

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**FOR**

**EKO PARK**

**DALLAS COUNTY, TEXAS**

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**Return after recording  
Essex Association Management, L.P.  
1512 Crescent Drive, Suite 112  
Carrollton, Texas 75006**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR EKO PARK**

**THE STATE OF TEXAS   §  
  §  
COUNTY OF DALLAS   §**

**KNOW ALL MEN BY THESE PRESENTS:**

This Declaration of Covenants, Conditions & Restrictions for Eko Park (this "Declaration") is made by OWENHUNT, LLC, a Texas limited liability company ("Declarant"), on the date signed below. Declarant owns the real property described in Appendix A of this Declaration, together with the improvements thereon (the "Property").

Declarant desires to establish a general plan of development for the planned community developed within the Property to be known as "Eko Park" (the "Subdivision") to be governed by the Association (as hereinafter defined). Declarant also desires to provide a reasonable and flexible procedure by which Declarant may expand the Property to include additional real property, and to maintain certain development rights that are essential for the successful completion and marketing of the Property.

Declarant further desires to provide for the preservation, administration, and maintenance of portions of Subdivision, and to protect the value, desirability, and attractiveness of the Property therein. As an integral part of the development plan, Declarant deems it advisable to create the Association to perform these functions and activities more fully described in this Declaration and the other Documents described below.

Declarant DECLARES that the Property, and any additional property made subject to this Declaration by recording one or more amendments of or supplements to this Declaration, will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant representations and reservations in the attached Appendix B which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the property, their heirs, successors, and assigns, and inure to the benefit of each Owner of any part of the Property.

**ARTICLE 1  
DEFINITIONS**

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

1.1. "Applicable Law" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the Document, and are not intended to apply to the Project if

they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

1.2. "Architectural Reviewer" means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant, Declarant's designee, or Declarant's delegate. Thereafter, the Board-appointed ACC or the Board (if no ACC is appointed by the Board), is the Architectural Reviewer.

1.3. "Area of Common Responsibility" means that portion of the Property and those components of the Townhomes or Lots for which the Association has maintenance responsibilities, as described with more particularity in Article 5 of this Declaration.

1.4. "Assessment" means any charge levied against a Lot or Owner by the Association, pursuant to the Documents or State law, including but not limited to Regular Assessments, Special Assessments, Insurance Assessments, Individual Assessments, and Deficiency Assessments, as defined in Article 9 of this Declaration.

1.5. "Association" means the association of Owners of all Lots and Residences in the Property, initially organized as Eko Park Townhome Owners Association, Inc., a Texas nonprofit corporation, and serving as the "property owners association" defined in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration and the Bylaws.

1.6. "Board" means the board of directors of the Association. During the Declarant Control Period, the Declarant shall maintain the sole right to appoint and remove directors of the Board and may limit the responsibilities of the Board at the Declarant's sole discretion.

1.7. "Bylaws" means the Bylaws of Eko Park Townhome Owners Association, Inc., which have been adopted by the Declarant and/or Board and is or shall be recorded in Dallas County, Texas.

1.8. "City" means the City of Dallas, Texas, in which the Property is located.

1.9. "Common Area" means portions of real property and improvements thereon that are owned and/or maintained by the Association, as described in Article 4 below and which may be referenced in Appendixes attached hereto. Notwithstanding anything to the contrary contained herein, in no event shall the Common Area include any portion of the Property to be maintained by the City, if applicable.

1.10. "Declarant" means OWENHUNT LLC, a Texas limited liability company, which is developing the Property, or any party which acquires any portion of the Property for the purpose of development and which is designated a Successor Declarant in accordance with Appendix B, Section B.6 hereof, or by any such successor and assign, in a recorded document.

1.11. "Declarant Control Period" means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix B of this Declaration.

1.12. "Declaration" means this document, as it may be amended, modified and/or supplemented from time to time. In the event this Declaration contains a provision which is contrary to an applicable mandatory provision of the Texas Property Code, the Texas Property Code provision controls.

1.13. "Development Period" means that certain ten (10) year period beginning the date this Declaration is recorded; during which Declarant has certain rights pursuant to Appendix B hereto. The Development Period is for a term of years and does not require that Declarant own land described in Appendix A. Declarant may terminate the Development Period at any time by recording a notice of termination.

1.14. "Documents" means, singly or collectively as the case may be, this Declaration, the Plat, the Bylaws of the Association, the Association's Certificate of Formation and the Rules of the Association, as any of these may be amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Document is a part of that Document. All Documents are to be recorded in every county in which all or a portion of the Property is located. The Documents are Dedicatory Instruments as defined in Texas Property Code Section 202. Resolutions which may be established by the Board shall be binding documents upon the Association so long as they are duly recorded in the minutes of the meeting of the Board of Directors and shall not be required to be recorded. The Board shall cause all Resolutions to be recorded in the minutes of the meeting and/or they shall be posted to the Association's website, if applicable, for review and access by all Owners' of record. The Bylaws, Certificate of Formation, and Organizational Consent which are part of the Documents, are attached hereto as Appendix E.

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

1.16. "Majority" means more than half. A reference to "*a Majority of Owners*" in any Document or applicable law means "*Owners holding a majority of voting rights of all Lot Owners,*" unless a different meaning is specified.

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

1.18. "Owner" means a holder of recorded fee simple title to a Lot. Declarant is the initial Owner of all Lots. Contract sellers and mortgagees who acquire title to a Lot through a deed in lieu of foreclosure or through judicial or non-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 and membership is mandatory. A reference in any Document or applicable law to a percentage or share of Owners or Members means Owners of at least that percentage or share of vote of the Owners of Lots, unless a

different meaning is specified. For example, "*a Majority of Owners*" means Owners of at least a majority of the votes of Owners of Lots.

1.19. "Plat" means all plats, singly and collectively, recorded in the Real Property Records of Dallas County, Texas, and pertaining to the real property described in Appendix A of this Declaration or any real property subsequently annexed into the Property in accordance with the terms of this Declaration (including, by Declarant pursuant to its rights under Appendix B hereof), including all dedications, limitations, restrictions, easements, notes, and reservations shown on the plat(s), as may be amended from time to time. The plat of the Subdivision has been recorded in the Map or Plat Records, Dallas County, Texas as noted on Appendix A.

1.20. "Property" means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The Property is a Subdivision known as "Eko Park". The Property is located on land described in Appendix A to this Declaration, and includes every Lot and any Common Area thereon, and may include Annexed Land (as defined in Appendix B) annexed into the Property subject to this Declaration by supplemental declaration filed by Declarant in accordance with Appendix B.

1.21. "Resident" means an occupant of a Townhome, regardless of whether the person owns the Lot.

1.22. "Rules" means rules and regulations of the Association adopted in accordance with the Documents or applicable law. The initial Rules may be adopted by Declarant for the benefit of the Association and Declarant may, from time to time, amend rules and regulations as it is deemed necessary. After the Declarant Control Period, the Board of Directors shall have the right to adopt, amend, or rescind Rules and other Regulations and Policies from time to time as it is deemed necessary.

1.23. "Townhome," "Townhome Residence," or "Residence" means the improvement that is designated to be or appropriate for use as an attached single-family townhome residence, together with any garage incorporated therein and located on an individually-owned Lot, whether or not such residence is actually occupied. Each residence may be occupied only by persons living and cooking together as a single housekeeping unit, together with any household employees. Except for families consisting of persons related by blood, adoption, or marriage, no more than one person per bedroom may occupy the same dwelling on a regular and consistent basis

1.24. "Townhome Building" means the structure containing multiple Townhomes.

## **ARTICLE 2**

### **PROPERTY SUBJECT TO DOCUMENTS**

2.1. PROPERTY. The real property described in Appendix 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 Declarant's representations and reservations in the attached Appendix B, which run with the Property and

bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

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

2.3. SUBJECT TO ALL OTHER DOCUMENTS. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by all the Documents which are publicly recorded or which are made available to Owners by the Association, expressly including this publicly recorded Declaration.

2.4. PLAT DEDICATIONS, EASEMENTS & RESTRICTIONS. In addition to the easements and restrictions contained in this Declaration, the Property is subject to the dedications, limitations, notes, easements, restrictions, and reservations shown or cited on the Plat, which are incorporated herein by reference. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the Plat, and further agrees to maintain any easement that crosses his Lot and for which the Association does not have express responsibility.

2.5. STREETS WITHIN PROPERTY. Streets, alleys, and cul-de-sacs within the Property (hereafter "Streets") dedicated for public use are part of the Common Area only to the extent they are not maintained or regulated by the City or Dallas County, Texas. **In no event shall streets that are maintained by the City be included in the Common Areas or Area of Common Responsibility.** To the extent not prohibited by public law, the Association, acting through the Board, is specifically authorized to adopt, amend, repeal, and enforce Rules for use of the Streets - whether public or private - including but not limited to:

- a. Designation Guest Parking Spaces and Rules regarding use of same.
- b. Limitations or prohibitions on curbside parking, if applicable.
- c. Removal or prohibition of vehicles that violate applicable Rules.
- d. Fines for violations of applicable Rules.

### **ARTICLE 3** **PROPERTY EASEMENTS AND RIGHTS**

3.1. 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. No use shall be permitted on the Property which is not allowed under applicable public codes, ordinances and other laws either already adopted or as may be adopted by the City or other controlling public authorities. Each Owner, occupant or other user of any portion of the Property, shall at all times comply with this Declaration and all laws, ordinances, policies, rules, regulations and orders of all federal, state, county and municipal governments, and other

agencies having jurisdictional control over the Property, specifically including, but not limited to, applicable zoning placed upon the Property, as they exist from time to time (collectively "Governmental Requirements"). IN SOME INSTANCES REQUIREMENTS UNDER THE GOVERNMENTAL REQUIREMENTS MAY BE MORE OR LESS RESTRICTIVE THAN THE PROVISIONS OF THIS DECLARATION. IN THE EVENT A CONFLICT EXISTS BETWEEN ANY SUCH REQUIREMENTS UNDER ANY GOVERNMENTAL REQUIREMENT AND ANY REQUIREMENT OF THIS DECLARATION, THE MOST RESTRICTIVE REQUIREMENT SHALL PREVAIL, EXCEPT IN CIRCUMSTANCES WHERE COMPLIANCE WITH A MORE RESTRICTIVE PROVISION WOULD RESULT IN A VIOLATION OF MANDATORY APPLICABLE GOVERNMENTAL REQUIREMENTS, IN WHICH EVENT THOSE GOVERNMENTAL REQUIREMENTS SHALL APPLY. COMPLIANCE WITH MANDATORY GOVERNMENTAL REQUIREMENTS WILL NOT RESULT IN THE BREACH OF THIS DECLARATION EVEN THOUGH SUCH COMPLIANCE MAY RESULT IN NON-COMPLIANCE WITH PROVISIONS OF THIS DECLARATION. WHERE A GOVERNMENTAL REQUIREMENT DOES NOT CLEARLY CONFLICT WITH THE PROVISIONS OF THIS DECLARATION BUT PERMITS ACTION THAT IS DIFFERENT FROM THAT REQUIRED BY THIS DECLARATION, THE PROVISIONS THIS DECLARATION (IN ORDER OF PRIORITY) SHALL PREVAIL AND CONTROL. The Property and all Lots therein shall be developed in accordance with this Declaration, as this Declaration may be amended or modified from time to time as herein provided.

3.2. OWNER'S EASEMENT OF ENJOYMENT. Every Owner is granted a right and easement of enjoyment over the Common Areas and to use of improvements therein, subject to other rights and easements contained in the Documents. An Owner who does not occupy a Lot delegates this right of enjoyment to the Residents of his Lot. Notwithstanding the foregoing, if a portion of the Common Area, such as a recreational area, is designed for private use, the Association may temporarily reserve the use of such area for certain persons and purposes.

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

3.4. TOWNHOME EASEMENT. Every Owner of a Townhome is granted a perpetual easement over, under, and through every other Lot that is part of the same Townhome Building in which his Townhome is located for the limited purpose of installing, maintaining, and replacing wires, cables, conduit, and pipes, that serve his Townhome, but only to the extent that use of this easement is reasonable and necessary. In the event of dispute, the Board is the arbiter of whether the anticipated use of this easement is reasonable and necessary. Reciprocally,

the Owner of a Townhome that contains wire, cables, conduit, or pipes that serve one or more other Townhomes has a duty to refrain from interfering with or damaging those items. This easement and reciprocal responsibility anticipates that the electrical meters for all the Townhomes in one Townhome Building may be grouped at one end of the Townhome Building. It also anticipates that attic or roofline installations of wiring may be the most cost effective and least unsightly way of accommodating future needs for cable services.

3.5. OWNER'S INGRESS/EGRESS EASEMENT. Every Owner is granted a perpetual easement over the Streets within the Property, as may be reasonably required, for vehicular ingress to and egress from his Lot or Residence.

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

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

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

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

- a. To inspect the Property for compliance with maintenance and architectural standards.
- b. To perform maintenance that is permitted or required of the Association by the Documents or by applicable law.



- c. To perform maintenance that is permitted or required of the Owner by the Documents or by applicable law, if the Owner fails or refuses to perform such maintenance.
- d. To enforce architectural standards.
- e. To enforce use restrictions.
- f. The exercise of self-help remedies permitted by the Documents or by applicable law.
- g. To enforce any other provision of the Documents.
- h. To respond to emergencies.
- i. To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- j. To perform any and all functions or duties of the Association as permitted or required by the Documents or by applicable law.

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

3.8.3. Limitations. If the exercise of this easement requires entry onto an Owner's Lot, including into an Owner's fenced yard, the entry will be during reasonable hours and after written notice to the Owner. This Subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property, which entry for such emergencies may be made without notice to an Owner.

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

3.10. SECURITY. The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Resident acknowledges and accepts his sole responsibility to provide security for his own person and property, and assumes all risks for loss or damage to same. Each Owner

and Resident further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Resident relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglar, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

**3.11. RISK. Each Owner, Owners' immediate family, tenants, occupants, guests, agents, permittees, licensees and Residents shall use all Common Areas at his/her own risk. All Common Areas are unattended and unsupervised. Each Owner, Owners' immediate family, tenants, occupants, guests, agents, permittees, licensees and Residents is solely responsible for his/her own safety. The Association disclaims any and all liability or responsibility for injury or death occurring from use of the Common Areas.**

#### **ARTICLE 4** **COMMON AREA**

**4.1. OWNERSHIP.** The designation of any portion of the Property as a Common Area is determined by the Plat and this Declaration, and not by the ownership of such portion of the Property. This Declaration contemplates that the Association will eventually hold title to every Common Area, facility, structure, improvement, system, or other property that are capable of independent ownership by the Association. The Declarant may install, construct, or authorize certain improvements on Common Areas in connection with the initial development of the Property, and the cost thereof is not a Common Expense of the Association. The Common Area shall be maintained by the Association following completion of initial improvements thereon by Declarant, whether or not title to such Common Area is conveyed to the Association. All costs attributable to Common Areas, including maintenance, property taxes, Insurance, and enhancements, are automatically and perpetually the responsibility of the Association, regardless of the nature of title to the Common Areas, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

**4.2. ACCEPTANCE.** By accepting an interest in or title to a Lot, each Owner is deemed (1) to accept the Common Area of the Property, and any improvement thereon, in its then-existing "as is" condition; (2) to acknowledge the authority of the Association, acting through its Board, for all decisions pertaining to the Common Area; (3) to acknowledge that transfer of a Common Area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the Common Area, regardless of changes in the Association's Board or management.

