITY"**

7.8 SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Resident acknowledges and agrees, for himself and his guests, that

Declarant, the Association, and its Directors, Officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner and Resident further acknowledges that Declarant, the Association, and its Directors, Officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Resident acknowledges and agrees that Declarant, the Association, and its Directors, Officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE EIGHT ARCHITECTURAL COVENANTS AND CONTROL

8.1 GENERAL. No structure, including, but not limited to, buildings, signs, walls, and mailboxes, shall be placed, erected, or installed upon any Unit, and no improvements, including staking, clearing, excavation, grading and other site work, exterior alteration or existing improvements, and planting or removal of landscaping materials, shall take place except in compliance with this Article, and approval of the appropriate committee under Section 11.2. Notwithstanding this, the Board of Directors may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. Further, the Declarant, in its discretion, may exempt certain designees, including but not limited to, Builders, from any or all of the requirements of this Article solely for original construction upon property owned by Declarant as described in Exhibit A, provided such designees are contractually obligated to comply with design review restriction imposed by Declarant.

Any Owner may remodel, paint or redecorate the interior of structure(s) of a Unit without approval provided such improvements are not visible from outside such structure(s). Modification to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association.

8.2 ARCHITECTURAL REVIEW. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications, construction and modifications under this Article shall be handled by the committees as described in subsections 8.3.1 and 8.3.2 below. The members of committees need not be Members of the Association or representatives of

Member, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any shall be established from time to time by the Declarant or the Board. The Board of Directors, and Architectural Control Committee acting with authority to approve and enforce the Design Guidelines, may establish and charge a reasonable fee for review of applications hereunder and may require such fees to be paid in full prior to review.

8.2.1 Architectural Control Committee (ACC). The Architectural Control Committee (ACC) shall consist of at least three (3) but not more than five (5) persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties including any additions, or alterations, modifications made on or to existing structures on Units or containing Units and the adjacent open space.

8.2.2 Until 100% of the Properties have been developed and conveyed to Owners other than Builders, the Declarant retains the right to appoint all members of the ACC, who shall be responsible to the Board of Directors and the Declarant and shall serve as the Association's agents at the discretion of the Board of Directors and the Declarant. There shall be no surrender or assignment of the right of the Declarant to appoint the members of the ACC prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the ACC shall become the province of the Association and the Board may, at its option either appoint the members of the ACC, who shall thereafter serve and may be removed at the Board's discretion. Declarant may utilize the ACC to administer design review restrictions imposed by Declarant upon those Persons who have been designated by it as being exempt from the requirements of this Article.

8.3 GUIDELINES AND PROCEDURES.

8.3.1 The Board of Directors shall accept the initial design development guidelines and application and review procedures (the "Design Guidelines") which shall apply to all construction activities within the Properties. The Board of Directors or ACC shall be responsible for reviewing plans in accordance with the Design Guidelines. The Board of Directors shall be the deciding authority for resolving any questions the ACC may have as to the interpretation or application of the Design Guidelines.

Each Owner acknowledges that the Design Guidelines may be amended and that, for so long as it has the right to appoint the members of the ACC, the Declarant shall have sole and full authority to amend the Design Guidelines in its discretion. Thereafter, the Board of Directors shall have such amendment authority including the right to develop modification guidelines for existing structure exterior improvements. Any amendments to the Design Guidelines, shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require to modifications to or removal of structures previously approved once the approved construction or modification has commenced.

The Design Guidelines shall be made available by the ACC to Owners and Builders who seek to engage in development or construction within the Properties and, subject to Declarant's right to exempt certain designees from the requirements of the Article, all such Persons shall conduct their activities in accordance with such Design Guidelines. The Design Guidelines may contain general provisions applicable to all of the Properties, as

well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, and intended use.

With regard to modifications, the Board of Directors may promulgate detailed procedures and standards, governing its area of responsibility, consistent with those set forth in the Design Guidelines.

8.3.2 Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed modifications and improvements shall be submitted to the Board of Directors for review and approval, or disapproval. In addition, information concerning irrigation systems, drainage, lighting, and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the Board of Directors may consider the quality of design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other things.

In the event that the Board of Directors fails to approve or to disapprove any application of all information and materials reasonably requested, the application shall be deemed approved as submitted. However, no approval, whether expressly granted or deemed not granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the Board of Directors pursuant to Section 8.5. Any approved application for new construction must be completed within one year of the approval date. Any application for modification of an existing structure must be completed within six (6) months of the approval date, application and approval of application must be in writing.

8.4 NO WAIVER OF FUTURE APPROVALS. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, are site specific unless otherwise noted, and shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

8.5 VARIANCE. The Board of Directors may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) stop the Board from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

8.6 LIMITATION OF LIABILITY. Neither the Declarant, Board of Directors or ACC shall be liable to anyone submitting plans for approval in accordance herewith or to any other Person for damages, whether direct, indirect, consequential, or otherwise, arising out of or in connection with: (a) the approval or disapproval or failure to approve or disapprove any such plans; (b) enforcement or failure to enforce any site maintenance or other requirements hereof; (c) the

approval or disapproval of, or failure to approve or disapprove, any architectural, landscaping, development or other plans for improvement to any property adjacent to, or situated on or in the proximity of the Properties; (d) the development or construction of, or the failure to develop or construct, any improvements (including landscaping) on lands adjacent to or in the proximity of the Properties; or (e) defects (whether latent or otherwise) in such plans. Anyone submitting plans for approval agrees not to seek any such damages against the Declarant, Board of Directors or ACC. In addition, each Owner shall release and hold harmless Declarant, Board of Directors or ACC and the members thereof from any and all liability, including attorneys' fees and court costs actually incurred, regardless of whether suit is brought or any appeal is taken therefrom, arising out of any approval given or denied by the Board of Directors under this Article.

Review and approval of any application pursuant to this Article is made on the basis of the Design Guidelines and aesthetic considerations and neither the Board of Directors or ACC shall bear any responsibility for ensuring the value of a Unit, or the structural integrity, workmanship, quality or soundness of approved construction or modifications, nor for ensuring compliance with building codes, engineering and architectural standards, and other governmental requirements. Each Owner acknowledges that the approval of any application pursuant to this Article does not constitute an assurance or guarantee that the approved improvements are safe or fit for habitation. Neither the Declarant, the Association, the Board of Directors or ACC nor any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Unit.

8.7 ENFORCEMENT. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant, Board of Directors or its designees, with the consent of the Declarant for so long as Declarant owns any property described on Exhibit A for development as part of the Properties, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, which may include monetary fines imposed by the Board of Directors together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines, in addition to the fees, costs and fines provided in the preceding paragraph, may be excluded by the Board of Directors from the Properties. In such event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Declarant or the Association, with the consent of the Declarant for so long as it owns any property described on Exhibit A, shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Board of Directors.

ARTICLE NINE CONSTRUCTION RESTRICTIONS

9.1 SUBJECT TO BOARD RESTRICTIONS. In addition to the restrictions contained in this Article and the following Article, each Unit is subject to any architectural restrictions developed by the ACC, approved by the Board and published by the Association. The provisions of this Article may be treated as the minimum requirements for improving a Unit. The Board may promulgate additional restrictions, as well as interpretations, additions, and specifications of the restrictions contained in this Article. An Owner should review the Association's architectural restrictions, if any, before planning improvements, repairs, or replacements to his Unit and Dwelling.

BEFORE MAKING ANY IMPROVEMENT OR ALTERATION TO A UNIT OR DWELLING AN OWNER SHOULD CONTACT THE ASSOCIATION FOR THE MOST RECENT ARCHITECTURAL RESTRICTIONS

9.2 DWELLING. One (1) Dwelling may be built on a Unit. Each Dwelling must have the following characteristics, with the exception of the Board's prior written approval for a variance:

9.2.1 Set Backs. The front-line and side-line setbacks of each Dwelling must, at a minimum, comply with the requirements as set forth in the MU4 District Guidelines as outlined in Exhibit C. The association may require setbacks for Dwellings which are more restrictive than the front-line and side-line setbacks as required by the MU4, but in any event the Association's setback line requirements shall be reasonable and applied in a consistent manner to all Owners.

9.2.2 New Construction. Dwellings must be site built homes. The Declarant or Board may, at its discretion, approve other types of new Construction methods. The construction of a Dwelling must be started within sixty (60) days after the Board approves the Dwelling's plans and specifications. At the start of construction, but not before, building material to be used in the construction may be stored on the Unit. Once started, the Dwelling and all improvements on the Unit must be completed with the due diligence, but in no event may the construction period exceed twelve (12) months unless otherwise expressly provided in the approval by the Board.

9.2.3 Garage. All Dwellings will have an attached garage for parking at least two (2) standard-size cars, unless otherwise required by the City of Lindale.

9.2.4 Size. The total air-conditioned living area of the Dwelling, exclusive of open porches, garages, patios, and detached accessory buildings will not be less than 1150 square feet.

9.2.5 Exterior Wall Materials. The Dwelling's front exterior wall must be one hundred percent (100%) masonry: stone or brick, with the exception of trim material such as wood shutters, soffits, fascia or cast stone trim around doors and windows. The remainder of exterior walls shall be constructed of one hundred (100%) or a combination of masonry: stone or brick, stucco, or fiber cement.

9.2.6 Roofing Materials. Roofs must be covered with thirty year (30) composition shingles or tile: concrete, clay, or slate.

9.2.7 Accessories. Installation of all exterior items and surfaces, including address numbers, mailboxes, decorative hardware, external ornamentation, light fixtures, and exterior paint and stain is subject to the Board's prior approval, including approval of design, color, materials, and location.

9.2.8 Mailboxes. Each Unit has a curbside mailbox mounted on a decorative iron pedestal. The size and style of mailboxes is uniform with the Design Guidelines.

9.3 DRIVEWAYS & SIDEWALKS. Without the Board's prior written approval: (1) a driveway on a Unit must be made of concrete; (2) side approach driveways are not allowed on any Unit, except corner Units; and (3) on corner Units, driveway approaches to garages must be standard driveway approaches along the Unit line that is contiguous to another Unit's Unit line, and not along the Unit line that abuts an adjacent street. Sidewalks must conform to the specifications of the City of Lindale.

9.4 FENCES & WALLS. All dwellings shall have a six foot high (6') privacy fence encompassing the rear yard of the dwelling. All fencing shall conform to the Design Guidelines. Any retaining walls must be constructed entirely with Board-approved materials; however, railroad ties and creosote logs may not be used for any retaining walls. Fences may not be constructed between a Dwelling's front building line and the street. Homebuilders and/or Owners of adjoining Units shall use good faith efforts to coordinate construction or reconstruction of fences so that adjacent fences be aligned in a complementary and symmetrical manner.

9.5 UTILITIES. All utility lines and equipment must be located underground, except for: (1) elevated or surface lines or equipment required by a public utility or the City of Lindale; (2) elevated or surface lines or equipment installed by Declarant as part of the development plan; and (3) surface equipment necessary to maintain, operate, or read underground facilities, such as meters, risers, service pedestals, and transformers. The Board may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring units. Each Unit will use city water and sewage systems. Individual water supply and sewage disposal systems are not permitted.

9.6 AIR CONDITIONERS. Window units are not permitted. The Board may require that air conditioning equipment and apparatus be visually screened from the street and neighboring Units.

9.7 NO SUBDIVISION. No Unit may be subdivided.

9.8 DEBRIS. No Unit or other part of the Property may be used as a dumping ground. Waste materials incident to construction or repair of improvements on a Unit may be stored temporarily on the Unit during construction while work progresses.

9.9 ACCESSORY STRUCTURES. Accessory structures and shed including, but not limited to, dog houses, gazebos, storage sheds, playhouses, and greenhouses, must be approved by the Board.

ARTICLE TEN USE RESTRICTIONS

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

- 10.1.1 Use of Common Areas.
- 10.1.2 Hazardous, illegal, or annoying materials or activities on the Property.
- 10.1.3 The Use of Property-wide services provided through the Association.
- 10.1.4 The consumption of utilities billed to the Association.
- 10.1.5 The use, maintenance, and appearance of portions of Dwellings visible from the street or other Dwellings, such as roofs, windows, doors, porches, and fences.
- 10.1.6 Landscaping and maintenance of yards.
- 10.1.7 The occupancy and leasing of Dwellings.
- 10.1.8 The types, sizes, numbers, locations, and behavior of animals at the Property.
- 10.1.9 The types, sizes, numbers, conditions, uses, appearances, and locations of motorized and recreational vehicles on the Property.
- 10.1.10 Disposition of trash and control of vermin, termites, and pests.
- 10.1.11 Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Residents.

10.2 RESIDENTIAL USE. The use of a Unit is limited exclusively to residential purposes or any other use permitted by the Declaration. This residential restriction does not, however, prohibit a Resident from using a Dwelling for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the Dwelling as a residence; (2) the uses conform to all applicable governmental ordinances; (3) there is no external evidence of the such use; (4) the use does not entail visits to the Unit by employees or the public in quantities that materially increase the number of vehicles parked on the street; and, (5) such use does not interfere with Residents' use and enjoyment of neighboring Units.

10.3 OCCUPANCY. Other than the completed principle Dwelling, no thing or structure on a Unit (including the garage) may be occupied as a residence at any time by any person.

10.4 CONDITIONS OF LEASE. Unit Dwellings may be leased with the following conditions: No Unit Owner shall be permitted to lease or rent his Unit or any portion of his Unit for the purpose of a hotel, halfway house, or for any transient purpose. Whether or not it is so stated in a lease, every lease is subject to the Documents. An Owner is responsible for providing any and all tenants with copies of the Documents and notifying such tenant(s) of changes thereto. Failure by the tenant or his invitees to comply with the Documents, Federal or State law, or local ordinance is deemed to be a default under the lease. When the Association notifies an Owner of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If

the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then each Owner hereby grants, and the Association has, the owner and right to pursue the remedies of a "landlord" under the lease and/or State law for the default, including eviction of the tenant. The Owner of a leased Dwelling is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against his tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.

10.5 ADDITIONAL ASSESSMENT. If the Board of Directors deem it necessary, the Owner shall be assessed an Additional Assessment of \$100.00 per month to cover the additional expenses of management associated with a rental property as opposed to Owner's occupancy. A Mortgagee who acquires a Dwelling through foreclosure or through a deed in lieu of foreclosure is exempt from this provision.

10.6 ANNOYANCE. No Unit or Common Area may be used in any way that: (1) may reasonably be considered annoying to neighbors; (2) may be calculated to reduce the desirability of the Property as a residential neighborhood; (3) may endanger the health or safety of Residents; (4) may result in the cancellation of insurance on the Property; or (5) will violate any law. The Board has the sole authority to determine what constitutes an annoyance.

10.7 ANIMALS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for a commercial purpose or for food. Customary domesticated household pets may be kept subject to the Rules. Unless the Rules provide otherwise:

10.7.1 Disturbance. Pets must be kept in a manner that does not disturb the peaceful enjoyment of Residents of other Units, as referenced in this document titled "Noise & Odor." No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time.

10.7.2 Outdoors. All animals must be kept behind the privacy fencing of their respective Unit. All pets must be carried or leashed within the Property with the exclusion of the Owner's fenced rear yard or approved Board designated area.

10.7.3 Limited Yard Privilege. Dogs and cats may be kept in fenced rear yards only if they do not disturb or annoy people on the Property. The Board is the sole arbiter of what constitutes a disturbance or annoyance. If the Board determines that a dog or cat disturbs people, the Board may permanently revoke the privilege of keeping the dog or cat in the fenced yard. Thereafter, the dog or cat must be maintained inside the Dwelling.

10.7.4 Pooper Scooper. Resident is responsible for the removal of his pet's wastes from the Property. Unless the Rules provide otherwise, a Resident must prevent his pet from relieving itself on the common Area, the Area of Common Responsibility or the Unit of another Owner.

10.7.5 Liability. An Owner is responsible for any property damage, injury, or disturbance caused or inflicted by an animal kept on the Unit. The Owner must compensate any person injured by the animal. The Owner of a Unit on which an animal is kept is deemed to indemnify and to hold harmless the Board, the Association, and other Owners and

Residents, from any loss, claim, or liability resulting from any action of the animal or arising by reason of keeping the animal on the Unit or having the animal on the Property.

- 10.8 APPEARANCE.** Both the Unit and the Dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Units. The Board is the arbitrator of acceptable appearance standards.
- 10.9 WINDOW TREATMENTS.** Without the Board's prior written approval, all window treatments within the Dwelling that are visible from the street or another Dwelling must be manufactured window treatment and neutral in color.
- 10.10 SIGNS.** No signs advertising the Units for sale, other advertising signs, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Dwelling without the Board's prior written approval. The Board's approval may specify the location, nature, appearance, dimensions, number, and time period of any advertising sign. The Association may affect the removal of any sign that violates this Section without liability for trespass or any other liability connected with the removal. Notwithstanding, the foregoing, and subject to the Board's disapproval, an Owner may erect per Unit, one professionally made sign of not more than five (5) square feet advertising the Unit for sale.
- 10.11 GARAGES.** The garage area of a Unit may not be enclosed. All mechanical and operational aspects of the garage door are to be maintained by its Owner. Garage doors are to be kept closed except when in use.
- 10.12 DRIVEWAYS.** Without the Board's prior approval, a driveway may not be used: (1) for storage purposes, including storage of boats, trailers, and inoperable vehicles; or (2) for repairs of vehicles requiring more than four (4) hours to complete.
- 10.13 ANTENNA.** Without the Board's prior written approval subject to applicable Federal laws, each dwelling shall have no more than two (2) antennas. Antennas are to be placed on the roof at the rear of the dwelling or behind the privacy fence. Antennas are not to exceed the height of the dwelling ridge.
- 10.14 SCREENING.** The Owner of a Unit must screen the following items from the view of the public and neighboring Units and Dwellings, if any of these items exists on the Unit. An item within a wood fenced yard may not exceed the height of the fence: (1) Clothes lines, drying racks, and hanging clothes, linens, rugs, or textiles of any kind, (2) Yard maintenance equipment, (3) Wood piles and compost piles.
- 10.15 TEMPORARY STRUCTURES.** Improvements or structures of a temporary or mobile nature may only be placed on a Unit behind a privacy fence. However, the Board may authorize an Owner or Owner's contractor to maintain a temporary structure (such as a portable toilet or construction trailer) on the Unit during construction of the Dwelling.
- 10.16 NOISE & ODOR.** A Resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are

likely to disturb or annoy Residents of neighboring Units. The rules may prohibit the use of noise-producing security devices and wind chimes.