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

a. All of the Property save and except the Lots or portions of the Property owned and maintained by the City.

b. Any area shown on the Plat as Common Area or an area to be maintained by the Association, including, without limitation, guest parking spaces of the Subdivision (the "Guest Parking Spaces"), if applicable, and Shared Access Areas (herein so called), if applicable, which Guest Parking Spaces and Shared Access Areas, if applicable, shall be included in the Common Area for purposes of this Declaration.

c. The formal entrances to the Property, including (if any) the signage, landscaping, electrical and water installations, planter boxes and fencing related to the entrance.

d. Any screening walls, fences, or berms along the side of the Property, including, without limitation within any "Wall & Wall Maintenance Easement" shown on the Plat.

e. Any landscape buffers, within the landscaping buffer or other similar areas shown on the Plat.

f. Landscaping on any Street within or adjacent to the Property, to the extent it is not maintained by the City.

g. Any property adjacent to the Subdivision, if the maintenance of same is deemed to be in the best interests of the Association and if not prohibited by the Owner or operator of said property.

h. Any modification, replacement, or addition to any of the above-described areas and improvements.

i. Personal property owned by the Association, such as books and records, office equipment, and supplies.

## **ARTICLE 5**

### **LOTS, TOWNHOMES & AREA OF COMMON RESPONSIBILITY**

5.1. **LOTS.** The Property is platted into Lots, the boundaries of which are shown on the Plat, and which may not be obvious on visual inspection of the Property. Portions of the Lots and improvements thereon are designated by this Declaration to be Areas of Common Responsibility, and are burdened with easements for the use and benefit of the Association, Owners, and Residents. Although the Property is platted into individually owned Lots, portions of the Lots are maintained by the Association as Areas of Common Responsibility.

**NOTE TOWNHOME OWNERS: WHILE YOU OWN YOUR LOT AND TOWNHOME, PORTIONS ARE CONTROLLED AND MAINTAINED BY THE ASSOCIATION.**

5.2. TOWNHOMES. Certain Lots, as shown on the Plat, are to be improved with a Townhome and Townhome Buildings. The Owner of a Lot on which a Townhome is constructed owns every component of the Lot and Townhome, including all the structural components and exterior features of the Townhome and is responsible for the maintenance of the Townhome and Lot, except for the Areas of Common Responsibility set forth in this Declaration.

5.3. AREA OF COMMON RESPONSIBILITY. Areas of Common Responsibility within a Lot to be maintained by the Association include the following:

5.3.1. Surface Water Drainage Systems. All aspects of surface water drainage on a Lot are maintained by the Association, including collection drains and drain systems notwithstanding, any surface water drainage, collection drains and drain systems that are privately owned, city owned or operated shall be excluded and shall be the sole responsibility of the Owner to maintain.

5.3.2. Lawns (if any). All trees, shrubs and lawns on a Lot outside of fenced areas are maintained by the Association, including irrigation system and replacement of dead plants and vegetation. The foregoing applies only to the area outside of fenced in areas and/or between the Townhome and the adjacent public Street. No synthetic turf of any kind is allowed on portions of any lawn maintained by the Association.

5.3.3. Areas Relating to Townhomes. All portions of the Townhomes marked as an Area of Common Responsibility on Appendix C are to be maintained by the Association.

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

5.4.1. Common Expense Liabilities. The percentage or share of liability for Common Expenses allocated to each Lot is uniform for all Lots, regardless of the value, size, or location of the Lot or Townhome.

5.4.2. Votes. The one vote appurtenant to each Lot is uniform and weighted equally with the vote for every other Lot, regardless of any other allocation appurtenant to the Lot for Class A Members.

**ARTICLE 6**  
**ARCHITECTURAL COVENANTS AND CONTROL**

6.1. PURPOSE. Because all Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to the existing improvements. A third purpose is to regulate the appearance of

every aspect of proposed or existing improvements on a Lot, including but not limited to Townhome Residences, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control. **No exterior modification is allowed without the prior written consent of the Architectural Reviewer.**

6.2. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD.

During the Development Period, neither the Association, the Board of directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of plans and specifications for new Townhome Residences to be constructed on vacant Lots. During the Development Period, the Architectural Reviewer for plans and specifications for all new Townhomes to be constructed on vacant Lots is the Declarant or its delegates.

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

6.2.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article as the Architectural Reviewer to (1) an ACC (as defined in Section 6.3 hereof) appointed by the Board, or (2) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

6.2.3. Limits on Declarant's Liability. The Declarant has sole discretion with respect to taste, design, and all standards specified by this Article during the Development Period. The Declarant, and any delegate, officer, member, director, employee or other person or entity exercising Declarant's rights under this Article shall have no liability for its decisions made and in no event shall be responsible for: (1) errors in or omissions from the plans and specifications submitted, (2) supervising construction for the Owner's compliance with approved plans and specifications, or (3) the compliance

of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

**NOTE TO TOWNHOME OWNERS: YOU CANNOT INDIVIDUALIZE THE OUTSIDE OF YOUR TOWNHOME. PLAN APPROVAL IS REQUIRED.**

No Plat or plans for Townhome Residences or other improvements shall be submitted to the City or other applicable governmental authority for approval until such Plat and/or related construction plans have been approved in writing. Furthermore, no Townhome Residence, or other improvements shall be constructed on any Lot within the Property until plans therefore have been approved in writing by the Architectural Reviewer as provided in this Declaration; provided that the Townhome Residence, or other improvements in any event must comply with the requirements and restrictions set forth in this Declaration and the design guidelines established thereby.

6.3. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the architectural control committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC or its Board (if no ACC has been established by the Board) will assume jurisdiction over architectural control and shall be the Architectural Reviewer for purposes hereunder.

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

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

6.4. PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the Architectural Reviewer's prior written approval, a person may not construct a Townhome Residence or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to a Townhome Residence or any other part of the Property, if it will be visible from a Street, another Townhome Residence, or the Common Area. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property. The review of plans pursuant to this Declaration may be subject to all review and

approval procedures set forth in guidelines, restrictions and/or requirements of applicable zoning or otherwise established by the by the Architectural Reviewer in its review of plans pursuant hereto.

6.5. ARCHITECTURAL APPROVAL. To request architectural approval, an Owner must make written application and submit to the Architectural Reviewer two (2) identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the Owner may but is not required to submit letters of support or non-opposition from Owners of Lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will have thirty (30) days to make a determination and shall return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Association's files. If the application is returned to the Owner marked "More Information Required" the application review process is suspended and the burden to provide the information requested shall be solely upon the Owner. If within ten (10) days the Owner does not provide the requested information to the Architectural Reviewer the application shall be denied.

6.6. **Builders are excluded from the thirty (30) day waiting period described herein. All builder plans for new construction shall be reviewed within seven (7) business days of receipt (excluding weekends and holidays). Should Reviewer fail to render a decision on a Builder application for new construction within seven (7) days, the application shall be deemed to be approved notwithstanding, Builder shall be one-hundred percent (100%) responsible for ensuring that all aspects of the new construction meet the city as well as the Association's design standards. The Reviewer reserves the right to require removal and replacement of any portion of the construction project or item including fencing and mailbox that does not meet the design criteria as set forth by the city or this Declaration including its Design Guidelines.**

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

6.6.2. No Deemed Approval. The failure of the Architectural Reviewer to respond to an application submitted by an Owner may **NOT** be construed as approval of the application. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed.

6.6.3. No Approval Required. Approval is not required for an Owner to remodel or repaint the interior of their Residence, provided the work does not impair the structural soundness of the Residence or Townhome Building.

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

governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

6.6.5. Neighbor Input. The Architectural Reviewer may solicit comments on the application, including from Owners or Residents of Townhome Residences that may be affected by the proposed change, or from which the proposed change may be visible. Whether to solicit comments, from whom to solicit comments, and whether to make the comments available to the applicant is solely at the discretion of the Architectural Reviewer. The Architectural Reviewer is not required to respond to the commenter in ruling on the application.

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

## **ARTICLE 7**

### **CONSTRUCTION AND USE RESTRICTIONS**

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

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

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



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

- a. Use of Common Areas and Areas of Common Responsibility.
- b. Hazardous, illegal, or annoying materials or activities on the Property.
- c. The use of Property-wide services provided through the Association.
- d. The consumption of utilities billed to the Association.
- e. The use, maintenance, and appearance of exteriors of Townhomes and Lots.
- f. Landscaping and maintenance of yards. An Owner of a Townhome shall have no right or obligation to perform such activities in an Area of Common Responsibility.
- g. The occupancy and leasing of Townhomes including restrictions as to the number of leases to be allowed within the Association.
- h. Animals. Restrictions as to the type and number of household pets shall be strictly enforced.
- i. Vehicles. Vehicle regulations shall be strictly enforced. Towing of any unauthorized vehicle will be enforced. The Association shall have the right to contact a towing company for any vehicle that is parked in Guest Parking Spaces in violation of the Rules, blocks driveways, blocks fire hydrants, is inoperable, or presents a safety hazard at any time.
- j. Disposition of trash and control of vermin, termites, and pests.
- k. Anything that interferes with maintenance of the Property, safety of the Owners, tenants, or guests, operation of the Association, administration of the Documents, or the quality of life for Residents.

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

7.5.1. Number. **No more than two (2) pets** (total weight of both pets no greater than one hundred forty (140) pounds) may be maintained in each Townhome and without the express written consent of the Board, shall be cats or dogs. Permission to maintain other types or additional numbers of household pets must be obtained in writing from the Board.

7.5.2. Disturbance. Pets must be kept in a manner that does not disturb the peaceful enjoyment of Residents of other Lots. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time. Owner shall ensure that their pet(s) comply with these rules at all times. Pets must be kept on a leash when outside the Residence. The Board is the sole arbiter of what constitutes a threat or danger, disturbance or annoyance and may upon written notice require the immediate removal of the animal(s) should the Owner fail to be able to bring the animal into compliance with this Declaration or any rules and regulations promulgated hereunder. Any animal that is being abused or neglected will be turned into the local authorities for immediate action.

7.5.3. Indoors/Outdoors. *For Townhome Owners, a permitted pet must be maintained inside the Residence, and may not be kept on a patio or in a yard area. **No pet is allowed on the Common Area unless carried or leashed.***

7.5.4. Pooper Scooper. All Owners and Residents are responsible for the removal of his pet's wastes from the Property. Unless the Rules provide otherwise, a Resident must prevent his pet from relieving itself on the Common Area, the Area of Common Responsibility, or the Lot of another Owner. The Association may levy fines up to \$300.00 per occurrence for any Owner who violates this section and does not comply with the rules as set forth herein.

7.5.5. Liability. An Owner is responsible for any property damage, injury, or disturbance caused or inflicted by an animal kept on the Lot. The Owner of a Lot on which an animal is kept is deemed to indemnify and to hold harmless the Board, the Association, and other Owners and Residents, from any loss, claim, or liability resulting from any action of the animal or arising by reason of keeping the animal on the Property.

7.6. ANNOYANCE. No Lot 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 of other Lots; (4) may result in the cancellation of insurance on the Property; or (5) violates any law or Governmental Requirement. The Board has the sole authority to determine what constitutes an annoyance.

7.7. APPEARANCE. Both the Lot and the Residence must be maintained in a manner so as not to be unsightly when viewed from the Street or neighboring Lots or Common Areas. The Architectural Reviewer is the arbitrator of acceptable appearance standards.

7.8. ACCESSORY STRUCTURES AND SHEDS. Accessory structures and sheds - such as dog houses, gazebos, metal storage sheds, playhouses, play sets and greenhouses - are **not** allowed on any Lot. Prior written approval is required for all structures regardless of the

kind or type. The Architectural Reviewer shall have the sole authority with regard to size, height, and placement.

7.9. BARBECUE. Exterior fires are prohibited on the Property unless contained in commercial standard grilling device approved by the Board. Other city ordinances regarding the use of grilling devices in a townhome may apply.

7.10. COLOR CHANGES. For Townhomes, the colors of Townhome Buildings, fences, exterior decorative items, and all other improvements on a Lot are subject to regulation and approval by the Architectural Reviewer. Because the relative merits of any color are subjective matters of taste and preference, the Architectural Reviewer determines the colors that are acceptable to the Association. A Resident may not change or add colors that are visible from the Street, a Common Area, or another Lot without the prior written approval of the Architectural Reviewer.

7.11. YARDS. All yards of any Lot visible from the Common Areas, adjacent Lots or any Street, and not part of the Areas of Common Responsibility shall be maintained in a neat and attractive manner that is consistent with the Subdivision and such Owner shall water his yard with the appropriate amounts of water needed to keep the yard healthy and alive. The Association shall consider water restrictions should any such restriction apply. **For Lots, the Association shall be responsible as part of the Areas of Common Responsibility for the routine maintenance of the front yards, flower beds, trees and shrubs, as may be applicable, periodic trimming of trees and shrubs, as applicable, as well as the installation of annual or perennial flowers to the front yards of a Lot, outside of fenced in areas, or as may be applicable, which shall be performed at the sole discretion of the Declarant and after the Declarant Control Period, the Board of Directors. The type of annual or perennial flowers installed by the Association shall be determined by the Board of Directors who may rely on recommendations of the landscaper contracted to perform such duties.** A Townhome Owner shall not remove or add to any landscape items or interfere with the maintenance and upkeep of their front yard outside of fenced in areas by the Association. If an Owner desires to not have certain periodic color changes done to their front yard or outside of fenced in areas in or adjacent to their unit a written request must be submitted to the Board of Directors and Owner must provide specific details to the Board outlining the reasons why no such color changes are desired. The Board has the sole right to determine if no such color change shall take place and the decision of the Board shall be final. If the Board of Directors or Architectural Reviewer perceives that the appearance of yards detracts from the overall appearance of the Property, the Board may limit the colors, numbers, sizes, or types of furnishings, plantings, and other items kept in the yard. A yard may never be used for storage. ***Back yards are the responsibility of the Owner.***

7.12. DECLARANT PRIVILEGES. In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and Residents, as provided in Appendix B of this Declaration. Declarant's exercise of a Development Period right that appears to violate a Rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

7.13. DECORATION. Residents of Townhomes are prohibited from individualizing and decorating the exteriors of their Townhomes; provided however, in no event shall the roof top decks and interiors of covered or uncovered balconies as part of the original constructions of the Townhomes be considered "exteriors of the Townhomes" for the purposes of this Section notwithstanding, no storage or unsightly objects of any kind will be allowed at any time. What is appealing and attractive to one person, may be objectionable to another. For that reason, the Association prohibits exterior "decorations" by Owners without the prior written approval of the Architectural Reviewer. Examples of exterior decorations are windsocks, potted plants, and benches, name signs on tiles, hanging baskets, bird feeders, awnings, window sill birdfeeders, yard gnomes, and clay frogs. The Architectural Reviewer shall have the sole discretion to determine what is acceptable or not.

7.14. 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.

7.15. DRIVEWAYS. The driveway portion of a Lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage. **Parking of vehicles in the driveway is prohibited at all times.** All vehicles must be kept or stored within a garage. A driveway may not be used: (1) for storage purposes, including storage of boats, trailers (of any kind), sports vehicles of any kind, and inoperable vehicles; or (2) for any type of repair or restoration of vehicles. No items may be placed, used or stored in or upon any Common Area at any time. Driveways and driveway approach must be kept clean, free of debris and clear of any obstructions including vehicles at all times.

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

7.17. GARAGES. Without the Board's prior written approval, the original garage area of a Townhome may not be enclosed or used for any purpose that prohibits the parking of two (2) standard-size operable vehicles therein. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

7.18. 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. **Except as may otherwise be expressly permitted in Section 5.3.2 hereof, no synthetic turf, flowers, or landscape is allowed in any portion of the front or sides of any yard.**

7.19. LEASING. An Owner may lease his Residence on his Lot. Whether or not it is so stated in a lease, every lease is subject to the Documents and all Governmental Requirements. No lease shall be less than one (1) year in duration without the express written consent of the Board of Directors. An Owner is responsible for providing his tenant with copies of the Documents and notifying him of changes thereto. Failure by the tenant or his invitees to comply with the Documents, federal or state law, or local ordinance or other Governmental Requirements is deemed to be a default under the lease. When the Association notifies an Owner

of his tenant's violation, the Owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The Owner of a leased Lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents and/or any Governmental Requirements 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. The Declarant and thereafter, the Board of Directors shall have the right in their sole discretion to create, amend, or rescind rules and regulations by way of Resolution for leasing or renting of Townhome units which shall be enforceable upon all Owners.

7.20. 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 areas within the community. The Rules may limit, discourage, or prohibit noise-producing activities and items in the Residence and on the Common Areas or Area of Common Responsibility.

**NOTE TO TOWNHOME OWNERS: TOWNHOMES ARE NOT SOUND PROOFED. BE A GOOD NEIGHBOR.**

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

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

7.23. RESIDENTIAL USE. The use of a Residence is limited exclusively to residential purposes or any other use permitted by this Declaration. This residential restriction does not, however, prohibit a Resident from using a Residence for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the Residence as a residence; (2) the uses conform to applicable Governmental Requirements; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the Residence by employees or the public in quantities that materially increase the number of vehicles parked on the Street; and (5) the uses

do not interfere with Residents' use and enjoyment of neighboring Residences or Common Areas.

7.24. SIGNS. No signs, including signs advertising the Residences for sale or lease, or unsightly objects may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Residence without written authorization of the Board. If the Board authorizes signs, the Board's authorization may specify the location, nature, dimensions, number, and time period of any advertising sign. As used in this Section, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. One (1) Security sign per Residence shall be allowed in the front or back but, may not be more than 12" x 12" without prior written consent of the Architectural Reviewer. The Association may affect the immediate removal of any sign or object that violates this Section or which the Board deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal. **Notwithstanding the foregoing, if public law - such as Texas Property Code Section 202.009 and local ordinances - grants an Owner the right to place political signs on the Owner's Lot, the Association may not prohibit an Owner's exercise of such right. The Association may adopt and enforce Rules regulating every aspect of political signs on Owners' Lots to the extent not prohibited or protected by public law. Unless the Rules or public law provide otherwise (1) a political sign may not be displayed more than 90 days before or 10 days after an election to which the sign relates; (2) a political sign must be ground-mounted; (3) an Owner may not display more than one political sign for each candidate or ballot item; and (4) a political sign may not have any of the attributes itemized in Texas Property Code Section 202.009(c), to the extent that statute applies to the Lot.**

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

7.26. TELEVISION. Each Resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a Street or from another Lot are prohibited within the Property, except (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, (2) antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or (3) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the "Antenna") are permitted if located (a) inside the Residence (such as in an attic or garage) so as not to be visible from outside the Residence, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a Residence below the eaves. If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot or Residence thereon where an acceptable quality signal can be obtained. The Association may adopt reasonable Rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law. An Owner must have written permission of the Architectural Reviewer to install any apparatus to the roof of the structure.

7.27. **TRASH.** Each Resident will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the City for that purpose. Trash must be placed entirely within the designated receptacle. The Board may adopt, amend, and repeal Rules regulating the disposal and removal of trash from the Property. If the Rules fail to establish hours for curbside trash containers, the container may be in the designated area from dusk on the evening before trash pick-up day until dusk on the day of trash pick-up. **At all other times, trash containers must be kept inside the garage or out of public view and may not be visible from a Street or another Residence. Should the Declarant or Board of Directors find there is a need for a central waste disposal bin the Association shall obtain for use such a bin however, this shall in no way eliminate or interfere with the Owners responsibilities to comply with the restrictions herein for use of individual containers.**

7.28. **TOWNHOME VARIATIONS.** Nothing in this Declaration may be construed to prevent the Architectural Reviewer from (1) establishing standards for one Townhome Building, type of Townhome Building, or phase in the Property that are different from the standards for other Townhome Buildings or phases, or (2) approving a system of controlled individualization of Townhome exteriors.

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

7.29.1. **Parking in Street.** The language in this subsection may not be construed to prohibit the parking of vehicles on public streets in such a manner as otherwise permitted under applicable City ordinances **notwithstanding, parking on the street within the Eko Park Townhome Owners Association is prohibited.** No parking is allowed within the mutual access easements as may be shown and identified on the Plat other than to the extent the Shared Access Area overlaps into the Guest Parking Spaces identified on the Plat, if applicable. All parking restrictions, rules, and regulations are subject to city ordinances and regulations and the continuing right of the Association to adopt reasonable Rules if circumstances warrant. **Owners must use their Garages to park and store their personal vehicles. Parking on the driveway, street, within Guest Parking Spaces or within the Shared Access Area, if applicable, by owners is prohibited.**

7.29.2. **Prohibited Vehicles.** Without prior written Board approval, the following types of vehicles and vehicular equipment - mobile or otherwise - may not be kept, parked, or stored anywhere on the Property, driveways, Shared Access Area, and/or Guest Parking Spaces: mobile homes, motor homes, buses, all trailers, boats, inoperable vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles which are not customary personal passenger vehicles, and any vehicle which the Board deems to be a nuisance, unsightly, or inappropriate. This restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a Residence. Vehicles that transport inflammatory or explosive cargo are

prohibited from the Property at all times. Small vehicles with advertising used by an Owner as their primary source of transportation may be allowed ONLY if the vehicle is parked in the Owner's garage at all times when not in use. At no time is an Owner to use his vehicle to solicit business within the community. Oversized work vehicles are prohibited. Small vehicles for fire or law enforcement are excluded from these restrictions.

7.30. WINDOW TREATMENTS. Each Townhome Building in the Subdivision is designed to have uniformity. Therefore, the color and condition of all windows panes, window screens, and window treatments must conform to the Building Standard (as defined in Section 14.5 below) of such Townhome Building. All window treatments within the Townhome Building, that are visible from the Street or another Townhome, must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Reviewer may require an Owner to change or remove a window treatment, window film, window screen, or window decoration that the Architectural Reviewer determines to be inappropriate, unattractive, or inconsistent with the Property's uniformity. The Architectural Reviewer may prohibit the use of certain colors or materials for window treatments if it deems it appropriate to do so.

**NOTE TO TOWNHOME OWNERS: BEFORE YOU BUY THOSE WINDOW COVERINGS, GET ARCHITECTURAL APPROVAL.**

7.31. FLAGS. Each Owner and Resident of the Subdivision has a right to fly the flag on his Lot. The United States flag ("Old Glory") and/or the Texas state flag ("Lone Star Flag"), and/or an official or replica flag of any branch of the United States armed forces, may be displayed in a respectful manner on each Lot, subject to reasonable standards adopted by the Association for the height, size, illumination, location, and number of flagpoles, all in compliance with section 202.012 of the Texas Property Code. All flag displays must comply with public flag laws. No other types of flags, pennants, banners, kites, or similar types of displays are permitted on a Lot if the display is visible from a Street or Common Area. **Unless the Rules provide otherwise, a flag must be wall-mounted to the first floor facade of the Residence, and no in-ground flag pole is permitted on a Lot.**

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

8.1. ASSOCIATION. By acquiring an ownership interest in a Lot, a person is automatically and mandatorily a Member of the Association.

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



8.3. THE ASSOCIATION. The duties and powers of the Association are those set forth in the Documents, primarily the Bylaws, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Documents. Among its duties, the Association levies and collects Assessments, maintains the Common Areas and Areas of Common Responsibility, and pays the expenses of the Association, such as those described in Section 9.4 below. The Association comes into existence on the earlier of (1) filing of its Certificate of Formation of the Association with the Texas Secretary of State or (2) the initial levy of Assessments against the Lots and Owners. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time. Notwithstanding the foregoing, the Association may not be voluntarily dissolved without the prior written consent of the City.

8.4. GOVERNANCE. The Association will be governed by a Board of directors elected by the Members. Unless the Association's Bylaws or Certificate of Formation provide otherwise, the Board will consist of three (3) persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the Bylaws. Unless the Documents provide otherwise, any action requiring approval of the Members may be approved in writing by Majority of Owners, or at a meeting of Members by affirmative vote of at least a Majority of Owners present at such meeting (subject to quorum requirements being met).

8.5. MEMBERSHIP. Each Owner and all successive Owners are mandatory Members of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one person or entity, the co-owners shall combine their vote in such a way as they see fit, but there shall be no fractional votes and no more than one (1) vote with respect to any Lot. A Member who sells his Lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all Assessments attributable to his Lot until fee title to the Lot is transferred.

8.6. VOTING. One vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. If additional property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional Lots included in the property annexed into the Property subject to this Declaration. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Declarant Control Period as permitted in Appendix B. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

8.7. VOTING BY CO-OWNERS. The one vote appurtenant to a Lot is not divisible. If only one of the multiple co-owners of a Lot is present at a meeting of the Association, that person may cast the vote allocated to the Lot. If more than one of the co-owners is present, the Lot's one vote may be cast with the co-owners' unanimous agreement. Co-owners are in unanimous agreement if one of the co-owners casts the vote and no other co-owner makes

prompt protest to the person presiding over the meeting. Any co-owner of a Lot may vote by ballot or proxy, and may register protest to the casting of a vote by ballot or proxy by the other co-owners. If the person presiding over the meeting or balloting receives evidence that the co-owners disagree on how the one appurtenant vote will be cast, the vote will not be counted.

8.8. 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 Section 209.005 of the Texas Property Code. A records reproduction and copying policy shall be adopted by the Board of Directors and may be filed with this Declaration, Bylaws, or as a stand-alone policy of the Association.

8.9. INDEMNIFICATION. THE ASSOCIATION INDEMNIFIES EVERY OFFICER, DIRECTOR, COMMITTEE CHAIR, AND COMMITTEE MEMBER (FOR PURPOSES OF THIS SECTION, "LEADERS") AGAINST EXPENSES, INCLUDING ATTORNEY'S FEES, REASONABLY INCURRED BY OR IMPOSED ON THE LEADER IN CONNECTION WITH AN ACTION, SUIT, OR PROCEEDING TO WHICH THE LEADER IS A PARTY BY REASON OF BEING OR HAVING BEEN A LEADER. A LEADER IS NOT LIABLE FOR A MISTAKE OF JUDGMENT, NEGLIGENT OR OTHERWISE. A LEADER IS LIABLE FOR HIS WILLFUL MISFEASANCE, MALFEASANCE, MISCONDUCT, OR BAD FAITH. THIS RIGHT TO INDEMNIFICATION DOES NOT EXCLUDE ANY OTHER RIGHTS TO WHICH PRESENT OR FORMER LEADERS MAY BE ENTITLED. THE ASSOCIATION MAY MAINTAIN GENERAL LIABILITY AND DIRECTORS' AND OFFICERS' LIABILITY INSURANCE TO FUND THIS OBLIGATION. ADDITIONALLY, THE ASSOCIATION MAY INDEMNIFY A PERSON WHO IS OR WAS AN EMPLOYEE, TRUSTEE, AGENT, OR ATTORNEY OF THE ASSOCIATION, AGAINST ANY LIABILITY ASSERTED AGAINST HIM AND INCURRED BY HIM IN THAT CAPACITY AND ARISING OUT OF THAT CAPACITY. ADDITIONALLY, THE ASSOCIATION MAY INDEMNIFY A PERSON WHO IS OR WAS AN EMPLOYEE, TRUSTEE, AGENT, OR ATTORNEY OF THE ASSOCIATION, AGAINST ANY LIABILITY ASSERTED AGAINST HIM AND INCURRED BY HIM IN THAT CAPACITY AND ARISING OUT OF THAT CAPACITY.

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

8.10.1. Pay Assessments. Each Owner will pay Assessments properly levied by the Association against the Owner or his Lot, and will pay Regular Assessments without demand or written statement by the Association. Payments of Assessments are NOT contingent upon the provision, existence, or construction of any common elements or amenity applicable to a Townhome or Townhome Building.

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

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

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

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

8.11.1. Resale Certificate. An Owner intending to sell his Residence will notify the Association and will request a Resale Certificate (herein so called) from the Association. The Resale Certificate shall include such information as may be required under Section 207.003(b) of the Texas Property Code; provided, however, that the Association or its agent may, and probably will, charge a fee in connection with preparation of the Resale Certificate to cover its administrative costs or otherwise, which fee must be paid upon the earlier of (i) delivery of the Resale Certificate to an Owner, or (ii) the Owner's closing of the sale or transfer of his/her Residence. Declarant is exempt from any and all Resale Certificate fees.

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

8.11.3. Working Capital Contribution. At time of transfer of a Lot by any owner, including Declarant (other than the sell or transfer of a Lot from the Declarant to a Builder), a "Working Capital Contribution" (herein so called) shall be paid to the Association in the amount of Three Hundred Fifty and NO/100 Dollars (\$350.00). Working Capital Contributions shall be deposited in the Association's "Operating Account" (herein so called). The Working Capital Contribution may be paid by the seller or buyer, and will be collected at closing of the transfer of a Lot, provided in no event shall any Working Capital Contribution be due or owing in connection with a transfer by Declarant to a Builder. If the Working Capital Contribution is not collected at closing, the buyer remains liable to the Association for the Working Capital Contribution until paid. The Working Capital Contribution is not refundable and may not be regarded as a prepayment of or credit against Regular Assessments or Special Assessments. Per the City's Ordinances and this Declaration, the Association shall have the right to the use of funds allocated to the Working Capital Fund for the maintenance and upkeep of any area of the grounds, Common Areas, Areas of Common Responsibility or any portion of the development, at any time and from time to time, as needed so long as the Association is the responsible party for said maintenance and upkeep. **After the Declarant Control Period** the Board of Directors shall set aside all or a portion of the Working Capital collected, if applicable, to establish a separate account for the purpose of establishing a reserve for the Association. The Board may adopt a Resolution establishing the means by which this Reserve may be funded, other than by Working Capital Contributions, and

shall set forth any rules and regulations which shall govern the purpose and use of the fund.

8.11.4. Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Lot, including but not limited to fees for Resale Certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind, and number for the local marketplace are not refundable and may not be regarded as a prepayment of or credit against Regular Assessments or Special Assessments. Transfer fees and fees for the issuance of Resale Certificates shall in no event exceed \$750.00 for each Residence then being conveyed. Transfer-related fees may and probably will be charged by the Association or by the Association's managing agent, provided there is no duplication. Transfer-related fees charged by or paid to a managing agent are not subject to the Association's Assessment Lien, and are not payable by the Association. Declarant is exempt from transfer related fees.