10.17 VEHICLES. All vehicles on the Property, whether owned or operated by the Residents or their families and guests, are subject to this Section and Rules adopted by the Board. No truck larger than one (1) ton, any vehicle with advertising signage, mobile home, motor home, camper, bus, trailer, boat, aircraft, inoperable vehicle, or any other similar vehicle or any vehicular equipment, mobile or otherwise, which the Board deems to be a nuisance, unsightly, or inappropriate may be kept, parked, or stored anywhere on the Property without Board approval.

The foregoing restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a Dwelling. Vehicles that transport inflammatory or explosive cargo are prohibited from the Property at all times. The Association may affect the removal of any vehicle in violation of this Section or the Rules without liability to the Owner or operator of the vehicle. Vehicles must not park by the crossing sidewalk and vehicles are strictly prohibited from parking in the alleys.

10.17.1 On-Street Parking. On-street parking on the Subdivision Streets shall be and is hereby restricted to only reasonable and normal deliveries, pick-ups, or short-time guests and invitees, and only then if there is no other available space on driveway and all parking on the Streets shall be subject to such reasonable rules and regulations as shall be adopted from time to time by the Board. At no time shall any Owner, or any relative of any Owner, or anyone residing in a Dwelling, either permanently or temporarily, or any guest or invitee of any Owner, or anyone residing in a Dwelling, either permanently or temporarily, or any guest or invitee of any Owner, resident or occupant of any Lot, park or allow to be parked for any reason on the Streets: (1) any motor home, recreational vehicle, bus, tractor, trailer, or bob-tail truck, (2) any van in excess of three-quarters (3/4) of a ton, or truck of any type in excess of three-quarters (3/4) of a ton, nor (3) any vehicle with painted advertising or magnetic sign(s).

10.17.2 Off-Street Parking. There shall be no parking or driving on any Lot except within the driveway or garage. At no time shall any Owner, or any relative of any Owner, or anyone residing in a Dwelling, either permanently or temporarily, or any guest or invitee of any Owner, resident or occupant of any Lot, park or allow to be parked for any reason on any Lot in the Subdivision any: ((1) boat, motor home, recreational vehicle, bus, tractor, trailer, or bob-tail truck (not to exceed 1 ton), nor (2) van in excess of three-quarters (3/4) of a ton, unless parked completely inside the garage of a Dwelling such that such boat, motor home, recreational vehicle, or trailer, is completely concealed from being visible from the street or another lot.

10.17.3 Overnight Parking. Any and all vehicles to be parked overnight on any Lot shall be parked in the garage on the Lot to the extent that the garage is fully utilized (e.g., if a garage is a two car garage, there must be two motor vehicles parked inside the garage before the Owner shall be allowed to park any vehicle outside the garage, etc...). If, and only if, the garage is fully utilized by parking vehicles inside the garage, then an Owner may allow a vehicle to be parked overnight on an Owner's Lot outside of the garage on his paved driveway. Furthermore, if, and only if, the garage is fully utilized and the paved driveway is fully utilized, then an Owner may allow a vehicle to be parked overnight on

- 10.18 LANDSCAPING.** No person may perform landscaping, planting, or gardening on the Common Area or Areas of Common Responsibility, without the Board's prior written authorization.
- 10.19 DRAINAGE.** No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.
- 10.20 GARBAGE.** No rubbish, garbage, or trash shall be placed or be allowed to remain at the exterior of any Dwelling or other structure on any Unit, except in containers meeting the specifications of the Board. The placement maintenance, and appearance of all such containers shall be subject to reasonable rules and regulations of the Board. The placement of all such containers shall be in areas attractively screened or concealed from view from neighboring Dwellings, pathways, and streets, except on garbage pickup days, when containers may be placed out for pickup and returned on the same day as pickup. Each Owner is responsible for regular removal of all rubbish, garbage, and trash from the Owner's Unit. Rubbish, garbage, and trash shall not be allowed to accumulate. There shall be no burning of trash on the Unit.

ARTICLE ELEVEN MORTGAGEE PROTECTION

- 11.1 INTRODUCTION.** This Article establishes certain standards for the benefit of Mortgagees and is written to comply with Chapter VI of Fannie Mae's Selling Guide in effect at the time of drafting. If a Mortgagee requests from the Association compliance with the guidelines of an Underwriting Lender, the Board, without approval of Owners or Mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender. This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls.
- 11.2 KNOWN MORTGAGEES.** An Owner who mortgages his Unit will notify the Association, giving the complete name and address of his Mortgagee and the loan number. An Owner will also provide that information on request by the Association from time to time. The Association's obligations to Mortgagees under the Documents extend only to those Mortgagees known to the Association. All actions and approvals required by Mortgagees will be conclusively satisfied by the Mortgages known to the Association, without regard to other holders of mortgages on Units. The Association may rely on the information provided by Owners and Mortgagees.
- 11.3 ELIGIBLE MORTGAGEES.** "Eligible Mortgagee" means a Mortgagee that submits to the Association a written notice containing its name and address, the loan number, the identifying number and street address of the mortgaged Unit, and types of actions for which the Eligible Mortgagee requests timely notice. A single notice per Unit will be valid so long as the Eligible Mortgagee holds a mortgage on the Unit. The Board will maintain this

information. A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.

11.4 MORTGAGEE RIGHTS.

11.4.1 Termination. An action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by at least fifty-one percent (51%) of Eligible Mortgagees, in addition to the required consents of Owners. An action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least sixty-seven percent (67%) of Eligible Mortgagees. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within thirty (30) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

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

11.4.3 Financial Statements. If a Mortgagee so requests, the Association will give the Mortgagee an audited statement for the preceding fiscal year within one hundred and twenty (120) days after the Association's fiscal year end. The audited statement shall be prepared at Mortgagee's expense.

11.4.4 Right of First Refusal. Any right of refusal imposed by the Association with respect to a lease, sale, or transfer of a Unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

11.5 INSURANCE POLICIES. If an Underwriting Lender is a Mortgagee or an Owner, the Association will comply with this Section in addition to the other insurance requirements of this Declaration. The following provisions are derived from Chapter 7, Part VI, Fannie Mae's Selling Guide, revised May 12, 1993:

11.5.1 Name Insured. The Association's insurance policies covering the Common Areas must name the Association as the name insured.

11.5.2 Notice of Cancellation. Insurance policies maintained by the Association should require the insurer's to notify in writing each Mortgagee named in the mortgage clause at least ten (10) days before the insurer cancels or substantially changes the Association's coverage. Additionally, the Association will use its best efforts to send timely written notice to Eligible Mortgagees of a lapse, cancellation, or material modification of any insurance policy maintained by the Association.

11.5.3 Insurance Carrier. The Association's hazard insurance policy must be written by an insurance carrier that meets or exceeds the requirements, from time to time, of the Underwriting Lender.

11.5.4 Policy Deductible. The deductible on the Association's hazard insurance policy must not exceed the maximum limits permitted by an Underwriting Lender. Funds to cover the deductible should be included in the Association's operating reserve account.

11.5.5 Full Replacement Cost. The Association's hazard insurance policy should cover one hundred percent (100%) of the insurable replacement cost of the insurable improvements, if required by an Underwriting Lender.

11.5.6 Endorsements. The Association will obtain endorsements to its hazard insurance policy as required by an Underwriting Lender.

11.5.7 Liability Coverage. The amount of the Association's liability insurance should be at least that required by an Underwriting Lender.

ARTICLE TWELVE AMENDMENTS

- 12.1 **CONSENTS REQUIRED.** Except as otherwise provided by the Declaration, certain amendments may be executed by Declarant alone or by the Board alone.
- 12.2 **METHOD OF AMENDMENT.** This Declaration may be amended by any method selected by the Board from time to time, pursuant to the Bylaws, provided the method gives an Owner of each Unit the substance if not exact wording of the proposed amendment. This Section does not apply so long as Declarant owns property.
- 12.3 **EFFECTIVE.** To be effective, an amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by an Officer of the Association, certifying the requisite approval of Owners and, if required, Mortgagees; and (3) recorded in the real property records of every county in which the Property is located.
- 12.4 **DECLARANT PROVISIONS.** No amendment may affect Declarant's right under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. Because Exhibit D of this Declaration is destined to become obsolete, beginning twenty (20) years after the date this Declaration is first recorded, the Board may restate, rerecord, or publish this Declaration without Exhibit D, provided any other exhibit is not re-lettered. The automatic expiration and subsequent deletion of Exhibit D does not constitute an amendment of this Declaration. This Section may not be amended without Declarant's written and acknowledged consent.
- 12.5 **AGENCY COMPLIANCE.** Exhibit D notwithstanding, as long as Declarant owns any Unit on the Property, Declarant may amend this Declaration without the consent of any other Unit Owner.

ARTICLE THIRTEEN INSURANCE

- 13.1 **GENERAL PROVISIONS.** All insurance affecting the Property is governed by the provisions of this Article, with which the Board will make every reasonable effort to comply:

13.1.1 Insurer. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas.

13.1.2 Insured. The Association must be the named insured on all policies obtained by the Association.

13.1.3 Association as Trustee. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

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

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

13.1.6 Mortgage Clause. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "it's successors and assigns."

13.1.7 Common Expense. The cost of insurance coverages and bonds maintained by the Association is a "Common Expense".

13.1.8 Insurance Responsibility for Detached Homes. Each Owner of a detached Dwelling will obtain and maintain fire and extended coverage on all the improvements on his Unit, in an amount sufficient to cover the replacement cost of any repair or reconstruction in event of damage or destruction from an insured hazard. Further, each Owner will obtain and maintain general liability insurance on his Unit. Each Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on behalf of the Owner who will be obligated for the cost as an Individual Assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and Resident is solely responsible for insuring his personal property in his Dwelling and on the Unit, including furnishings, vehicles, and stored items.

13.1.9 Insurance Responsibility for Attached Homes. To the extent it is reasonably available, the Association will maintain a blanket, all-risk insurance policy in an amount to cover the replacement costs for any repair or reconstruction to any and all attached Dwellings as a Common Expense. The additional cost of said coverage will be assessed to the Owners of attached Dwellings through their respective Assessments as an additional expense. The policy will cover all structural components, roofs, exterior walls; however, each Owner and Resident will be responsible for insuring personal contents and property within the attached Dwelling, including furnishings, vehicles, and stored items.

13.2 CASUALTY OR HAZARD. The Association will obtain blanket all-risk insurance, if reasonably available, for all Townhomes and Common Area improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard, excluding land, foundations, and excavations.

13.2.1 Common Area Insured. The Association will insure Common Areas, including personal property owned by the Association such as records, furniture, fixtures, equipment, and supplies. Also, the Association will insure any Unit owned by the Association.

13.2.2 Endorsements. To the extent reasonably available, the Association will obtain endorsements to its hazard insurance policy as required by the “Endorsements” paragraph of the Mortgagee Protection article of this Declaration.

13.2.3 Dwelling Insured. The Association will provide a blanket insurance policy for fire and extended coverage insurance for all Townhomes.

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

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

13.5 OTHER COVERAGES. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association, including but not limited to the following:

13.5.1 Worker’s Compensation. The Association may maintain worker’s compensation insurance if and to the extent necessary to meet the requirements of State law or if the Board so chooses.

13.5.2 Fidelity Coverage. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of (1) the estimated maximum funds, including reserve funds what will be in the Association’s custody at any time the policy is in force; or (2) an amount equal to three (3) months of Base Assessments on all Units. A management agent that handles

Association funds should be covered for its own fidelity insurance policy with the same coverages.

13.6 MORTGAGE REQUIRED POLICIES. Unless coverage is not available or has been waived in writing, the Association will maintain any insurance and bond required by an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a Mortgagee or an Owner.

13.7 TOWNHOUSE OWNERS RESPONSIBILITY FOR INSURANCE. Each Townhouse Owner will obtain and maintain fire and extended coverage on all the improvements on his Unit, in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. Further, each Townhouse Owner will obtain and maintain general liability insurance on his Unit. Each Townhouse Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If a Townhouse Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on behalf of the Townhouse Owner who will be obligated for the cost as an Individual Assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Townhouse Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Townhouse Owners. Each Townhouse Owner and Resident is solely responsible for insuring his personal property in his Dwelling and on the Unit, including furnishing, vehicles and stored items.

ARE YOU COVERED?

**THE ASSOCIATION DOES NOT INSURE CONTENTS OF DWELLINGS.
THE ASSOCIATION STRONGLY URGES EACH OWNER AND
RESIDENT TO ADEQUATELY INSURE HIS PROPERTY.
THE POLICIES MAINTAINED BY THE ASSOCIATION ARE NOT FOR
THE BENEFIT OF INDIVIDUAL OWNERS AND RESIDENTS.**

ARTICLE FOURTEEN RECONSTRUCTION, CONDEMNATION & TERMINATION

14.1 ASSOCIATION AS TRUSTEE. By accepting an interest in or title to a Unit, each Owner appoints the Association, acting through its Board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation, or termination of all or a

substantial part of the Property. As trustee, the Association has full and complete authority, right, and power to do all things reasonable and necessary to effect the provisions of this Declaration, including, without limitation, the right to receive, administer, and distribute funds, awards, and insurance proceeds; to effect the sale of the Property as permitted by the Declaration; and to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner.

14.2 RESTORATION AFTER DAMAGE.

14.2.1 By Association. The Association will promptly repair or restore any damaged or destroyed portion of the Property that the Association owns or is obligated to insure. Common Areas will be repaired and restored substantially as they existed immediately prior to the damage or destruction, unless alternate plans and specifications are approved by Owners of at least 67% of the Units. If insurance proceeds or condemnation awards are not sufficient to restore the damaged Property, the Board may levy a Special Assessment to fund the deficiency.

14.2.2 By Owner. Each Owner is responsible for the repair or reconstruction of his Dwelling and Unit. An Owner will begin repair and restoration of his Dwelling within sixty (60) days after the date of damage. If an Owner fails or refuses to rebuild or restore the improvements on his Unit, the Association may take any steps it considers reasonable and necessary to reduce the adverse effects of the damage on the Property, and may charge the Owner and his Unit with the cost thereof as an Individual Assessment, after giving the Owner reasonable notice of the Association's intent to do so.

14.2.3 Insurance Deductibles. If repair or restoration of Common Areas is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the repair in the absence of insurance.

14.3 CONDEMNATION. If any part of the Property is condemned, the Board may execute an amendment of this Declaration to describe the altered parameters of the Property. If the Association replaces or restores Common Areas taken by condemnation by obtaining other land or constructing additional improvements, the Board may execute an amendment without the prior consent of Owners to describe the altered parameters of the Property and corresponding change of facilities or improvements.

14.4 TERMINATION. Termination of the terms of this Declaration and the status of the Property as a planned development community are according to the following provisions:

14.4.1 Substantial Taking. In the event of substantially total damage, destruction, or condemnation of the Property, an amendment to terminate must be approved by Owners of at least sixty-seven (67%) of the Units.

14.4.2 Total Taking. In the event of condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners.

14.4.3 Other Circumstances. In all other circumstances, an amendment to terminate must be approved by Owners of at least eighty percent (80%) of the Units and by certain Mortgagees pursuant to the Mortgagee Protection article of this Declaration.

ARTICLE FIFTEEN GENERAL PROVISIONS

- 15.1 COMPLIANCE.** The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and all applicable laws, regulations, and ordinances, as same may be amended from time to time, of any, governmental or quasi-governmental entity having jurisdiction over the Association or Property.
- 15.2 PROFESSIONAL MANAGEMENT.** Third Party Professional Management of the Association is required and contract for professional management may not require more than ninety (90) days' notice to terminate nor payment of a termination penalty. If Declarant enters into a professional management contract on behalf of the Association during the Development Period, the Association shall have the right to terminate the contract without cause or penalty at any time after expiration of the Development Period; provided, however, the requirement for professional management shall remain in effect until such time as Declarant no longer owns any Units; provided, further, any termination or change to such professional management contract after expiration of the Development Period must be approved by Owners of at least ninety percent (90%) of the Units.
- 15.3 FAIR HOUSING COMPLIANCE.** The Association affirmatively desires and intends to comply with the spirit and letter of fair housing laws and ordinances. The provisions of this Declaration and the Rules promulgated by the Board may not be used to discriminate against any class of people protected by fair housing laws and ordinances.
- 15.4 NOTICE.** All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration may be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Unit, and the Owner is deemed to have been given notice whether or not he actually receives it.
- 15.5 SEVERABILITY.** Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.
- 15.6 CAPTIONS.** The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer
- 15.7 INTERPRETATION.** Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.
- 15.8 DURATION.** The provisions of this Declaration run with and bind the Property and will remain in effect for a period of thirty (30) years from the date recorded with the County

Clerk of Smith County, Texas, after which time such Declaration shall automatically renew for successive periods of ten (10) years unless an instrument signed by 67% of Owners of the Units has been recorded authorizing such amendment or termination as provided therein.

ARTICLE SIXTEEN

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

- 16.1 AGREEMENT TO AVOID COSTS OF LITIGATION AND TO LIMIT RIGHT TO LITIGATE DISPUTES.** The Association, Declarant, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article, collectively, "Bound Parties", agree to encourage the amicable resolution of disputes involving the Properties, and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving, arising out of or relating to (1) the use, sale, purchase, construction, improvement, maintenance, operation or marketing of the Properties; (2) the interpretation, application or enforcement of this Declaration, the Bylaws, the Association rules, or the Articles; (3) the administration, operation, management, use or maintenance of the Association and its assets; or (4) the alleged negligent design, maintenance, development, improvement, construction or operation by Declarant or any portion of the Properties (collectively, "Claims"), except for those Exempt Claims described in Section 16.2, shall be resolved using the procedures set forth in Section 16.3 in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.
- 16.2 EXEMPT CLAIMS.** The following Claims ("Exempt Claims") shall be exempt from the provisions of Section 16.3:
- (a) Any suit by the Association against any Bound Party to enforce the provisions of Article 5 (Covenant of Assessments);
 - (b) Any suit by the Association to obtain a temporary restraining order, or equivalent emergency equitable relief, and such other 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 Article 8 (Architectural Covenants and Control);
 - (c) Any suit between Owners that does not include Declarant as a party thereto, if such suit asserts a Claim which would constitute a cause of action under the laws of the State of Texas or the United States but does not or would not include or involve any claim, right, privilege, membership, or defense based on or arising from the Declaration, Bylaws, Articles, or rules of the Association;
 - (d) Any suit in which all indispensable parties are not Bound Parties;
 - (e) Any suit which all the parties thereto agree to consider as an Exempt Claim;
 - (f) A construction defects claim which involves damages in excess of \$50,000 per Unit; and
 - (g) The submissions to a court of any settlement as a settlement affecting a class if such a class settlement is reasonably necessary to resolve a dispute which would otherwise not be an Exempt Claim.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 16.3, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Section 16.3 shall require the approval of the Association.