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

## **ARTICLE 9**

### **COVENANT FOR ASSESSMENTS**

9.1. POWER TO ESTABLISH ASSESSMENTS AND PURPOSE OF ASSESSMENTS. The Association is empowered to establish and collect Assessments as provided in this Article 9 for the purpose of obtaining funds to maintain the Common Area and/or Areas of Common Responsibility, perform its other duties, and otherwise preserve and further the operation of the Property as a first-class, quality residential subdivision. The purposes for which Assessments may be used to fund the costs and expenses of the Association (the "Common Expenses") in performing or satisfying any right, duty or obligation of the Association hereunder or under any of the Documents, including, without limitation, maintaining, operating, managing, repairing, replacing or improving the Common Area, Areas of Common Responsibility or any improvements thereon; mowing grass and maintaining grades and signs; paying legal fees and expenses incurred in enforcing this Declaration; paying expenses incurred in collecting and administering Assessments; paying insurance premiums for liability and fidelity coverage for the ACC, the Board and the Association; paying operational and administrative expenses of the Association; and satisfying any indemnity obligation under the Association Documents. The Board may reject partial payments and demand payment in full of all amounts due and owing the Association. The Board is specifically authorized to establish a policy governing how payments are to be applied. The Association will use Assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of

Owners and Residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

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

9.3. CONTROL FOR ASSESSMENT INCREASES. This Section of the Declaration may not be amended without the approval of Owners of at least two-thirds (2/3) of the Lots. In addition to other rights granted to Owners by this Declaration, Owners have the following powers and controls over the Association's budget:

9.3.1. Veto Increased Dues. At least 30 days prior to the effective date of an increase in Regular Assessments wherein the Regular Assessments due will increase more than twenty-five percent (25%) from the previous year's Regular Assessments the Board will notify an Owner of each Lot 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 a Majority of the Owners disapprove the increase by petition or at a meeting of the Association, subject to rights of the Board under Section 9.4.1 below. In that event, the last-approved budget will continue in effect until a revised budget is approved. Increases of twenty percent (25%) or less shall not require a vote of the Owners, and may be approved by Declarant during the Development Period or, thereafter, by the Board.

9.3.2. Veto Special Assessment. At least 30 days prior to the effective date of a Special Assessment, the Board will notify an Owner of each Lot of the amount of, the budgetary basis for, and the effective date of the Special Assessment. The Special Assessment will automatically become effective unless at least a Majority of the Owners (no less than 51%) disapprove the Special Assessment by petition or at a meeting of the Association.

9.4. TYPES OF ASSESSMENTS. There are six types of Assessments: Regular Assessments, Special Assessments, Insurance Assessments, Individual Assessments, and Deficiency Assessments. Regular Assessments shall be reoccurring Assessments payable as defined in this Section 9.4 and more particularly as described in Section 9.4.1 and 9.4.4 below.

9.4.1. Regular Assessments. Regular Assessments are based on the annual budget. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, Owners will continue to pay the

Regular Assessment as last determined. The Board shall have the right to determine a different schedule, notice of which shall be given by U.S. Mail to each Owner at least thirty (30) days prior to change.

The Regular Assessment for Townhomes shall be paid monthly and has been set at ONE HUNDRED TWENTY FIVE AND NO/100 DOLLARS (\$125.00) per Lot per month. Assessments shall be due on the first (1<sup>st</sup>) day of each month and shall be considered late if not received by the tenth (10<sup>th</sup>) day of each month.

If during the course of a year and thereafter the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency up to twenty-five percent (25%) without a vote of the Owners as set forth in Section 9.3.1 above. Notwithstanding the foregoing or the terms of Section 9.3.1 above, in the event that either (i) the Board determines that due to unusual circumstances the maximum annual Regular Assessment even as increased by twenty-five percent (25%) will be insufficient to enable the Association to pay the Common Expenses, or (ii) the Assessment increases resulting in an increase in excess of twenty-five percent (25%) above the previous year's Regular Assessment, then in such event, the Board shall have the right to increase the maximum annual Regular Assessment by the amount necessary to provide sufficient funds to cover the Common Expenses without the approval of the Members as provided herein; provided, however, the Board shall only be allowed to make one (1) such increase per calendar year pursuant to this Section 9.4.1 and the terms of Section 9.3.1 shall apply for any additional increases of the Regular Assessment in a calendar year. When the Assessments collected by the Association are insufficient to cover the estimated costs for expenses specific to one or more (but not all) Townhomes, the Board shall have the right to increase the Assessment charged to the Owner(s) of the applicable Townhomes requiring such maintenance and repair only to cover such increased expenses. When the Assessments are insufficient to cover the estimated costs of Common Expenses applicable to all Townhomes, the Board shall have the right to increase the Assessment charged to all Owner(s) to cover such increased Common Expenses.

Regular Assessments are used for Common Expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, repair, and replacement, as necessary, of the Common Area, including any private Streets, if applicable.
- b. Maintenance, repair, and replacement, as necessary, of the Area of Common Responsibility.
- c. Utilities billed to the Association.
- d. Services billed to the Association and serving all Lots.
- e. Taxes on property owned by the Association and the Association's income taxes.

f. Management, legal, accounting, auditing, and professional fees for services to the Association.

g. Costs of operating the Association, such as telephone, postage, office supplies, printing, printing and reproduction, meeting expenses, and educational opportunities of benefit to the Association.

h. Premiums and deductibles on insurance policies and bonds required by this Declaration or deemed by the Board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors' and officers' liability insurance.

i. Contributions to the reserve fund of the Association.

j. 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.

9.4.2. Special Assessments. In addition to Regular Assessments and subject to the Owners' control for certain Assessment increases, the Board may levy one or more Special Assessments against all Lots for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or the Reserve Funds. Special Assessments do not require the approval of the Owners, except that Special Assessments for the following purposes must be approved by at least a Majority of the Owners:

a. Acquisition of real property, other than the purchase of a Lot at the sale foreclosing the Association's lien against the Lot.

b. Construction of additional capital improvements within the Property with a construction cost equal to or greater than \$20,000.00, but not replacement of existing improvements.

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

9.4.3. Insurance Assessments. The Association's insurance premiums are Common Expenses that must be included in the Association's annual budget. Nevertheless, the Board may levy an Insurance Assessment - separately from the Regular Assessment - to fund (1) insurance premiums, (2) insurance deductibles, and (3) expenses pertaining to the Fire Riser Closets and the fire sprinkler system for the Townhomes. If the Association levies an Insurance Assessment, the Association must disclose the Insurance Assessment in Resale Certificates prepared by the Association.

9.4.4. Individual Assessments. In addition to Regular Assessments, Special Assessments, and Insurance Assessments, the Board may levy an Individual Assessment against a Lot 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 Lot into compliance with the Documents; fines for violations of the Documents; insurance deductibles; transfer-related fees and Resale Certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; Common Expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.

9.4.5. Deficiency Assessments. The Board may levy a Deficiency Assessment against all Lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

9.5. BASIS & RATE OF ASSESSMENTS. The share of liability for Common Expenses allocated to each Lot is uniform for all Lots, regardless of a Lot's location or the value and size of the Lot; subject, however, to the exemption for Declarant provided below and in Appendix B.

9.6. DECLARANT OBLIGATION. Declarant's obligation for an exemption from Assessments is described in Appendix B. **Unless Appendix B creates an affirmative assessment obligation for Declarant, a Lot that is owned by Declarant during the Development Period is exempt from mandatory assessment by the Association.** Declarant has a right to reimbursement for any Assessment paid to the Association by Declarant during the Development Period, but only after the Declarant Control Period. This provision may not be construed to prevent Declarant from making a loan or voluntary monetary donation to the Association, provided it is so characterized.

9.7. ANNUAL BUDGET. The Board will prepare and approve an estimated annual budget for each fiscal year. For each calendar year or a part thereof during the term of this Declaration and after recordation of the initial final Plat of any portion of the Property, the Board shall establish an estimated budget of the Common Expenses to be incurred by the Association for the forthcoming year in performing and satisfying its rights, duties and obligations, which Common Expenses may include, without limitation, amounts due from Owners. Based upon such budget, the Association shall then assess each Lot an annual fee which shall be paid by each Owner in advance in accordance with Section 9.4.1 hereof. The Association shall notify each Owner of the Regular Assessments for the ensuing year by December 31st of the preceding year, but failure to give such notice shall not relieve any Owner from its obligation to pay Assessments. Any Assessment not paid within the time allotted in Section 9.4.1 shall be delinquent and may thereafter bear interest at the rate of twelve percent (12%) per annum or the maximum rate permitted by Applicable Law, whichever is less (the "Default Interest Rate") at the sole discretion of the Board. As to any partial year, Assessments on any Lot shall be appropriately prorated.

9.8. DUE DATE. **The Board may levy Regular Assessments on any periodic basis annually, quarterly, or monthly.** Regular Assessments are due on the first day of the period for which levied. Special Assessments, Insurance Assessments, Individual Assessments and Deficiency Assessments are due on the date stated in the notice of such Assessment or, if no date



is stated, within 10 days after notice of the Assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

9.9. ASSOCIATION'S RIGHT TO BORROW MONEY. The Association is granted the right to borrow money, subject to the consent of at least a Majority of Owners 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.

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

## **ARTICLE 10** **ASSESSMENT LIEN**

10.1. ASSESSMENT LIEN. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Lot and is secured by a continuing Assessment Lien (as defined below) on the Lot. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing Assessment Lien for Assessments attributable to a period prior to the date he purchased his Lot.

10.2. SUPERIORITY OF ASSESSMENT LIEN. The Assessment Lien is superior to all other liens and encumbrances on a Lot, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original Residence, and (4) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent Assessment became due.

The Assessment Lien is subordinate and inferior to a recorded deed of trust lien that secures a first or senior purchase money mortgage, an FHA-insured mortgage, or a VA-guaranteed mortgage.

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

after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

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

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

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

## **ARTICLE 11** **EFFECT OF NONPAYMENT OF ASSESSMENTS**

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

11.1. RESERVATION, SUBORDINATION, AND ENFORCEMENT OF ASSESSMENT LIEN. Declarant hereby reserves for the benefit of itself and the Association, a continuing contractual lien (the "Assessment Lien") against each Lot located on such Declarant's portion of the Property to secure payment of (1) the Assessments imposed hereunder and (2) payment of any amounts expended by such Declarant or the Association in performing a

defaulting Owner's obligations as provided for in Section 4.3. THE OBLIGATION TO PAY ASSESSMENTS IN THE MANNER PROVIDED FOR IN THIS ARTICLE, TOGETHER WITH INTEREST FROM SUCH DUE DATE AT THE DEFAULT INTEREST RATE SET FORTH (IF APPLICABLE), THE CHARGES MADE AS AUTHORIZED IN THIS DECLARATION, ALL VIOLATION FINES AND THE COSTS OF COLLECTION, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, IS SECURED BY A CONTINUING CONTRACTUAL ASSESSMENT LIEN AND CHARGE ON THE LOT COVERED BY SUCH ASSESSMENT, WHICH SHALL BIND SUCH LOT AND THE OWNERS THEREOF AND THEIR HEIRS, SUCCESSORS, DEVISEES, PERSONAL REPRESENTATIVES AND ASSIGNEES. The continuing contractual Assessment Lien shall attach to the Lots as of the date of the recording of this Declaration in the Official Public Records of Dallas County, Texas, and such Assessment Lien shall be superior to all other liens except as otherwise provided in this Declaration. Each Owner, by accepting conveyance of a Lot, shall be deemed to have agreed to pay the Assessments herein provided for and to the reservation of the Assessment Lien. The Assessment Lien shall be subordinate only to the liens of any valid first lien mortgage or deed of trust encumbering a particular Lot and the Assessment Lien established by the terms of this Declaration. Sale or transfer of any Lot shall not affect the Assessment Lien. However, the sale or transfer of any Lot pursuant to a first mortgage or deed of trust foreclosure (whether by exercise of power of sale or otherwise) or any proceeding in lieu thereof, shall only extinguish the Assessment Lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability and the Assessment Lien for any Assessments thereafter becoming due. The Assessment Lien may be non-judicially foreclosed by power of sale in accordance with the provisions of Section 51.002 of the Texas Property Code (or any successor provision) or may be enforced judicially. Each Owner, by accepting conveyance of a Lot, expressly grants the Association a power of sale in connection with the foreclosure of the Assessment Lien. The Board is empowered to appoint a trustee, who may be a member of the Board, to exercise the powers of the Association to non-judicially foreclose the Assessments Lien in the manner provided for in Section 51.002 of the Texas Property Code (or any successor statute). The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. The rights and remedies set forth in this Declaration are subject to the Texas Residential Property Owners Protection Act, as amended from time to time (Texas Property Code, Section 209.001 *et seq.*).

11.1.1. Notices of Delinquency or Payment. The Association, the Association's attorney or the Declarant may file notice (a "Notice of Unpaid Assessments") of any delinquency in payment of any Assessment in the Records of Dallas County, Texas. THE ASSESSMENT LIEN MAY BE ENFORCED BY FORECLOSURE OF THE ASSESSMENT LIEN UPON THE DEFAULTING OWNER'S LOT BY THE ASSOCIATION SUBSEQUENT TO THE RECORDING OF THE NOTICE OF UNPAID ASSESSMENTS EITHER BY JUDICIAL FORECLOSURE OR BY NONJUDICIAL FORECLOSURE THROUGH A PUBLIC SALE IN LIKE MANNER AS A MORTGAGE ON REAL PROPERTY IN ACCORDANCE WITH THE TEXAS PROPERTY CODE, AS SUCH MAY BE REVISED, AMENDED, SUPPLEMENTED OR REPLACED FROM TIME TO TIME. Upon the timely curing of any default for which a notice was recorded by the Association, the Association, through its attorney, is hereby authorized to file of record a release of such notice upon payment by the defaulting Owner of a fee, to be determined by the Association but not to exceed the

actual cost of preparing and filing a release. Upon request of any Owner, any title company on behalf of such Owner or any Owner's mortgagee, the Board, through its agents, may also issue certificates evidencing the status of payments of Assessments as to any particular Lot (i.e., whether they are current or delinquent and if delinquent, the amount thereof). The Association or its Managing Agent may impose a reasonable fee for furnishing such certificates or statements.

11.1.2. Suit to Recover. The Association may file suit to recover any unpaid Assessment and, in addition to collecting such Assessment and interest thereon, may also recover all expenses reasonably expended in enforcing such obligation, including reasonable attorneys' fees and court costs.

11.2. INTEREST. Delinquent Assessments are subject to interest from the due date until paid, at the Default Interest Rate.

11.3. LATE AND OTHER FEES. Delinquent Assessments are subject to late fees which shall be Twenty-Five and No/100 Dollars (\$25.00) per month for each month any portion of Assessments due are not paid and is payable to the Association. This amount may be reviewed and adjusted by the Board from time to time as needed to compensate the Association with any rise in costs and expenses associated with the collection of delinquencies to an account. Late fees will be assessed to the delinquent Owner's account. Bank fees for non-sufficient funds or for any other reason charged to the Association which is in relation to a payment received by an Owner and not honored by the Owner's bank or any other financial institution and/or source shall be charged back to the Owner's account for reimbursement to the Association.

11.4. COSTS OF COLLECTION. The Owner of a Lot against which Assessments are delinquent is liable for reimbursement of reasonable costs incurred to collect the delinquent Assessments, including attorney's fees and processing fees charged by the managing agent. The managing agent shall have the right to charge a monthly collection fee in conjunction with the collection efforts performed and for each month an account is delinquent. Additional fees for costs involving but, not limited to, the processing of demand letters and notice of intent of attorney referral shall also apply and shall be in addition to the collection fee noted above. Other like notices requiring extra processing and handling such as but, not limited to, certified or certified and return receipt requested mail processing, payment plan set up and monitoring shall also be costs the Owner of a Lot shall be liable for reimbursement to the Association or its Managing Agent. Collection fees and costs shall be added to the delinquent Owner's account.

11.5. ACCELERATION. If an Owner defaults in paying an Assessment that is payable in installments (payment plan), the Association may accelerate the remaining installments upon written notice to the defaulting Owner. The entire unpaid balance of the Assessment becomes due on the date stated in the notice. The Association is not required to offer an Owner who defaults on a payment plan the option of entering into a second or other payment plan for a minimum of two (2) years.

11.6. SUSPENSION OF USE AND VOTE. The Association may suspend the right of Owners and Residents to use Common Areas and common services (if any) during the period of delinquency, pursuant to the procedures established in the Bylaws. The Association may not suspend the right to vote appurtenant to the Lot to the extent such suspension would be

prohibited under the Texas Residential Property Owners Protection Act, as amended from time to time (Texas Property Code, Section 209.001 *et seq.*). Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments. Further procedures for membership voting are located in Article 8 hereof or in the Bylaws.

11.7. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an Owner delinquent in the payment of Assessments, without foreclosing or waiving the Association's Assessment Lien.

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

11.9. FORECLOSURE OF ASSESSMENT LIEN. As provided by this Declaration, the Association may foreclose its lien against the Lot by judicial or non-judicial means.

11.10. APPLICATION OF PAYMENTS. The Board may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the Lot's account.

## **ARTICLE 12** **ENFORCING THE DOCUMENTS**

12.1. NOTICE AND HEARING. Before the Association may exercise its remedies for a violation of the Documents or damage to the Property, the Association must give an Owner written notice and an opportunity for a hearing, according to the requirements and procedures in this Declaration, the Bylaws and in Applicable Law, such as Chapter 209 of the Texas Property Code, as amended from time to time. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorney's fees incurred by the Association. A minimum of one (1) notice of not less than ten (10) days shall be required for most violations except prior notice is not required with respect to entry onto a Lot by the Association to cure violations that are an emergency or hazardous in nature or pose a threat or nuisance to the Association or another Owner.

12.2. REMEDIES. The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. The Association may and probably will adopt a Notice and Fining Policy by which the Association shall establish, govern, and exercise additional enforcement and remedies. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents, subject to applicable notice and hearing requirements (if any):

12.2.1. 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.

12.2.2. Fine. The Association may levy reasonable charges, as an individual Assessment, against an Owner and his Lot if the Owner or Resident, or the Owner or Resident's family, tenants, occupants, 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. The maximum fine amount per violation occurrence shall not exceed \$500.00. The Board may choose to levy a one-time fine in lieu of staged fining notwithstanding, the maximum one-time fine per violation occurrence shall be \$500.00. The Association may adopt a notice and fining policy that will supplement any provisions in this Declaration.

12.2.3. 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, pursuant to the procedures as outlined in the Bylaws. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

12.2.4. Self-Help. The Association has the right to enter any part of the Property, including Lots, to abate or remove, using force as may reasonably be necessary, any 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 Lot and Owner as an Individual Assessment. The Board will make reasonable efforts to give the violating Owner at least one seventy-two (72) hour notice prior to its intent to exercise self-help which may be issued by posting to the door of the Residence, by electronic mail (e-mail), by telephone, or by U.S. Mail; the notice may be given in any manner likely to be received by the Owner. Prior notice is not required (1) in the case of any emergency or situation that creates a safety or health risk to the Owners or the Association, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the Subdivision.

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

12.3. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with Applicable Law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

12.4. 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. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Documents at any future time. No officer, director, or Member of the Association is liable to any Owner for the failure to enforce any of the Documents at any time.

12.5. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. At the Board's sole discretion, a fine may be levied against a renter or lessee other than the Owner however, should the renter or lessee fail to pay the fine within the time allotted, the Owner shall be responsible for the fine which shall be added to the Owner's account. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

### **ARTICLE 13** **MAINTENANCE AND REPAIR OBLIGATIONS**

13.1. OVERVIEW. Generally, the Association maintains the Common Areas, and the Owner maintains his Lot. If an Owner fails to maintain his Lot, the Association may perform the work at the Owner's expense. However, this Declaration with regard to the Townhomes permits Owners to delegate some of their responsibilities to the Association. For example, during one span the Owners may want the Association to handle the periodic repainting of exterior trim on all the Townhomes, which otherwise is the responsibility of each Lot Owner. During the next period, the Owners may prefer to handle repainting on an individual basis. They have that option under this Declaration's concept of "Areas of Common Responsibility," as described below. A comprehensive view of the Maintenance Responsibility Chart is shown under Appendix C.

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

- a. The Common Areas.
- b. The Areas of Common Responsibility as designated on the Maintenance Chart attached herein as Appendix C, if any.
- c. Any real and personal property owned by the Association but which is not a Common Area, such as a Lot owned by the Association.
- d. Any property adjacent to the Subdivision if maintenance of same is deemed to be in the best interests of the Association and if not prohibited by the Owner or operator of said property.

- e. Any area, item, easement, or service - the maintenance of which is assigned to the Association by this Declaration or by the Plat.

The City or its lawful agents, after due notice to the Association and opportunity to cure, may maintain the Common Areas, landscape systems and any other features or elements that are required to be maintained by the Association and the Association fails to do so. The City or its lawful agents, after due notice to the Association and opportunity to cure, may also perform the responsibilities of the Association and its Board if the Association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the Association or of any applicable City codes or regulations. All costs incurred by the City in performing said responsibilities as addressed in this paragraph shall be the responsibility of the Association. The City may also avail itself of any other enforcement actions available to the City pursuant to state law or City codes or regulations, with regard to the items addressed in this paragraph. **THE ASSOCIATION AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL COSTS, EXPENSES, SUITS, DEMANDS, LIABILITIES OR DAMAGES INCLUDING ATTORNEY FEES AND COSTS OF SUIT, INCURRED OR RESULTING FROM THE CITY'S MAINTENANCE OF THE COMMON AREAS AND/OR REMOVAL OF ANY LANDSCAPE SYSTEMS, FEATURES OR ELEMENTS THAT CEASE TO BE MAINTAINED BY THE ASSOCIATION.**

13.3. AREA OF COMMON RESPONSIBILITY. The Association, acting through its Members only, has the right but not the duty to designate, from time to time, portions of Lots or Townhomes as Areas of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association as a Common Expense. A designation applies to every Lot having the designated feature. The cost of maintaining components of Lots or Townhomes as Areas of Common Responsibility is added to the annual budget and assessed uniformly against all Lots as a Regular Assessment, unless the Board determines such maintenance benefits some but not all Lots and thereby decides to assess the costs as Individual Assessments. Should there be a discrepancy in this Declaration and the Maintenance Chart attached as Exhibit C with regard to area of common responsibility or the responsibilities of an Owner, the Maintenance Chart shall be the controlling document.

13.3.1. Change in Designation. The Association may, from time to time, change or eliminate the designation of components of Lots or Townhomes as Areas of Common Responsibility. Any such change must be approved in writing by Owners of a Majority of the Owners of Lots, or by affirmative vote of the majority of the Owners of Lots present at a meeting of the Members of the Association at which a quorum is present called for the purpose of changing the Area of Common Responsibility. Notwithstanding the foregoing or anything to the contrary contained herein, no change in the Areas of Common Responsibility during the Development Period shall be effective without the prior written consent of the Declarant, and Declarant may unilaterally change the Areas of Common Responsibility during the Development Period without the consent or joinder of the Members. Although the Maintenance Responsibility Chart is attached to this Declaration as Appendix C, it may be amended, restated and published as a separate instrument. The authority for amending it is contained in this Section.



Any amended or restated Maintenance Responsibility Chart must be (1) published and distributed to an Owner of each Lot, (2) reflected in the Association's annual budget and reserve funds.

13.3.2. Initial Designation. On the date of this Declaration, the initial designation of components of Lots and Townhomes as Areas of Common Responsibility is shown on Appendix C of this Declaration.

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

13.4.1. Townhome Building Repairs. Unless the Property was designed for diversity and exterior expressions of individuality, all Townhomes within the same Townhome Building will be maintained with an eye towards uniformity and architectural harmony. This Section is necessitated by periods during which the Association may be lax about enforcing architectural uniformity, or during periods in which the Area of Common Responsibility is limited.

a. The exterior of each Townhome must be maintained and repaired in a manner that is consistent for the entire Townhome Building of which it is part.

b. If an Owner desires to upgrade a component of the exterior, such as replacing aluminum windows with wood windows, the decision to change a standard component of the Townhome Building must be approved by the Owners of more than half the Townhomes in the Townhome Building, in addition to the Architectural Reviewer. Thereafter, the new Building Standard for such Townhome Building will apply to repairs or replacement of the component, as needed, on other Townhomes in such Townhome Building.

c. Unless a change of component has been approved, repairs, replacement, and additions to the exteriors of the Townhomes must conform to the original construction. For example, if the Townhome Building was constructed with bronze colored window frames, replacement windows with white frames may not be used unless white frames have been approved as the new standard for the Townhome Building. Similarly, the siding on one Townhome may not be replaced with wood, while another is replaced with vinyl, and a third is replaced with cement fiberboard.

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

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

13.4.3. Townhome Roofs. The Owner shall maintain all aspects of the Townhome Roof as set forth in the Maintenance Chart attached herein as **Appendix C.** Each Owner of a Townhome is solely responsible for the maintenance, replacement and upkeep of all components as listed under Owner Responsibility as set forth in the Maintenance Chart attached herein as **Appendix C.** However, if a roofing professional determines that the failure to repair the structural components of the roof of one Townhome may adversely affect one or more other Townhomes in the Townhome Building of which it is part, then the cost of the structural roof work will be divided by the number of Townhomes in such Townhome Building, and the Owner of each Townhome will pay an equal share. If an Owner fails or refuses to pay his share of costs of repair of the roof, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the county's real property records, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title. Should an Owner fail to maintain his Townhome and portions of the roof or roof attachments in a satisfactory manner and damages affect neighboring units, the Owner responsible may be held solely liable for the damages and repairs for the neighboring unit without the weight of the burden being divided by the number of Townhomes as set forth above. The Association reserves the right to call out a roofing professional to inspect the damages and render an opinion as to the cause of any rooftop damages prior to the Owner initiating repairs. If the roofing professional finds that the cause of damages are the direct result of an Owners failure to maintain structural components of the roof as required within any section of this Declaration or if an Owner has installed an unauthorized apparatus of any kind which is determined to be the cause of any such damages, the Association shall provide to the Owner in writing a copy of the roofing professionals findings and the Owner shall be solely liable for the costs of all repairs to his unit or any neighboring units which may be affected.

13.4.4. Townhome Cooperation. Each Owner of a Townhome will endeavor to cooperate with the Owners of the other Townhomes in the same Townhome Building to affect the purposes and intent of the two preceding sections on Townhome foundations and Townhome roofs. If the Owners of Lots that share a Townhome Building cannot cooperate, they may ask the Association to coordinate the required repairs.

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

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

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

13.4.8. Owner's Obligations to Repair. Except for those portions of each Lot constituting the Areas of Common Responsibility, each Owner shall at his sole cost and expense, maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair at all times. In the event that any Owner shall fail to maintain and repair his Lot and such improvements as required hereunder, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right but not the obligation, subject to the notice and cure provisions, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any assessments hereunder when due. Maintenance shall include the upkeep in good repair of all fences, exterior portions of the Residence including trim, gutters, garage door, windows, lawn, driveway and sidewalk; this list is not intended to be inclusive and other maintenance requirements are at the sole discretion of the Board.

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

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

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

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

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

13.10. PARTY WALLS. A Townhome wall located on or near the dividing line between two Lots and intended to benefit both Lots constitutes a "Party Wall" (herein so called) 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.

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

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

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

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

## **ARTICLE 14** **INSURANCE**

14.1. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the Owners and the Board will make every reasonable effort to comply. Insurance policies and bonds obtained and maintained by the Owners must be issued by responsible insurance companies authorized to do business in the State of Texas. Each insurance policy maintained by the Owner should contain a provision requiring the insurer to endeavor to give at least 10 days' prior written notice to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured.

14.2. PROPERTY INSURANCE BY OWNER(S). To the extent it is reasonably available; the Owners will obtain property insurance for all improvements and property within a Residence or Lot owned by such Owner insurable by the Owner. This insurance must be in an amount sufficient to cover the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard.

14.3. INSURANCE RATIONALE. All Owners must insure their Residence and Lot to the extent necessary (1) to preserve the appearance of the Property, (2) to maintain the structural integrity of the Residence, (3) to maintain systems that serve the Residence, such as pest control tubing and fire safety sprinklers, HVAC systems, irrigation, and more. The Owner must insure all aspects of his Residence and its Lot and such Owner's personal property thereon and therein.

14.4. TOWNHOME INSURANCE. A Townhome development provides many complex issues and opportunities for insurance. There are valid reasons for having the individual Owners insure their own Townhomes. All Owners must insure their Townhome and Lot to the extent necessary (1) to preserve the appearance of the Property, (2) to maintain the structural integrity of the Townhome Building and the Townhomes therein, (3) to maintain systems that serve multiple Townhomes in a Townhome Building, such as pest control tubing and fire safety sprinklers, and (4) to maintain the perimeter shells of the Townhomes. The Owner must insure all aspects of his Townhome and its Lot and such Owner's personal property thereon and therein. In insuring the Townhome and Lot, the Owner may be guided by types of policies and coverage's customarily available for similar types of properties. As used in this Article, "Building Standard" refers to the typical Townhome for the Property, as originally constructed, and as modified over time by changes in replacement materials and systems that are typical for the market and era.

14.4.1. Townhome Insured By Owner. As applicable towards the Owner's individual Townhome and Lot, each Owner will maintain property insurance on the following components of Townhome Building of which that Owner's Townhome is part, to the Building Standard. *The Association may carry insurance on certain exterior components of the Townhome which shall, in part, be governed by the Maintenance Chart set forth herein as Appendix C. The Association shall determine the extent of its responsibility for coverage and shall carry the required coverage's for Townhomes accordingly. An Owner should check with the Association prior to obtaining coverage to determine what coverage the Association provides on behalf of the exterior portions of a Townhome.*

a. All structural components of the Townhome Building, such as foundations, load bearing walls, roof and roof trusses.

b. The exterior construction of the Townhome Building, such as the roof and roof stacks; chimneys, if applicable; exterior walls, windows, and doors; and roof top patios, balconies, and decks notwithstanding, if the Association covers through a master policy any of the exterior portions as described herein the Owner may opt out of carrying such coverage however, an Owner shall be solely responsible for confirming all coverage's carried by the Association, if any. An Owner shall be responsible for confirming the type of coverage which may be provided by the Association on an annual basis at least thirty (30) days prior to the renewal date of their personal policy. An Owner shall be responsible for obtaining coverage for any area of their Townhome, exterior or interior, that is NOT covered by the Association. The Association shall not be liable for any loss sustained by an Owner failing to follow the provisions as set forth in this section. Upon request the Association shall provide a copy of the policy which shall provide to the Owner a comprehensive look at the type of coverage's provided by the Association, if any.

c. The Party Walls of the Townhome Building, from unfinished sheetrock on one side of the Party Wall, to unfinished sheetrock on the other side of the Party Wall.

d. The structural components of the floor/ceiling assemblies that partition the Townhome into levels or floors, including stairs connecting the floors.

e. Partition walls, countertops, cabinets, furr downs, interior doors, and fixtures within the Townhome.

f. Finish materials on walls, floors, and ceilings, such as carpet, paint, tile, mirror, and wallpaper.

g. Window treatments, lighting fixtures, tub enclosures, and decorative hardware.

h. Appliances and plumbing fixtures.