16.3 MANDATORY PROCEDURES FOR ALL OTHER CLAIMS. All Claims other than Exempt Claims shall be resolved using the following procedures:

- (a) Notice. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”), other than an Exempt Claim, shall notify each Respondent in writing of the Claim (the “Notice”), stating plainly and concisely:
 - 1. The nature of the Claim, including date, time, location, persons involved, and Respondent’s role in the Claim;
 - 2. The basis of the Claim (i.e., the laws, regulations, contract, provisions of this Declaration, the Bylaws, the Articles or rules other authority out of which the Claim arises;
 - 3. What Claimant wants Respondent to do or not do to resolve the Claim; and
 - 4. That Claimant will meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.
- (b) Negotiation.
 - 1. Each Claimant and Respondent (the “Parties”) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.
 - 2. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.
- (c) Mediation.
 - 1. If the Parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice, or within such other period as may be agreed upon by the Parties (“Termination of Negotiations”), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspices of an independent dispute resolution center, or such other independent agency providing similar services upon which the Parties may mutually agree.
 - 2. If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.
 - 3. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.

4. Each Party shall, within fifteen (15) days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim. The Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent. The Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, the Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.
- (d) Final and Binding Arbitration.
1. If the Parties do not agree in writing to accept either the Settlement Demand, the Settlement Offer, or otherwise resolve the Claim within thirty (30) days of the Termination of Mediation, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit D or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings. Each Party shall bear its own costs incurred prior to and during arbitration.
 2. This subsection (d) is an agreement of the Bound Parties to arbitrate all Claims except Exempt Claims and is specifically enforceable under the applicable arbitration laws of the State of Texas. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Texas.
 3. If the Parties do not settle the Claim within thirty (30) days after the submission of the matter to the mediated process, or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.
 4. Each Party shall, within fifteen (15) days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim. The Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent. The Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

16.4 ALLOCATION OF COSTS OF RESOLVING CLAIMS.

- (a) Each Party shall bear its own costs incurred prior to and during the proceedings described in Section 16.3 (a), (b), (c) including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 16.3(c).

- (b) Each Party shall bear its own costs, including the fees of its attorney or other representative, incurred after the Termination of Mediation under Section 16.3(c) and shall share equally in the costs of conducting the arbitration proceeding, collectively, "Post Mediation Costs", except as otherwise provided in subsection 16.4(c).
- (c) Claimant shall prepay to the arbitration panel the sum of \$1,000.00 to be applied toward payment of any Post-Mediation Costs of the Parties, and, in addition, shall advance all arbitration costs until an Award is made. If a Respondent brings a Claim (i.e., a counterclaim) against a Claimant, the arbitration panel may, upon request, order such Respondent to advance a portion of the arbitration costs. If an Award is equal to or more favorable to a Claimant than such Claimant's Settlement Demand, the arbitration panel may, in its discretion, add all or a portion of such Claimant's Post-Mediation Costs to the Award, and allocate such Costs to the Respondents in such proportions as the arbitration panel deems appropriate. If an Award against a Respondent is equal to or less favorable to Claimant than such Respondent's Settlement Offer to that Claimant, the arbitration panel may, in its discretion, also award to such Respondent its Post-Mediation Costs, and allocate such Post-Mediation Costs to the Claimants in such proportions as the arbitration panel deems appropriate.

16.5 ENFORCEMENT OF RESOLUTION.

After resolution of any Claim through negotiation, mediation or arbitration, in accordance with Section 16.3, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 16.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party, or if more than one non-complying Party, from all such Parties pro rata, all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

EXECUTED by the Declarant to be effective as of the 27 day of August, 2015.

DECLARANT:

KINGDOM BUILDERS DEVELOPMENT, LLC
a Texas corporation

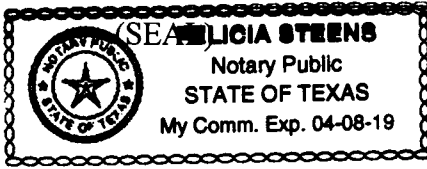
By: 
Brad DeGennaro, Managing Member

STATE OF TEXAS

COUNTY OF SMITH

BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared Brad DeGennaro, President of KINGDOM BUILDERS DEVELOPMENT, LLC, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27th day of August, 2015



A handwritten signature in cursive script, appearing to read "Alicia Steens", written over a horizontal line.

Notary Public in and for the State of Texas

My Commission Expires: 4-8-19

AFTER RECORDING, PLEASE RETURN TO:

Kingdom Builders Development, LLC
13416 FM 849
Lindale, Texas 75771

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

(See following pages)





KNIFFIN SURVEYORS

REGISTERED PROFESSIONAL SURVEYORS

OFF: 903.593.1014
P.O. BOX 685
TYLER, TEXAS 75710

Surveying Firm No. 100581-00
Engineering Firm No. F-10785

FAX: 903.593.1019
121 S. BROADWAY #851
TYLER, TEXAS 75702

August 25, 2015

**FIELD NOTES FOR 11.873 ACRES
LINDSEY MANN SURVEY, ABSTRACT NO. 630
SMITH COUNTY, TEXAS**

All that certain tract or parcel of land, being 11.873 acres situated in the Lindsey Mann Survey, Abstract No. 630, Smith County, Texas and being part of that certain called 66.015 acre tract described in a General Warranty Deed from Peggy Pack Simmons, Patsy Pack Crawford Boatright and Linda Pack Lochner to Kingdom Builders Development, LLC dated May 23, 2012 and filed for record under County Clerk File No. 2012-23532 of Smith County, Texas and being more particularly described as follows, to-wit:

Bearings are based on NAD83 Texas State Plane, Texas North Central Zone 4202.

COMMENCING at a 1/2" iron rod (found) for the northwest corner of the above mentioned 66.015 acre tract, being the southwest corner of a called 106.113 acre tract described in Volume 1184, Page 353, Smith County Deed Records and in the east right-of-way line of F.M. Road 849 (80' right-of-way), from which a fence corner bears South 13 degrees 05 minutes West, 2.2 feet;

THENCE South 88 degrees 48 minutes 18 seconds East, with the north line of said 66.015 acre tract, same being the south line of said 106.113 acre tract, a distance of 208.78 feet to a 1/2" iron rod (set) the northwest corner of the herein described tract and the **POINT OF BEGINNING** of same;

THENCE South 88 degrees 48 minutes 18 seconds East, with the north line of said 66.015 acre tract, being in the south line of said 106.113 acre tract and with the south line of the Oncor Delivery tract recorded in Volume 6160, Page 19 of the Official Public Records of Smith County, a distance of 500.33 feet, to a 1/2" iron rod (set) for the northeast corner of the herein described tract;

THENCE South 00 degrees 25 minutes 23 seconds West, a distance of 151.80 feet to a 1/2" iron rod (set) for a corner;

THENCE North 88 degrees 43 minutes 44 seconds West, a distance of 8.75 feet to a 1/2" iron rod (set) for a corner;

Field Notes for 11.873 Acres
Lindsey Mann Survey, Abstract No. 630
Smith County, Texas

THENCE South 00 degrees 25 minutes 23 seconds West, a distance of 374.68 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Southwesterly, with a curve turning to the right whose delta angle is 16 degrees 49 minutes 49 seconds, an arc length of 183.59 feet, a radius of 624.99 feet, a chord bearing of South 08 degrees 50 minutes 17 seconds West, and a chord length of 182.93 feet to a 1/2" iron rod (set) for the beginning of a reverse curve;

THENCE Southeasterly, with a curve turning to the left whose delta angle is 46 degrees 40 minutes 42 seconds, an arc length of 285.14 feet, a radius of 349.99 feet, a chord bearing of South 06 degrees 05 minutes 10 seconds East, and a chord length of 277.32 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE South 21 degrees 43 minutes 43 seconds West, a distance of 179.83 feet to a 1/2" iron rod (set) for a corner;

THENCE West, a distance of 230.31 feet to a 1/2" iron rod (set) for a point on a curve;

THENCE Southwesterly, with a portion of said curve turning to the left, said portion has a delta angle of 08 degrees 32 minutes 34 seconds, an arc length of 69.33 feet, a radius of 465.00 feet, a chord bearing of South 04 degrees 41 minutes 40 seconds West, and a chord length of 69.27 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE South 00 degrees 25 minutes 23 seconds West, a distance of 29.66 feet to a 1/2" iron rod (set) for a corner;

THENCE North 89 degrees 34 minutes 37 seconds West, a distance of 70.00 feet to a 1/2" iron rod (set) for a corner;

THENCE North 00 degrees 25 minutes 23 seconds East, a distance of 15.00 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Northwesterly, with a curve turning to the left whose delta angle is 81 degrees 36 minutes 58 seconds, an arc length of 21.37 feet, a radius of 15.00 feet, a chord bearing of North 40 degrees 23 minutes 06 seconds West, and a chord length of 19.61 feet to a 1/2" iron rod (set) for the point of tangency;