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

Each Owner and Resident is solely responsible for insuring his personal property in his Townhome and on the Property, including furnishings and vehicles. The Association strongly recommends that each Owner and Resident purchase and maintain insurance on his personal belongings.

14.4.2. Limitation of Liability. The Association shall not be liable: (i) for injury or damage to any person or property caused by the elements or by the Owner or Resident of any Townhome, or any other person or entity, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common Areas or Areas of Common Responsibility, or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder; or (ii) to any Owner or Resident of any Townhome for any damage or injury caused in whole or in part by the Association's failure to discharge its maintenance responsibilities hereunder, to the extent not covered by available insurance proceeds.

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

14.6. OWNER'S GENERAL RESPONSIBILITY FOR INSURANCE. Each Owner, at his expense, will maintain all insurance coverage's required of Owners by the Association pursuant to this Article. Each Owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an Owner fails to maintain required insurance, or to provide the Association with proof of same, the Board may obtain insurance on

behalf of the Owner who will be obligated for the cost as an Individual Assessment. The Board may establish additional minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. Each Owner and Resident is solely responsible for insuring his Residence and his personal property in his Residence and on his Lot, including furnishings, vehicles, and stored items.

## **ARTICLE 15** **RESERVED**

## **ARTICLE 16** **AMENDMENTS**

16.1. CONSENTS REQUIRED. As permitted by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by the Board alone without the consent or joinder of the Members. Amendment of the Maintenance Responsibility Chart, initially recorded as Appendix B of this Declaration, is subject to the terms of Section 13.3. To the extent required by the City, any proposed amendment which is for the purpose of either amending the provisions of this Declaration or the Associations agreements pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, Common Areas, private Streets or grounds that are the responsibility of the Association, the Association shall obtain prior written consent from the City.

16.2. 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 Lot the substance if not exact wording of the proposed amendment, and a description of the effect of the proposed amendment.

16.3. 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 Declarant, so long as Declarant owns one (1) lot within the subdivision, or the directors and, if required, any mortgagees under a first lien mortgage or deed of trust encumbering a Lot; and (3) recorded in the Real Property Records of every county in which the Property is located, except as modified by the following section.

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



16.5. ORDINANCE COMPLIANCE. When amending the Documents, the Association must consider the validity and enforceability of the amendment in light of current public law, including without limitation applicable zoning or other City requirements.

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

16.7. TERMINATION. Termination of the terms of this Declaration is according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by Owners of at least two-thirds of the Lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the Board without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by Owners of at least eighty percent (80%) of the Lots. Any termination of the terms of this Declaration shall require the written approval of the City.

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

## **ARTICLE 17** **DISPUTE RESOLUTION**

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

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

- a. Claims arising out of or relating to the interpretation, application, or enforcement of the Documents.

b. Claims relating to the rights and/or duties of Declarant as Declarant under the Documents.

c. Claims relating to the design, construction, or maintenance of the Property.

17.1.2. "Claimant" means any Party having a Claim against any other Party.

17.1.3. "Exempt Claims" means the following Claims or actions, which are exempt from this Article:

a. The Association's Claim for Assessments and any action by the Association to collect Assessments.

b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.

c. Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.

d. A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

17.1.4. "Respondent" means the Party against whom the Claimant has a Claim.

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

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

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

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

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

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

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

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

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

17.10.1. Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a Majority of the Owners, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of Assessments; (2) to change condemnation

proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend Claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo.

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

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

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

## **ARTICLE 18**

### **GENERAL PROVISIONS**

18.1. COMPLIANCE. The Owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and 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.

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

18.3. NOTICE. All demands or other notices required to be sent to an Owner or Resident by the terms of this Declaration may be sent by ordinary or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an Owner fails to give the Association an address for mailing notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it. A minimum of one (1) notice informing an Owner of an existing violation (emergency violations excluded) will be required. Each notice shall provide the Owner not less than ten (10) days to cure the violation with the exception of self help notices. If Owner does not cure the violation after one (1) notice is delivered, the Association shall proceed with a fine notice and subsequent fines or with self-help whichever the Association deems appropriate. The Association shall adopt an e-mail registration policy.

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

18.5. 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.

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

18.7. APPENDIXES. The following appendixes are attached to this Declaration and incorporated herein by reference:

- A – Description of Subject Land (Legal Description)
- B – Declarant Representations & Reservations
- C – Maintenance Responsibility chart
- D – Design Guidelines
- E – Bylaws of the Association

18.8. 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.

18.9. DURATION. Unless terminated or amended by Owners as permitted herein, the provisions of this Declaration shall run with and bind the Property, and will remain in effect initially for 25 years from the date this Declaration is recorded, and shall automatically renew without any action from the Association for successive ten (10) year periods to the extent permitted by law, unless previously terminated in accordance with Section 16.7 hereof.

[SIGNATURE PAGE FOLLOWS THIS PAGE]

SIGNED on this 9 day of May, 2017.

DECLARANT:  
OWENHUNT, LLC  
a Texas limited liability company

By: [Signature]  
Name: Sam Prager  
Its: Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF Dallas   §

This instrument was acknowledged before me on the 9<sup>th</sup> day of May, 2017, by Sam Prager, known to me to be the Manager of Owenhunt, LLC, a Texas limited liability company on behalf of said limited liability company and in the capacity herein stated.

[Signature]  
Notary Public, State of Texas



**APPENDIX "A"**  
**Legal description subject land**  
**REAL PROPERTY LEGAL DESCRIPTION**

**OWNER'S CERTIFICATE**  
STATE OF TEXAS  
COUNTY OF DALLAS

WHEREAS, OwenHunt, LLC, is the owner of a 0.471 acre tract of land situated in the John Grigsby Survey, Abstract No. 495, Dallas County, Texas and being all of Lots 6 and 7, Block 3/674, College Hill Addition, an addition to the City of Dallas, Texas according to the plat thereof recorded in Volume 93, Page 194, Deed Records, Dallas County, Texas; said 0.471 acre tract also being all of that tract of land conveyed to OwenHunt, LLC by General Warranty Deed recorded in County Clerk's File Nos. 201500132631 and 201500132664, Official Public Records, Dallas County, Texas; said 0.471 acre tract being more particularly described by metes and bounds as follows;

BEGINNING, at a 1/2-inch iron rod found at the east corner of said Lot 5, Block 3/674; said point also being the north corner of Lot 5, Block 3/674 of said College Hill Addition; said point also being on the southwest right-of-way line of Bennett Avenue (60 feet wide);

THENCE, South 45 degrees 00 minutes 00 seconds West, leaving said southwest right-of-way and with the common line of said Lot 5 and 6, Block 3/674, a distance of 205.00 feet to a 3-1/4-inch aluminum disk stamped "EKO PLACE ADDITION, GONZALEZ & SCHNEEBERG, TX RPLS 4804" on a 5/8-inch iron rod set at the south corner of said Lot 6, Block 3/674; said point also being the west corner of said Lot 5, Block 3/674; said point also being on the northeast right-of-way line of a 18-foot alley;

THENCE, North 45 degrees 00 minutes 00 seconds West, with said northeast right-of-way, a distance of 100.00 feet to a 3-1/4-inch aluminum disk stamped "EKO PLACE ADDITION, GONZALEZ & SCHNEEBERG, TX RPLS 4804" on a 5/8-inch iron rod set at the west corner of said Lot 7, Block 3/674; said point also being the south corner of Lot 8, Block 3/674 of said College Hill Addition;

THENCE, North 45 degrees 00 minutes 00 seconds East, leaving said northeast right-of-way line and with the common line of said Lots 7 and 8, Block 3/674, a distance of 205.00 feet to a 3-1/4-inch aluminum disk stamped "EKO PLACE ADDITION, GONZALEZ & SCHNEEBERG, TX RPLS 4804" on a 5/8-inch iron rod set at the north corner of said Lot 7, Block 3/674; said point also being the east corner of Lot 8, Block 3/674 of said College Hill Addition; said point also being on the said southwest right-of-way line of Bennett Avenue;

THENCE, South 45 degrees 00 minutes 00 seconds East, with said southwest right-of-way line, passing at a distance of 40.00 feet a 5/8-inch iron rod found at the east corner of said Lot 7; said point also being the north corner of said Lot 6; continuing, in all, a total distance of 100.00 feet to the POINT OF BEGINNING;

CONTAINING, 20,500 square feet or 0.471 acres of land, more or less.



## APPENDIX "B"

### DECLARANT REPRESENTATIONS & RESERVATIONS

#### B.1. GENERAL PROVISIONS.

B.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Appendix.

B.1.2. General Reservation & Construction. 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 Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Document, this Appendix controls. This Appendix may not be amended without the prior written consent of Declarant. To the extent any proposed amendment is for the purpose of either amending the provisions of this Declaration or the Association's Agreements pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, Common Areas, private Streets or grounds that are the responsibility of the Association, prior written consent of the City may be required. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

B.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and the Declarant Control Period to ensure a complete and orderly build out and sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. Declarant may not use its control of the Association and the Property 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 without cause with ninety days' notice.

B.1.4. Definitions. As used in this Appendix and elsewhere in the Documents, the following words and phrases, when capitalized, have the following specified meanings:

a. "Builder" means a person or entity which purchases, or contracts to purchase, a Lot from Declarant or from a Builder for the purpose of constructing a Townhome Residence for resale or under contract to an Owner other than Declarant. As used in this Declaration, Builder does not refer to Declarant or to any home building or home marketing company that is an affiliate of Declarant.

b. "Declarant Control Period" means that period of time during which Declarant controls the operation of this Association. 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:

(1) ten (10) years from date this Declaration is recorded; or

- (2) the date title to the Lots and all other portions of the Property has been conveyed to Owners other than Builders or Declarant.

B.1.5. Builders. Declarant, through its affiliates, intends to construct Townhome Residences on the Lots in connection with the sale of the Lots. However, Declarant may, without notice, sell some or all of the Lots to one or more Builders to improve the Lots with Townhomes to be sold and occupied.

B.2. DECLARANT CONTROL PERIOD RESERVATIONS. Declarant reserves the following powers, rights, and duties during the Declarant Control Period:

B.2.1. Officers & Directors. During the Declarant Control Period, the Board shall consist of three (3) persons. **During the Declarant Control Period, Declarant may appoint, remove, and replace any officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader" provided, however,** that on or before the date which is the earlier of (i) one hundred twenty (120) days after Declarant has sold seventy five percent (75%) of the Lots that may be developed within the Property, or (ii) ten (10) years after the date of recordation of this Declaration, at least one-third (1/3) of the directors on the Board shall be elected by non-Declarant Owners.

B.2.2. Weighted Votes. During the Declarant Control Period, the vote appurtenant to each Lot owned by Declarant is weighted twenty (20) times that of the vote appurtenant to a Lot owned by another Owner. In other words, during the Declarant Control Period, Declarant may cast the equivalent of twenty (20) votes for each Lot owned by Declarant on any issue before the Association. On termination of the Declarant Control Period and thereafter, the vote appurtenant to Declarant's Lots is weighted uniformly with all other votes.

B.2.3. Budget Funding. During the Declarant Control Period only, Declarant is responsible for the difference between the Association's operating expenses and the Regular Assessments received from Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. At the Declarant's sole discretion, funds provided for the purpose of offsetting a deficit may be treated as a loan. On termination of the Declarant Control Period, Declarant will cease being responsible for the difference between the Association's operating expenses and the Assessments received from Owners other than Declarant. Declarant is not responsible for funding the Reserve Fund and may, at its sole discretion, require the Association to use Reserve Funds when available to pay operating expenses prior to the Declarant funding any deficit.

B.2.4. Declarant Assessments. During the Declarant Control Period, any real property owned by Declarant is not subject to Assessments by the Association.

B.2.5. Builder Obligations. During the Declarant Control Period only, Declarant has the right but not the duty (1) to reduce or waive the Assessment obligation of a Builder, and (2) to exempt a Builder from any or all liabilities for transfer-related fees charged by the Association or its manager, provided the agreement is in writing. Absent such an exemption, any Builder who owns a Lot is liable for all Assessments and other fees charged by the Association in the same manner as any Owner.

B.2.6. Commencement of Assessments. During the initial development of the Property, Declarant may elect to postpone the Association's initial levy of Regular Assessments until a certain number of Lots are sold. During the Declarant Control Period, Declarant will determine when the Association first levies Regular Assessments against the Lots. Prior to the first levy, Declarant will be responsible for all operating expenses of the Association.

B.2.7. Expenses of Declarant. Expenses related to the completion and marketing of the Property will be paid by Declarant and are not expenses of the Association.

B.2.8. Budget Control. During the Declarant Control Period, the right of Owners to veto Assessment increases or Special Assessments is not effective and may not be exercised.

B.2.9. Organizational Meeting. Within one hundred twenty (120) days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call an organizational meeting of the Members of the Association for the purpose of electing, by vote of the Owners, directors to the Board. Written notice of the organizational meeting must be given to an Owner of each Lot at least ten (10) days but not more than sixty (60) days before the meeting. For the organizational meeting, Owners of twenty percent (20%) of the Lots constitute a quorum. The directors elected at the organizational meeting will serve as the Board until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin. At this transition meeting, the Declarant will transfer control over all utilities related to the Common Areas owned by the Association and Declarant will provide information to the Association, if not already done so, relating to the total costs to date related to the operation and maintenance of the Common Areas and Areas of Common Responsibility.

B.3. DEVELOPMENT PERIOD RESERVATIONS. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, at any time during the Development Period:

B.3.1. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by (1) a governmental entity, if applicable, and (2) the Owner of the land or Lots to which the change would directly apply (if other than Declarant), Declarant may (a) change the sizes, dimensions, and configurations of Lots and Streets; (b) change the minimum Townhome Residence size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

B.3.2. Builder Limitations. Declarant may require its approval (which may not be unreasonably withheld) of all documents and materials used by a Builder in connection with the development and sale of Lots, including without limitation promotional materials; deed restrictions; forms for deeds, Lot sales, and Lot closings. Without Declarant's prior written approval, a Builder may not use a sales office or model in the Property to market homes, Lots, or other products located outside the Property.

B.3.3. Architectural Control. **During the Development Period, Declarant has the absolute right to serve as the Architectural Reviewer pursuant to Article 6.** Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights as Architectural Reviewer under Article 6 and this Appendix to (1) an ACC appointed by the

Board, or (2) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. Declarant also has the unilateral right to exercise architectural control over vacant Lots in the Property. The Association, the Board of Directors, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new Residences and related improvements on vacant Lots.

B.3.4. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents to include Bylaws, without consent of the Board, other Owners or mortgagee, or Members for any purpose, including without limitation the following purposes:

- c. To create Lots, easements, and Common Areas within the Property.
- d. To modify the designation of the Area of Common Responsibility.
- e. To subdivide, combine, or reconfigure Lots.
- f. To convert Lots into Common Areas and Common Areas back to Lots.
- g. To modify the construction and use restrictions of Article 7 of this Declaration.
- h. To merge the Association with another property owners association.
- i. To comply with the requirements of an underwriting lender.
- j. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- k. To enable any reputable title insurance company to issue title insurance coverage on the Lots.
- l. To enable an institutional or governmental lender to make or purchase mortgage loans on the Lots.
- m. To change the name or entity of Declarant.
- n. To change the name of the addition in which the Property is located.
- o. To change the name of the Association.

p. For any other purpose, provided the amendment has no material adverse effect on any right of any Owner including but, not limited to amending the Declaration or the Bylaws as may be needed or appropriate from time to time.

**B.3.5. Completion.** During the Development Period, Declarant has (1) the right to complete or make improvements indicated on the Plat; (2) the right to sell or lease any Lot owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in the Common Area, Area of Common Responsibility, and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

**B.3.6. Easement to Inspect & Right to Correct.** During the Development Period, Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement or condition that may exist on any portion of the Property, including the Lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a Lot may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or the Association.

**B.3.7. Promotion.** During the Development Period, Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Residents, for purposes of promoting, identifying, and marketing the Property and/or Declarant's Residences, Lots, developments, or other products located outside the Property. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events – such as open houses, MLS tours, and broker's parties – at the Property to promote the sale of Lots. During the Development Period, Declarant also reserves (1) the right to permit Builders to place signs and promotional materials on the Property and (2) the right to exempt Builders from the sign restriction in this Declaration.

**B.3.8. Offices.** During the Development Period, Declarant reserves for itself the right to use Townhome Residences owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to Lots and Townhomes Residences used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

**B.3.9. Access.** During the Development Period, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining,

managing, and marketing the Property and the Property Subject to Annexation (as hereinafter defined), and for discharging Declarant's obligations under this Declaration.

Declarant also has the right to provide a reasonable means of access for the home buying public through any existing or future gate that restricts vehicular access to the Property in connection with the active marketing of Lots and Residences by Declarant or Builders, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

**B.3.10. Utility Easements.** During the Development Period, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the easements on any Lot, as shown on the Plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a Common Area or not owned by Declarant, Declarant must have the prior written consent of the Owner.

**B.3.11. Assessments.** For the duration of the Development Period, any Lot owned by Declarant is not subject to mandatory assessment by the Association until the date Declarant transfers title to an Owner other than Declarant. If Declarant owns a Lot on the expiration or termination of the Development Period, from that day forward Declarant is liable for Assessments on each Lot owned by Declarant in the same manner as any Owner.

**B.3.12. Land Transfers.** During the Development Period, any transfer of an interest in the Property to or from Declarant is not subject to any transfer-related provision in the Documents, including without limitation on an obligation for transfer or Resale Certificate fees, and the transfer-related provisions of Article 8 of this Declaration. The application of this provision includes without limitation Declarant's Lot take-downs, Declarant's sale of Lots to Builders, and Declarant's sale of Lots to homebuyers.

**B.4. COMMON AREAS.** Declarant will convey title to the Common Areas, including any and all facilities, structures, improvements and systems of the Common Areas owned by Declarant, to the Association by one or more deeds – with or without warranty. Any initial Common Area improvements will be installed, constructed, or authorized by Declarant, the cost of which is not a Common Expense of the Association. At the time of conveyance to the Association, the Common Areas will be free to encumbrance except for the property taxes accruing for the year of conveyance the terms of this Declaration and matters reflected on the Plat. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of Common Areas requiring inspection, evaluation, acceptance, or approval of Common Area improvements by the Owners. Declarant is under no contractual or other obligation to provide amenities of any kind or type.

**B.5. WORKING CAPITAL FUND.** Declarant may (but is not required to) establish a working capital fund for the Association by requiring purchasers of Lots to make a one-time contribution to this fund, subject to the following conditions:

a. The amount of the contribution to this fund will be \$350.00 and will be collected on the closing of the sale of the Lot to any Owner other than Declarant, a Successor Declarant, Declarant-affiliate or a Builder.

b. Subject to the foregoing Builder provision, a Lot's contribution should be collected from the Owner at closing upon sale of Lot from Builder to Owner; Declarant acknowledges that this condition may create an inequity among the Owners, but deems it a necessary response to the diversification of marketing and closing Lot sales.

d. Contributions to the fund are not advance payments of Regular Assessments or Special Assessments and are not refundable to the contributor by the Association or by Declarant. This may not be construed to prevent a selling Owner from negotiating reimbursement of the contribution from a purchaser.

e. Declarant will transfer the balance of the working capital fund to the Association on or before termination of the Declarant Control Period. Declarant may not use the fund to defray Declarant's personal expenses or construction costs however, Declarant may, if necessary, utilize funds for the Association's operating needs in the event of a deficit in the Association's operating budget.

B.6. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants' (herein so called) for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Dallas County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

B.7. Declarant's Right to Annex Adjacent Property. Declarant hereby reserves for itself and its affiliates and/or any of their respective successors and assigns the right to annex any real property in the vicinity of the Property (the "Property Subject to Annexation") into the scheme of this Declaration as provided in this Declaration. Notwithstanding anything herein or otherwise to the contrary, Declarant and/or such affiliates, successors and/or assigns, subject to annexation of same into the real property, shall have the exclusive unilateral right, privilege and option (but never an obligation), from time to time, for as long as Declarant owns any portion of the Property or Property Subject to Annexation, to annex (a) all or any portion of the Property Subject to Annexation owned by Declarant, and (b) subject to the provisions of this Declaration and the jurisdiction of the Association, any additional property located adjacent to or in the immediate vicinity of the Property (collectively, the "Annexed Land"), by filing in the Official Public Records of Dallas County, Texas, a Supplemental Declaration expressly annexing any such Annexed Land. Such Supplemental Declaration shall not require the vote of the Owners, the Members of the Association, or approval by the Board or other action of the Association or any other Person, subject to the prior annexation of such Annexed Land into the real property. Any such annexation shall be effective upon the filing of such Supplemental Declaration in the Official Public Records of Dallas County, Texas (with consent of Owner(s) of the Annexed Land, if not Declarant). Declarant shall also have the unilateral right to transfer to any successor

Declarant, Declarant's right, privilege and option to annex Annexed Land, provided that such successor Declarant shall be the developer of at least a portion of the Annexed Land and shall be expressly designated by Declarant in writing to be the successor or assignee to all or any part of Declarant's rights hereunder.

**B.7.1. Procedure for Annexation.** Any such annexation shall be accomplished by the execution by Declarant, and the filing for record by Declarant (or the other Owner of the property being added or annexed, to the extent such other Owner has received a written assignment from Declarant of the right to annex hereunder) of a Supplemental Declaration which must set out and provide for the following:

- (i) A legally sufficient description of the Annexed Land being added or annexed, which Annexed Land must as a condition precedent to such annexation be included in the real property;
- (ii) That the Annexed Land is being annexed in accordance with and subject to the provisions of this Declaration, and that the Annexed Land being annexed shall be developed, held, used, sold and conveyed in accordance with, and subject to, the provisions of this Declaration as theretofore and thereafter amended; provided, however, that if any Lots or portions thereof being so annexed are to be treated differently than any of the other Lots (whether such difference is applicable to other Lots included therein or to the Lots now subject to this Declaration), the Supplemental Declaration should specify the details of such differential treatment and a general statement of the rationale and reasons for the difference in treatment, and if applicable, any other special or unique covenants, conditions, restrictions, easements or other requirements as may be applicable to all or any of the Lots or other portions of Annexed Land being annexed;
- (iii) That all of the provisions of this Declaration, as amended, shall apply to the Annexed Land being added or annexed with the same force and effect as if said Annexed Land were originally included in this Declaration as part of the Initial Property, with the total number of Lots increased accordingly;
- (iv) That an Assessment Lien is therein created and reserved in favor of the Association to secure collection of the Assessments as provided in this Declaration, and as provided for, authorized or contemplated in the Supplemental Declaration, and setting forth the first year Maintenance Assessments and the amount of any other then applicable Assessments (if any) for the Lots within the Annexed Land being made subject to this Declaration; and
- (v) Such other provisions as the Declarant therein shall deem appropriate.

**B.7.2. Amendment.** The provisions of this B.7. or its sub-sections may not be amended without the express written consent of Declarant (and Declarant's successors and assigns in accordance with the terms hereof).



B.7.3. No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any Member to annex any property to this Declaration and no Owner of the property excluded from this Declaration shall have any right to have such property annexed thereto.

B.7.4. Effect of Annexation on Class B Membership. In determining the number of Lots owned by the Declarant for the purpose of Class B Membership status the total number of Lots covered by this Declaration and located in such Declarant's portion of the Property, including all Lots acquired by the Declarant and annexed thereto, shall be considered. If Class B Membership has previously lapsed but annexation of additional property restores the ratio of Lots owned by the Declarant to the number required by Class B Membership, such Class B Membership shall be reinstated until it expires pursuant to the terms of the Declaration.

***[End of Appendix B]***

**APPENDIX "C"**  
**MAINTENANCE RESPONSIBILITY CHART**  
**TOWNHOMES**

"all aspects" includes maintenance, repair and replacement, as needed"

Component of Property	Area of Common Responsibility	Owner Responsibility
Roofs	None	All other aspects, including chimney, roof top deck finished surface and patios, shingles, flashing, decking, felt/tarpaper and parapet
Roof-mounted attachments	The periodic painting or maintenance of the wrought iron fencing located on roof top patios only	All other aspects
Exterior vertical walls of Townhome Buildings, other exterior features of Townhome Buildings not specifically listed in chart	Outermost materials only, such as siding, stucco and brick, and any coatings or surface treatments on the material, such as paint or sealant	All other aspects, including wall cavities and insulation
Townhome Building foundations, patio slabs and A/C slabs	None	All aspects, including tolerance for minor cracks that are inevitable results of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete and settling of the Townhome Building
Concrete driveways and sidewalks	All structural aspects	Routine cleaning and tolerance for minor cracks that are inevitable results of the natural expansion and contraction of soil, shrinkage during the curing of the concrete and settling of the Townhome Building
Displays of street numbers on exterior doors or Townhome Building surfaces	All aspects	None
Gutters and downspouts, if applicable	All aspects	None
Grounds – outside the fenced yards (if any).	All aspects	None

<b>Component of Property</b>	<b>Area of Common Responsibility</b>	<b>Owner Responsibility</b>
Yard irrigation system outside of fenced yards, if applicable (sprinkler)	All aspects	None
Exterior light fixtures on Townhome Buildings	None	All aspects
Garages	None	All aspects. Includes routine interior cleaning, interior wall and ceiling materials, garage door, tracking mechanism for automatic garage doors, and garage door trim, pedestrian door, automatic garage door opener, remote controls, interior light fixture, interior electrical outlets.
Insulation and weather-stripping	None	All aspects
Chimneys and fireplaces, if applicable	None	All aspects
Fences and gates around private Townhome yards ( if any)	All aspects	None
Townhome interiors, including improvements, fixtures, partition walls and floors within Townhome	None	All aspects including but not limited to all electrical and plumbing components. Owners are responsible for all aspects of security and pest control inside and outside their units.
Sheetrock in Townhomes (walls and ceilings) and treatments on walls	None	All aspects
Improvements and grounds in private patio/yards	None	All aspects
Exterior doors of Townhomes	None	All aspects of the garage door, and all aspects of other doors, including paint, door frame, door, glass panes, hardware, locks, peep-holes, thresholds, weather stripping and doorbells

<b>Component of Property</b>	<b>Area of Common Responsibility</b>	<b>Owner Responsibility</b>
Windows	Periodic exterior caulking in connection with exterior painting to include windows that do not open or are located on the second (2 <sup>nd</sup> ) floor or above	All other aspects, including window frames, window sill flashings, window seals and sealants, screens, window locks, glass panes, glazing, interior caulking.
Water, sewer, electrical lines and systems	None for lines and systems serving the Lots	All aspects of lines and systems serving the Lot
Heating and cooling systems and water heaters	None	All aspects
Intrusion alarms on doors/windows, smoke/heat detectors, monitoring equipment	None	All aspects
Cable for television or Internet	Standards for location and appearance of cable and/or conduit	All other aspects
Television Antennas and satellite dishes	Standards for location and appearance of exterior-mounted devices	All other aspects

Note 1: The components listed in the first column are applicable only if they exist, and may not be construed to create a requirement to have such a component.

Note 2: If the Owner is responsible for a component of the Townhome Building that is shared with one or more other Townhomes in the Townhome Building, such as roof trusses and the foundation, the responsibility is shared by the Owners of all the Townhomes in the Townhome Building. If the Owners of the Townhomes in the Townhome Building cannot agree on an equitable division of the costs based on the circumstances, the division will be equal among the Townhomes although one Townhome may be more affected than the others. If the Owners of the Townhomes cannot agree on any aspect of maintenance that requires their joint participation, the matter will be decided by a 3-person ad hoc committee appointed by the Board.

Note 3: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner. Expenses incurred by the Association to perform necessary maintenance, repair, or replacement due to Owner's failure or refusal to perform such work shall be billed back to the Owner and the Association shall collect from Owner all expenses it incurs.

The Association shall be able to exercise all collection rights available to it under law and as may be set forth in this Declaration.

Note 4: This Maintenance Responsibility Chart may be revised by the Association at any time and from time to time at the sole discretion of the Declarant or a majority vote of the Board. A revised Chart must be recorded in the Real Property Records of Dallas County, Texas. Revisions to the Maintenance Chart must be provided to the Owners by delivering a copy of the revised Chart to Owners by U.S. mail and if applicable, posted to the Association's website.

## **APPENDIX "D"**

### **TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR EKO PARK**

#### **DESIGN GUIDELINES**

#### **PART ONE: LANDSCAPING, FENCES AND EXTERIOR ELEMENTS**

##### **SECTION 1.1 LANDSCAPING.**

Upon completion of each Residence, each Residence must comply with the landscaping requirements of any applicable City of Dallas ordinances and Association Rules. Notwithstanding compliance with the foregoing, the following landscape elements shall be installed prior to occupancy of the Residence:

- 1.1.1 Sod: Each Residence shall have full sod installed for the entire front and side yards, if applicable, and a minimum of ten (10) feet back from the front wall face for each side yard, or to the side yard fence, whichever is greater. Rear yards may consist of astro turf or a similar synthetic grass which shall be at the sole discretion of the Declarant or the Architectural Reviewer.
- 1.1.2 Trees: Declarant, and thereafter, the Architectural Reviewer or the Board of Directors shall determine the number, placement and type of tree allowed. Trees shall be with a caliper of at least four inches (4") measured at a point six inches (6") above ground level and 10 to 12 feet in height at the time of planting. Each Owner of the Lot shall be responsible for watering and preservation of trees located on their property. Owners of Townhomes shall promptly report any dead trees within five (5) days to the Association. Restrictions for the removal and replacement of trees may apply. The City of Dallas has tree and landscape ordinances and tree preservation ordinances in place, check with the city before removing or planting. Any replacement of dead or dying trees shall be performed by the Association or otherwise shall require the prior written consent of the Architectural Reviewer.
- 1.1.3 Declarant and thereafter, the Architectural Reviewer or the Board of Directors shall determine the number, placement, and types of shrubbery and planting beds allowed as may be applicable. A mulched planting bed with edging is preferred but, not mandatory in areas where such planting beds may exist. Owners of Townhomes shall promptly report any dead shrubbery within five (5) days to the Association. All replacement of shrubbery and planting beds shall be performed by the Association. No fake or synthetic plants or flowers of any kind are allowed.