Field Notes for 11.873 Acres
Lindsey Mann Survey, Abstract No. 630
Smith County, Texas

THENCE North 81 degrees 11 minutes 35 seconds West, a distance of 64.10 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Northwesterly, with a curve turning to the left whose delta angle is 08 degrees 48 minutes 25 seconds, an arc length of 66.10 feet, a radius of 430.00 feet, a chord bearing of North 85 degrees 35 minutes 47 seconds West, and a chord length of 66.03 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE West, a distance of 108.89 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Southwesterly, with a curve turning to the left whose delta angle is 13 degrees 08 minutes 46 seconds, an arc length of 19.85 feet, a radius of 86.50 feet, a chord bearing of South 83 degrees 25 minutes 37 seconds West, and a chord length of 19.80 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE South 76 degrees 51 minutes 14 seconds West, a distance of 55.99 feet to a 1/2" iron rod (set) for a corner being in the east right-of-way of F.M. Highway No. 849;

THENCE North 00 degrees 00 minutes 03 seconds East, with said east right-of-way, a distance of 100.00 feet to a 1/2" iron rod (set) for a corner;

THENCE South 76 degrees 51 minutes 14 seconds East, a distance of 55.99 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Southeasterly, with a curve turning to the left whose delta angle is 13 degrees 08 minutes 46 seconds, an arc length of 19.85 feet, a radius of 86.50 feet, a chord bearing of South 83 degrees 25 minutes 37 seconds East, and a chord length of 19.59 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE East, a distance of 108.89 feet to a 1/2" iron rod (set) for a point of curvature;

THENCE Southeasterly, with a curve turning to the right whose delta angle is 08 degrees 48 minutes 25 seconds, an arc length of 76.86 feet, a radius of 500.00 feet, a chord bearing of South 85 degrees 35 minutes 47 seconds East, and a chord length of 76.78 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE South 81 degrees 11 minutes 35 seconds East, a distance of 71.17 feet to a 1/2" iron rod (set) for a point of curvature;

Field Notes for 11.873 Acres
Lindsey Mann Survey, Abstract No. 630
Smith County, Texas

THENCE Northeasterly, with a curve turning to the right whose delta angle is 15 degrees 17 minutes 38 seconds, an arc length of 142.81 feet, a radius of 535.00 feet, a chord bearing of North 15 degrees 24 minutes 57 seconds East, and a chord length of 142.38 feet to a 1/2" iron rod (set) for the point of tangency;

THENCE North 23 degrees 03 minutes 46 seconds East, a distance of 194.59 feet to a 1/2" iron rod (set) for a corner;

THENCE North 69 degrees 27 minutes 09 seconds West, a distance of 91.54 feet to a 1/2" iron rod (set) for a corner;

THENCE North 67 degrees 39 minutes 41 seconds West, a distance of 64.43 feet to a 1/2" iron rod (set) for a corner;

THENCE West, a distance of 90.00 feet to a 1/2" iron rod (set) for a corner being in the east line of a certain called 0.500 acre tract described in a deed to Darrel Cochran et ux as filed under Clerk's File No. 2009-34321;

THENCE North, continuing with said east line and the east line of a certain called 0.500 acre tract to James L. Roberson as described in a deed recorded in Volume 3866, Page 359 and with the east line of a certain called 1.00 acre tract to James Roberson et ux as described in a deed recorded in Volume 4760, Page 110, at 416.40 feet pass a to a 1/2" iron rod (found) for the northeast corner of said Roberson 1.000 acre tract, a total distance of 787.50 feet to the **POINT OF BEGINNING** and containing 11.873 acres of land.

I, Cruse B. Sudduth, Registered Professional Land Surveyor No. 5308, do hereby certify that the above Field Notes were prepared from an actual survey made on the ground during the month of April, 2014, and do accompany a plat of even date.

Given under my hand & seal, this the 25th day of August, 2015.



REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5308
FILE: Kingdom Phase I.docx



EXHIBIT B

PLAT

PHASE I

(Plat follows on next page)



LINDSEY MANN SUR. A-630

FARM TO MARKET ROAD NO. 849 (80' R.O.W.)

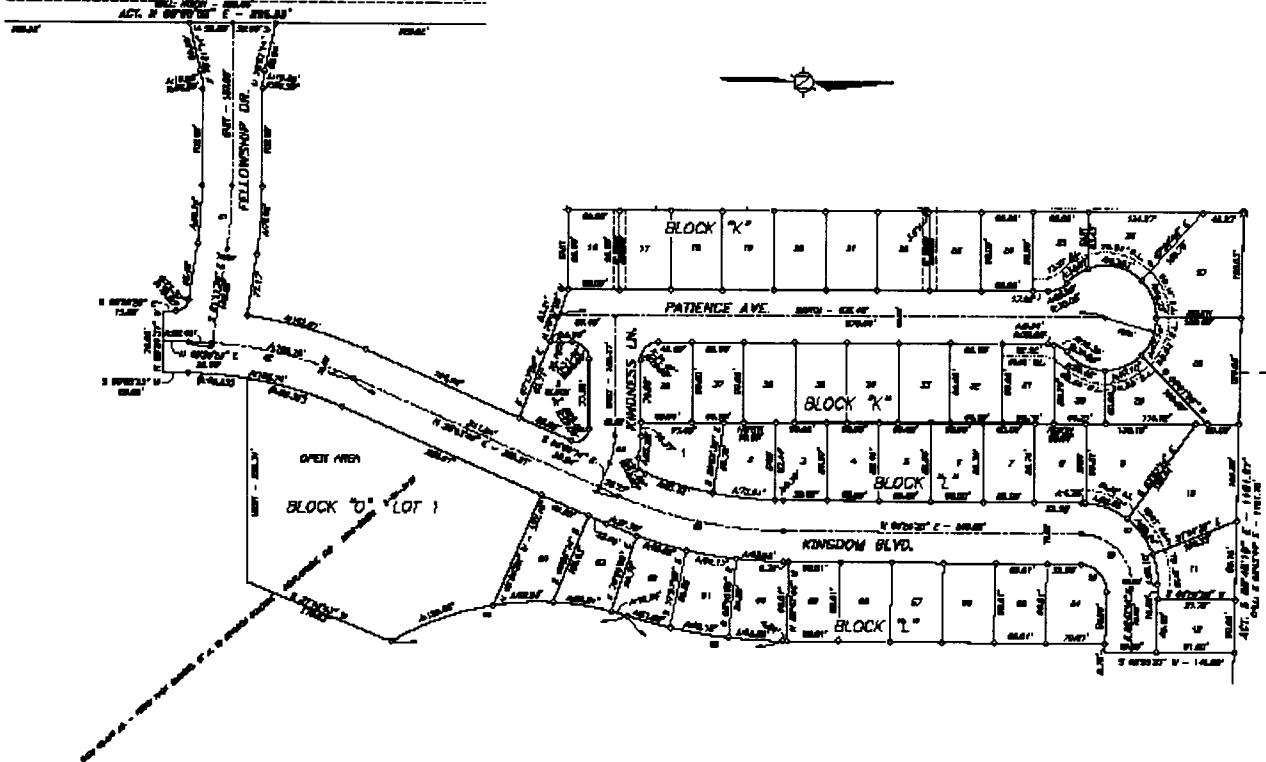


EXHIBIT C

MU-4 DISTRICT

(Document follows on next page)



Development Plan for MU-4 District Kingdom Estates of Lindale

1. This Development Plan is submitted to the City of Lindale for the purpose of creating a MU-4 Mixed Use Planned Development District (the “District”) for the development and use of the real property more fully described on Exhibit “A” attached hereto and made a part hereof for all purposes (the “Property”). The Property shall be subject to the regulations of the District as set forth herein and the Lindale Zoning Ordinance. If there is a conflict between this Plan and the Lindale Zoning Ordinance or between this Plan and the Lindale Subdivision Ordinance then the Lindale Zoning Ordinance or Lindale Subdivision Ordinance shall control.

2. The Development Plan includes:

- A The Plat of the Property attached hereto as exhibit “B” and made a part hereof for all purposes (the “Plat”);
- B. The proposed land uses as shown on the Plat, which includes residential, commercial and institutional uses. The acreage devoted to each type of land use is shown on the Plat;
- C. The location of significant structures as shown on the Plat;
- D. The pedestrian circulation plan as shown on the Plat;
- E. Landscaping as shown on the Plat;
- F. Transition and buffering between the different land uses as shown on the Plat; and
- G. The set back requirements, maximum densities for residential uses, maximum floor area for non-residential uses and specific regulations set forth herein.

3. Definitions. In this Development Plan:

Alley means a public service space or roadway which affords a secondary means of access to a Lot, and not intended for general traffic circulation.

Area of Lot means the area located within the Lot Lines, excluding any area located within a Street or Alley.

Corner Lot means a Lot that abuts two Streets at their intersection.

Depth of Lot means the mean horizontal distance between the Front Lot Line and Rear Lot Line of an Interior Lot, the Front Lot Line and opposite Side Lot Line of a Corner Lot, or the Front Lot Lines of a Through Lot.

Dwelling means a Building designed for occupancy by one or more families, other than a Hotel or Motel.

Family means any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage, or adoption.

Front Lot Line means a Lot Line that divides a Lot from a Street. If the recorded boundary line of a Lot is located in the right of way of a Street then the Front Lot Line is the right of way line of the Street that adjoins the Lot.

Front Yard means an open space on a Lot running parallel to and abutting a Street, which is not obstructed by a Building or Structure, other than a Structure expressly permitted in a front yard by the Lindale Zoning Ordinance.

Garden Dwelling means a Single Family Dwelling with a minimum Area of the Lot of 3,600 square feet.

Interior Lot means a Lot that is not a Corner Lot or a Through Lot.

Lot means a piece, parcel, tract or plot of land established by Plat or legally exempt from platting, to be owned, used, built upon or developed.

Lot Coverage means the percentage of the Lot Area occupied by Buildings on the Lot, determined at ground level.

Lot Line means a recorded boundary line or property line that divides a Lot from another Lot or from a Street or Alley.

Multiple Family Dwelling means a Building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances or other spaces. Individual dwelling units may be owned as Condominiums or offered for rent. Multiple Family Dwelling may include apartments and Condominiums.

Parking Lot means an area, other than a Street, Alley , or Loading Area, used or designed to be used for the parking of motor vehicles or trailers.

Parking Space means a space within a Building or on a Parking Lot, used or designed to be used for the parking of a motor vehicle or trailer.

Principal Building means the Building in which a principal use of a lot is conducted.

Property Owner's Association means an incorporated association owned by the owners of the property covered by the dedicatory instrument and through which the owners, or the board of directors or similar governing body, manage or regulate the planned development.

Rear Lot Line means a property line that divides a Lot from another Lot or Alley and does not intersect with a Front Lot Line.

Rear Yard means an open space on a Lot running parallel to and abutting a Rear Lot Line, which is not obstructed by a Building or Structure, other than a Structure expressly permitted in a rear yard under the Lindale Zoning Ordinance.

Side Lot Line means a property line that is not a Front Lot Line or Rear Lot Line.

Side Yard means an open space on a Lot running parallel to and abutting a Side Lot Line, which is not part of a Front Yard or Rear Yard and is not obstructed by a Building or Structure, other than a Structure expressly permitted in a side yard by the Lindale Zoning Ordinance.

Single Family Dwelling means a detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

Street means a public highway, boulevard, parkway, street, avenue, road or lane which affords a primary means of access to a Lot, but does not include an Alley or private driveway or easement.

Structure means a man-made object that is constructed or erected with a fixed location on the ground or attached to a man-made object having a fixed location on the ground.

Through Lot means a Lot that abuts two Streets that do not intersect at the Lot Line of the Lot.

“Townhouse” means a dwelling unit with kitchen and sleeping facilities designed for occupancy by a single family constructed in a series or group of attached dwelling units with one or more Lot Lines separating each dwelling unit.

Typical Dwelling means a Single Family Dwelling with a minimum Area of the Lot of 4,400 square feet.

Width of the Lot means the horizontal distance between two Side Lot Lines measured along or parallel to the Front Lot Line of an Interior Lot or a Through Lot or the horizontal distance between a Front Lot Line and a Side Lot Line measured along or parallel to the Front Lot Line of a Corner Lot.

Yard means an open space between the Principal Building on a Lot and a Lot Line.

4. Permitted Uses and Parking Space Requirements in the District

- A. Uses permitted by right and uses permitted by special use in the District are the uses permitted for an MU-4 District, which are listed in “Addendum 2- Non-Residential

and Mixed Use Districts” to the Lindale Zoning Ordinance, and includes uses which may be added by amendment to the Lindale Zoning Ordinance. A later amendment to the Lindale Zoning Ordinance shall not restrict or prohibit a use that was permitted in the District at the time the District was created.

- B. Parking Space requirements for each use in the District are listed in “Addendum 3– Parking Space Requirements” to the Lindale Zoning Ordinance.

5. Set Back Requirements, Density Regulations and Other Special Regulations for the District.

- A. The following regulations apply to a Typical Dwelling in the District, other than a Garden Dwelling:

1. *Front Yard:* A Front Yard shall be a minimum of fifteen (15) feet. If the Lot abuts two (2) streets then the required Front Yard shall be provided on both streets.
2. *Side Yard:* A Side Yard shall be a minimum of five (5) feet.
3. *Rear Yard:* A Rear Yard shall be a minimum of five (5) feet.
4. *Area of the Lot:* The minimum Area of the Lot shall be four thousand four hundred (4,400) square feet.
5. *Width of the Lot:* The minimum Width of the Lot when measured at the required Front Yard setback line shall be fifty-five (55) feet.
6. *Depth of the Lot:* The minimum Depth of the Lot shall be eighty (80) feet.
7. *Lot Coverage:* The maximum Lot Coverage shall be sixty-five (65%) percent.

- B. The following regulations apply to a Garden Dwelling in the District:

1. *Front Yard:* A Front Yard shall be a minimum of fifteen (15) feet. If the Lot abuts two (2) streets then the required Front Yard shall be provided on both streets.
2. *Side Yard:* A Side Yard shall be a minimum of five (5) feet.
3. *Rear Yard:* A Rear Yard shall be a minimum of five (5) feet.
4. *Area of the Lot:* The minimum Area of the Lot shall be three thousand six hundred (3,600) square feet.
5. *Width of the Lot:* The minimum Width of the Lot when measured at the required

Front Yard setback line shall be forty-five (45) feet.

6. *Depth of the Lot:* The minimum Depth of the Lot shall be eighty (80) feet.
7. *Lot Coverage:* The maximum Lot Coverage shall be sixty five (65%) percent.

C. The following regulations apply to a Townhouse in the District:

1. *Front Yard:* A Front Yard shall be a minimum of ten (10) feet. If the lot abuts two (2) streets then the required Front Yard shall be provided on both sides.
2. *Side Yard:* If a Townhouse is attached on two (2) sides then there is no minimum Side Yard. If a Townhouse is attached on one side and the other Side Yard is open then the open Side Yard shall be a minimum of five (5) feet.
3. *Rear Yard:* A Rear Yard shall be a minimum of fifteen (15) feet.
4. *Area of the Lot:* The minimum Area of the Lot shall be two thousand eight hundred (2,800) square feet.
5. *Width of the Lot:* The minimum Width of the Lot when measured at the required Front Yard setback line shall be thirty-five (35) feet.
6. *Depth of the Lot:* The minimum Depth of the Lot shall be eighty (80) feet.
7. *Lot Coverage:* There is no maximum Lot Coverage.
8. *Parking of Motor Vehicles:* No motor vehicle shall be parked in the Front Yard or Side Yard.

D. The following regulations apply to all Multiple Family Dwellings and residential uses in the District other than a Typical Dwelling, Garden Dwelling or Townhouse:

1. *Front Yard:* A Front Yard shall be a minimum of thirty (30) feet. If the Lot abuts two streets then the required Front Yard shall be provided on both streets.
2. *Side Yard:* A Side Yards shall be a minimum of fifteen (15) feet.
3. *Rear Yard:* A Rear Yard shall be a minimum of twenty (20) feet.
4. *Area of the Lot:* The minimum Area of the Lot shall be one (1) acre.
5. *Width of the Lot:* The minimum Width of the Lot when measured at the required Front yard setback line shall be one hundred twenty-five (125) feet.

6. *Depth of the Lot:* The minimum Depth of the Lot shall be one hundred twenty (120) feet.
7. *Lot Coverage:* The maximum Lot Coverage shall be forty (40%) percent.
8. *Parking of Motor Vehicles:* No motor vehicle shall be parked on a Lot within thirty (30) feet of a Front Lot Line.
9. *Separation of Buildings:* A minimum separation of twenty (20) feet shall be required between Buildings on the same Lot.
10. *Dwelling Floor Area:* Each dwelling unit shall have a minimum floor area of seven hundred fifty (750) square feet.
11. *Dwelling Units Per Acre:* The maximum number of dwelling units per acre shall be thirty (30).
12. *Minimum Open Space:* Each Lot used for a multi-family residential use shall provide on the same Lot a minimum of 300 square feet of useable open space per dwelling unit. Useable Open Space means an area that is designed for outdoor living, including associated recreation facilities and landscaping. Swimming pools, tennis courts, walkways, patios and similar amenities may be located within areas designated as Useable Open Space. Useable Open Space shall be accessible to and useable by all residents residing on the Lot. Areas within enclosed buildings, street and alley right-of -ways, driveways, parking areas and drainage channels shall not be counted in determining the amount of Useable Open Space. The minimum dimensions for an area designated as Useable Open Space shall be ten feet by ten feet. Useable Open Space on a lot used for a multi-family residential use under this section may also be included as Common Open Space in calculating the Common Open Space under paragraph F.1., as long as the Useable Open Space meets all of the requirements of Common Open Space.

E. The following regulations apply to all commercial uses in the District:

1. *Front Yard:* A Front Yard shall be a minimum of thirty (30) feet. If the Lot abuts two (2) streets then the required Front Yard shall be provided on both streets.
2. *Side Yard:* A Side Yard shall be a minimum of fifteen (15) feet.
3. *Rear Yard:* A Rear Yard shall be a minimum of twenty five (25) feet.
4. *Area of the Lot:* The minimum Area of the lot shall be 9,000 square feet.
5. *Width of the Lot:* The minimum Width of the Lot when measured at the required Front Yard setback line shall be ninety (90) feet.

6. *Depth of the Lot:* The minimum Depth of the Lot shall be one-hundred feet.
7. *Lot Coverage:* The maximum Building size shall be 50,000 square feet.
8. *Parking Lot Setback:* The minimum distance from a Front Lot Line to the Parking Lot shall be fifteen (15) feet.

F. Special Regulations for the District

1. Common Open Space shall comprise of not less than ten (10%) percent of the total area to be developed in the District.
 - a. Common Open Space shall include land area accessible to and permanently reserved for the common use and enjoyment, of the residents of the District for leisure and recreational purposes, Parks, Playgrounds, Pools, Community Gardens, and other open green-belt areas.
 - b. Common Open Space shall not include areas reserved for the exclusive use and benefit of an individual lot owner, dedicated streets, alleys or public right of ways and driveways.
2. Street right-of-ways shall be not less than sixty (60) feet wide, residential Alley right-of-ways shall be not less than twenty five (25) feet wide and non-residential ally right-of-ways shall be not less than thirty (30) feet wide. All streets shall be constructed according to the requirements of the Lindale Subdivision Ordinance. Combined curb and gutters shall be constructed on each side of the Street. Street widths including curbs shall be a minimum of thirty (30) feet. Curbs shall be either conventional curbs or roll-up curbs.
3. Sidewalks shall be provided on each side of the Streets in the District, with handicap ramps at the intersections of sidewalks and Streets, and shall be constructed in accordance with the requirements of the Lindale Subdivision Ordinance.
4. No boat, motor home, camper, trailer, or motor vehicle shall be parked on any Street in the District except for an emergency or law enforcement vehicle responding to a call or emergency.
5. Notwithstanding the Plat attached to this Development Plan, the number of Lots shown on the Plat for Typical Dwellings, Garden Dwellings, Townhouses and Multiple Family Dwellings may be altered so long as the different types of Dwellings remain clustered together as shown on the Development Plan and no more than thirty (30) Garden Dwellings and no more than forty (40) Townhouses are added.

EXHIBIT D

DECLARANT REPRESENTATIONS & RESERVATIONS

KINGDOM ESTATES OF LINDALE

- D.1 DECLARANT'S REPRESENTATIONS. Declarant makes the following representations regarding certain characteristics of the Property.

D.1.1. Phasing. The Property is subject to expansion by phasing. During the Development Period, Declarant has the right but not the duty to annex additional property and to subject it to the Declaration and the jurisdiction of the Association by recording a declaration of annexation, executed by Declarant, in the real property records of Smith County. The amendment of annexation must include a legal description of the additional real property or a reference to the Plat (or final plat if available) by which additional land is made part of the Property.

D.1.2. New Construction. The Property is newly constructed. None of the improvements in the Property constitute conversion of existing buildings.

D.1.3. No Leasehold. No part of the Property is on leasehold land.

D.1.4. Representations of Size. The sizes or dimensions and elevations of living areas, Dwellings, and Units shown on promotional materials used by Declarant during the marketing of the Property are approximated estimates based on pre-construction drawings of representational floor plans. Declarant does not warrant or represent that an Owner's Unit or Dwelling actually contains the sizes, dimensions or elevations shown on promotional materials.

D.1.5. Representations of Common Areas and Amenities. The sizes, dimensions or elevations of common areas and amenities shown on promotional materials used by Declarant during the marketing of the Property are approximated estimates based on pre-construction drawings of representational plans. Declarant does not warrant or represent that the common areas or amenities actually depicted on said materials will be implemented, but does warrant the common areas will fulfill the minimum MU-4 District requirements.

- D.2. DECLARANT CONTROL PERIOD. For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build out and sellout of the Property, Declarant may retain control of the Association, subject to the following:

D.2.1. Duration. The duration of the Declarant Control Period will be from the date this Declaration is recorded for a maximum period not to exceed the earlier of:

D.2.1.1. Twenty (20) years from date this Declaration is recorded.

D.2.1.2. Until 100% of the Units have been sold and been conveyed to Owners other than builders or persons who purchase Units for the purpose of constructing Dwellings for resale to Owners.

D.2.1.3. When, in Declarant's sole opinion, the Association is viable, self- supporting, and operational.

D.2.2. Powers. During the Declarant Control Period, Declarant may, without approval of the Members, appoint, remove, and replace any Officer or Director of the Association, none of whom need be Members or Owners and designate from time to time the areas of Common Responsibility, if any.

D.2.3. Transition Meeting. Within sixty (60) days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call a transition meeting of the Members of the Association for the purpose of electing, by vote of the Owners Directors to the Board.

D.2.4. No Advantage. Declarant may not use its control for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate with cause with thirty (30) days' notice, or without cause with ninety (90) days' notice.

D.3. DECLARANT VOTES. During the Development Period, the vote appurtenant to each Unit owned by Declarant is weighted ten (10) times that of the vote appurtenant to a Unit owned by another Owner. In other words, during the Development Period, Declarant may cast the equivalent of ten (10) votes for each Unit owned by Declarant on any issue before the Association. On termination of the Development Period and thereafter, the vote appurtenant to Declarant's Units is weighted uniformly with all other votes.

D.4 DEVELOPMENT PERIOD RIGHTS. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, at any time during the Development Period:

D.4.1. The right to appoint and remove members of the ACC.

D.4.2. The right to amend this Declaration and the other Documents, without consent of other Owners or any Mortgagee, for the following limited purposes:

D.4.2.1. To add real property to the Property.

D.4.2.2. To create Units and Common Areas within the Property.

D.4.2.3. To subdivide Units or convert Units into Common Areas.

D.4.2.4. To resolve conflicts, clarify ambiguities, and to correct inadvertent misstatements, errors, or omissions in the Documents.

D.4.2.5. To bring the Declaration into compliance with any change in local, state or federal laws and/or ordinances.

D.4.2.6 To comply with requirements of an Underwriting Lender.

D.4.3. The right to erect, construct, and maintain on and in the Common Areas and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.

D.4.4. The right to install, maintain, replace, relocate, and remove signs, banners, flags, display lighting, and seasonal landscaping on the Property for purposes of promoting, identifying, and marketing the Property.

D.4.5. The right of ingress and egress in and through the Property to construct, maintain, manage, and market the Property, and to discharge Declarant's obligations under this Declaration.

D.4.6. The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Unit being entered, adjoining Units, or Common Areas. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.

D.4.7. The right to complete or make any improvements indicated on the Plat and/or as may be consistent with the terms of this Declaration.

D.4.8. The right to use Units owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property which right shall be in effect as long as Declarant owns any unsold Units.

D.4.9. The right to enter into agreements to allow other associations the right to share in the Common Areas of the Property; provided, however, such agreement shall provide for cost sharing between the Association and the other association on a proportionate basis.

D.4.10. The absolute right to exercise any of the foregoing rights without the prior approval of the ACC, the Board, or the Owners.

D.5 WORKING CAPITAL FUND. Declarant may establish a working capital fund for the Association by collecting contributions from purchasers when the sale of a Unit closes. Contributions to the fund are not advance payments of Base Assessments and are not refundable. If Declarant establishes the fund, Declarant will transfer it to the Association by the end of the Declarant Control Period. Declarant may not use the fund to defray Declarant's expenses or construction costs, or to cover the Association's budget deficits during the Declarant Control Period.

D.6. GENERAL RESERVATION. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any Mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this **Exhibit D** which Declarant hereby reserves exclusively unto itself, its agents, employees, and contractors.

D.7 EXPENSES OF DECLARANT. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not common expenses of the Association.

D.8 OBLIGATION FOR ASSESSMENTS. Until the Association levies an assessment against the Units, Declarant will pay all the expenses of the Property and the Association as they accrue. From the date of the initial assessment until the end of the Declarant Control Period, Declarant will, at Declarant's sole option, the operational expenses of the Association minus the operational expense portion of the Assessments paid by Owners other than Declarant.

D.9 CONTROL FOR ASSESSMENT INCREASES. Notwithstanding other provisions of the Documents to the contrary, during the Declarant Control Period, the right of Owners to veto any Base Assessment increases or Special Assessments is not effective and such right may not be exercised.

D.10 ASSIGNMENT OF DECLARATION RIGHTS. Declarant may assign its rights to a successor Declarant hereunder by execution of a written document, recorded in Records of Smith County, Texas specifically stating that Declarant has assigned its rights as such to a designated assignee and declaring such assignee to be the new "Declarant" hereunder.


SIGNED this day of August, 2014.

KINGDOM BUILDERS DEVELOPMENT, LLC,
a Texas corporation

By: 
Brad DeGennaro,
Managing Member

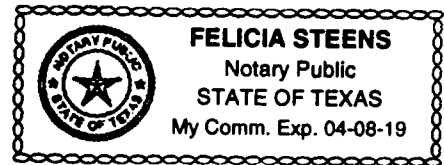
BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared Brad DeGennaro, Managing Member of KINGDOM BUILDERS DEVELOPMENT, LLC, a Texas corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purpose and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 27th day of August,
2014. [SEAL]



Notary Public in and for the State of Texas My

Commission Expires: 4-8-19



Filed for Record in
Smith County, Texas
08/28/2015 09:00:18 AM
Fee: \$286.00
20150100040707
RESTRICTION
Deputy -Denise Avery
I hereby certify that this instrument was
filed and duly recorded in the Official
Public Records of Smith County, Texas



Karen Phillips
County Clerk