**SECTION 1.2 FENCES: Wood fencing shall be allowed for side and rear yards only and shall be a maximum height of six feet (6').** When necessary to maintain the aesthetic appearance of the neighborhood, fences shall be painted or stained as needed. The Architectural Reviewer or the Board of Directors, at their sole discretion, shall determine when and how often such maintenance shall be performed. Fencing must be kept in good repair at all times. Owners must promptly report broken or missing sections of the fence.

- 1.2.1 Fences: Fencing shall be spruce or better, Board-to-Board with a minimum 5/8" picket and preferably a 1x4 continuous band. All posts must be on the inside so the smooth side faces out and fence must be stained with Seal Rite Medium Brown or a color approved by the Declarant or thereafter, the Architectural Reviewer or Board of Directors. See Exhibit Attachment 1.2.2.1 for a sample of approved fencing. Owner must report broken or missing pickets or panels, and leaning or fallen panels to the Association for repair.
- 1.2.2 Front Yard Fences: Front yard fencing is prohibited unless approved by the Declarant or the Board of Directors. Style and type of fencing allowed shall be determined by the Declarant and thereafter, the Architectural Reviewer or Board of Directors. If approved, all fencing shall be uniform; no variation of fencing across front lawns shall be allowed.

**SECTION 1.3 MAIL BOXES:**

- 1.3.1 Mail boxes for Townhomes shall be cluster boxes of a type and style approved for use by the U.S. Postal Service. Placement of the pad and cluster boxes shall be at the sole discretion of the Declarant and U.S. Postal Service. **The Association or its Managing Agent does not maintain a copy of mailbox keys on file. It shall be the responsibility of the Owner to obtain the key(s) at time of purchase and if a sale of a unit from one Owner to another transpires, the Owner shall be solely responsible to provide the mailbox key(s) to the purchaser.**

**SECTION 1.4 FLAGS AND FLAGPOLES: Due to the limited yard space in most units, the use of flags and flagpoles may be limited or prohibited. An ACC application must be submitted in advance of installation of any flag or flagpole.**

- 1.4.1 The only flags which may be displayed are: (i) the flag of the United States of America; (ii) the flag of the State of Texas; and (iii) an official or replica flag of any branch of the United States armed forces and School Spirit flags. No other types of flags, pennants, banners, kits or similar types of displays are permitted on a Lot if the display is visible from a street or Common Properties.
- 1.4.2 The flag of the United States must be displayed in accordance with 4 U.S.C. Sections 5-10.

- 1.4.3 The flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code.
- 1.4.4 Any freestanding flagpole, or flagpole attached to a Residence, shall be constructed of permanent, long-lasting materials. The materials used for the flagpole shall be harmonious with the Residence, and must have a silver finish with a gold or silver ball at the top. The flagpole must not exceed three (3) inches in diameter.
- 1.4.5 The display of a flag, or the location and construction of the supporting flagpole, shall comply with applicable zoning ordinances, easements, and setbacks of record.
- 1.4.6 A displayed flag, and the flagpole on which it is flown, shall be maintained in good condition at all times. Any flag that is deteriorated must be replaced or removed. Any flagpole that is structurally unsafe or deteriorated shall be repaired, replaced, or removed.
- 1.4.7 Only one flagpole will be allowed per Lot. A flagpole can either be securely attached to the face of the Residence (no other structure) or be a freestanding flagpole. A flagpole attached to the Residence may not exceed 4 feet in length. A freestanding flagpole may not exceed 20 feet in height. Any freestanding flagpole must be located in either the front yard or backyard of a Lot, and there must be a distance of at least 5 feet between the flagpole and the property line.
- 1.4.8 Any flag flown or displayed on a freestanding flagpole may be no smaller than 3'x5' and no larger than 4'x6'.
- 1.4.9 Any flag flown or displayed on a flagpole attached to the Residence may be no larger than 3'x5'.
- 1.4.10 Any freestanding flagpole must be equipped to minimize halyard noise. The preferred method is through the use of an internal halyard system. Alternatively, swivel snap hooks must be covered or "Quiet Halyard" Flag snaps installed. Neighbor complaints of noisy halyards are a basis to have flagpole removed until Owner resolves the noise complaint.
- 1.4.11 The illumination of a flag is allowed so long as it does not create a disturbance to other residents in the community. Solar powered, pole mounted light fixtures are preferred as opposed to ground mounted light fixtures. Compliance with all municipal requirements for electrical ground mounted installations must be certified by Owner. Flag illumination may not shine into another Residence. Neighbor complaints regarding flag illumination are a basis to prohibit further illumination until Owner resolves complaint.



- 1.4.12 Flagpoles shall not be installed in Common Properties or any property maintained by the Association.
- 1.4.13 All freestanding flagpole installations must receive prior written approval of the Architectural Reviewer.

**SECTION 1.5 RAIN BARRELS OR RAINWATER HARVESTING SYTEMS: Due to the minimal yard space available in most units, the use of rain barrels may be limited or prohibited. An ACC application must be submitted in advance of installation of any rain barrel or rainwater harvesting system.**

- 1.5.1 Rain barrels or rain water harvesting systems and related system components (collectively, "Rain Barrels") may only be installed after receiving the written approval of the Architectural Reviewer.
- 1.5.2 Rain Barrels may not be installed upon or within Common Properties.
- 1.5.3 Under no circumstances shall Rain Barrels be installed or located in or on any area within a Lot that is in-between the front of the property owner's Residence and an adjoining or adjacent street.
- 1.5.4 The rain barrel must be of color that is consistent with the color scheme of the property owner's Residence and may not contain or display any language or other content that is not typically displayed on such Rain Barrels as manufactured.
- 1.5.5 Rain Barrels may be located in the side-yard or back-yard of an owner's Residential Parcel so long as these may not be seen from a street, another Lot or any Common Properties.
- 1.5.6 In the event the installation of Rain Barrels in the side-yard or back-yard of an owner's property in compliance with paragraph 1.5.5 above is impossible, the Reviewing Body may impose limitations or further requirements regarding the size, number and screening of Rain Barrels with the objective of screening the Rain Barrels from public view to the greatest extent possible. The owner must have sufficient area on their Lot to accommodate the Rain Barrels.
- 1.5.7 Rain Barrels must be properly maintained at all times or removed by the owner.
- 1.5.8 Rain Barrels must be enclosed or covered.
- 1.5.9 Rain Barrels which are not properly maintained become unsightly or could serve as a breeding pool for mosquitoes must be removed by the owner from the Lot.

## **SECTION 1.6 RELIGIOUS DISPLAYS.**

- 1.6.1 An owner may display or affix on the entry to the Owner's or Resident's Residence one or more religious items, the display of which is motivated by the Owner's or Resident's sincere religious belief.
- 1.6.2 If displaying or affixing of a religious item on the entry to the Owner's or Resident's Residence violates any of the following covenants, the Association may remove the item displayed:
- (1) threatens the public health or safety;
  - (2) violates a law;
  - (3) contains language, graphics, or any display that is patently offensive to a passerby;
  - (4) is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the Owner's or Resident's Residence; or
  - (5) individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches
- 1.6.3 No Owner or Resident is authorized to use a material or color for an entry door or door frame of the Owner's or Resident's Residence or make an alteration to the entry door or door frame that is not authorized by the Association, Declaration or otherwise expressly approved by the Architectural Reviewer.

## **PART TWO: RESIDENCES**

### **SECTION 2.1 ROOFS.**

- 2.1.1 **Roof Pitch:** Roof Pitch for Residences may vary. The ACC shall determine what roof pitch is allowed which may include or be limited to the City of Dallas zoning or building ordinances. Roof Pitch for porches and patios, if applicable, may have a lesser or varying pitches but, shall be subject to approval of the Declarant or Architectural Reviewer.
- 2.1.2 **Roofing Materials:** Roofing materials shall be of a material or composition generally accepted or approved by the Declarant or the Architectural Reviewer subject to allowed materials per the City of Dallas building and zoning ordinances. Other roofing materials or colors outside of those materials and colors used for the initial construction of the Townhome shall not be used without written approval from the Architectural Control Committee.
- 2.1.3 **Dormers & Above Roof Chimneys:** If applicable, Dormers and Chimney Chases, above roof structure and roofing materials, may be finished with an approved exterior grade siding material. All Fireplace flues shall be enclosed and finished; exposed pre-fabricated metal flue piping is prohibited.

- 2.1.4 Exemptions allowing lower pitch pans in areas around windows, covered porches and patios or certain Residence plans are allowed and will be reviewed for approval by the Architectural Reviewer on a case by case basis.

## **SECTION 2.2 CERTAIN ROOFING MATERIALS**

- 2.2.1 Roofing covered by this Section are exclusively those designed primarily to: (i) be wind and hail resistant; (ii) provide heating and cooling efficiencies; or (iii) provide solar generation capabilities (collectively, "Roofing Materials or Shingles").
- 2.2.2 Roofing allowed under this Section 2.2 shall:
- (1) resemble the roofing materials used or otherwise authorized for use in the Subdivision and/or Property;
  - (2) be more durable than and are of equal or superior quality to the roofing materials used or otherwise authorized for use in the Subdivision and/or Property.
  - (3) match the aesthetics of the property surrounding the property of the owner requesting permission to install the Roofing.
- 2.2.3 The owner requesting permission to install the Roofing will be solely responsible for accrediting, certifying and demonstrating to the Architectural Reviewer that the proposed installation is in full compliance with paragraphs a and b above. Owners of Townhomes should not attempt replacement of Roofing materials without the express written consent of the Architectural Reviewer.
- 2.2.4 Roofing shall be installed after receiving the written approval of the Architectural Reviewer.
- 2.2.5 Owners are hereby placed on notice that the installation of Roofing Materials may void or adversely other warranties.

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**SECTION 2.3 SOLAR PANELS. Installation of Solar Panels in a Townhome Residence may be more restrictive. If an Owner of a Residence installs a Solar Panel and it results in damage to the Roof in any way, Owner shall be held liable for the repair and / or replacement of the roof in and around the area affected, including surrounding Townhome Residences and Townhome Buildings if the installation of Solar Panels directly affects or compromises any neighboring Townhome Residence's roof. Prior written approval of the Architectural Reviewer is required at all times for Townhomes. Damages to a roof whether Architectural Reviewer approved or not will be the sole responsibility of the Owner.**

- 2.3.1 Solar energy devices, including any related equipment or system components (collectively, "Solar Panels") may only be installed after receiving the written approval of the Architectural Control Committee.
- 2.3.2 Solar Panels may not be installed upon or within Common Properties or any area which is maintained by the Association.
- 2.3.3 Solar Panels may only be installed on designated locations on the roof of a Residence, on any structure allowed under any Association dedicatory instrument, or within any fenced rear-yard or fenced-in patio of the owner's property, but only as allowed by the Architectural Reviewer. **Solar Panels may not be installed on the front elevation of the Residence.**
- 2.3.4 If located on the roof of a Residence, Solar Panels shall:
  - (1) not extend higher than or beyond the roofline;
  - (2) conform to the slope of the roof;
  - (3) have a top edge that is parallel to the roofline; and
  - (4) have a frame, support bracket, or wiring that is black or painted to match the color of the roof tiles or shingles of the roof. Piping must be painted to match the surface to which it is attached, i.e. the soffit and wall. Panels must blend with the color of the roof to the greatest extent possible.
- 2.3.5 If located in the fenced rear-yard or patio, Solar Panels shall not be taller than the fence line or visible from a Lot, Common Properties or street.
- 2.3.6 The Architectural Reviewer may deny a request for the installation of Solar Panels if it determines that the placement of the Solar Panels, as proposed by the property owner, will create an interference with the use and enjoyment of land of neighboring owners.
- 2.3.7 Owners are hereby placed on notice that the installation of Solar Panels may void or adversely affect roof warranties. Any installation of Solar Panels which voids material warranties is not permitted and will be cause for the Solar Panels to be removed by the owner.

- 2.3.8 Solar Panels must be properly maintained at all times or removed by the owner.
- 2.3.9 Solar Panels which become non-functioning or inoperable must be removed by the owner of the property.

## **SECTION 2.4 MINIMUM FLOOR AREA AND SETBACK RESTRICTIONS.**

The total air-conditioned living area of the main residential structure of Townhomes constructed on each Lot, as measured to the outside of exterior walls but exclusive of open porches, garages, patios and detached accessory buildings, shall be calculated on a per Townhome basis or in accordance with the City of Dallas Zoning and Subdivision Regulations and other applicable laws. The setback requirements are subject to the building line setbacks as outlined in Building Line Setbacks for Subdivision.

## **SECTION 2.5 EXTERIOR WALLS**

- 2.5.1 Exterior Wall Materials: Exterior walls shall be a minimum of seventy-five percent (75%) masonry and exterior-grade siding materials which may be cementitious siding or hardy board or as approved by the Architectural Control Committee.
  - 2.5.1.1 Front Walls: All front wall surfaces shall consist of masonry and Cementitious siding or hardy board or other materials as approved by the Architectural Control Committee. Materials are subject to City of Dallas building and/or zoning ordinances. It is the sole responsibility of the Builder or Owner to ensure all compliance requirements with the City of Dallas building ordinances are met. Siding may be used for hidden or concealed wall surfaces not directly visible from the lot front property line. Siding can be used in limited quantities for upper gable areas that would create a "brick-on-wood" condition. Approval of the use of this provision is at the sole discretion of the Architectural Reviewer and ordinances of the City of Dallas.
  - 2.5.1.2 Side and Rear Walls: Side and rear wall surfaces may be constructed using a mixture of masonry and exterior-grade siding as required to comply with the City of Dallas building and/or zoning ordinances.
  - 2.5.1.3 Chimneys: Chimney wall structures that are a direct extension of an exterior wall shall match the requirement of said wall.
  - 2.5.1.4 Required masonry percentages shall be calculated excluding exterior wall areas built on top of a roof.

## **SECTION 2.6 WINDOWS**

2.6.1 Windows shall be constructed of vinyl, divided light on all front windows, divided light on all windows backing siding collectors, parks or open spaces. Reflective glass is prohibited. Other windows may be used at the sole discretion and approval of the Architectural Reviewer but, shall be subject to any City ordinance.

## **SECTION 2.7 GARAGE**

2.7.1 Garage Doors shall be constructed of metal and shall be kept in good repair at all times. No garage shall be used as living or business quarters at any time. Garage doors should be kept closed when not in use. Garages are to be used to park and store Owners vehicles and not as a means of storage. Owners shall ensure that ample room for parking and storage of vehicles in their garage is maintained at all times.

## **SECTION 2.8 ADDRESS BLOCKS**

2.8.1 All address blocks shall be cast stone or a material as may be approved by the Declarant or ACC.

## **SECTION 2.9 ELEVATION AND BRICK USAGE**

Exhibits:

Exhibit Attachment 1.2.2.1 – Sample Approved 6' Wood Fence Detail

**APPENDIX "D" Design Guidelines**

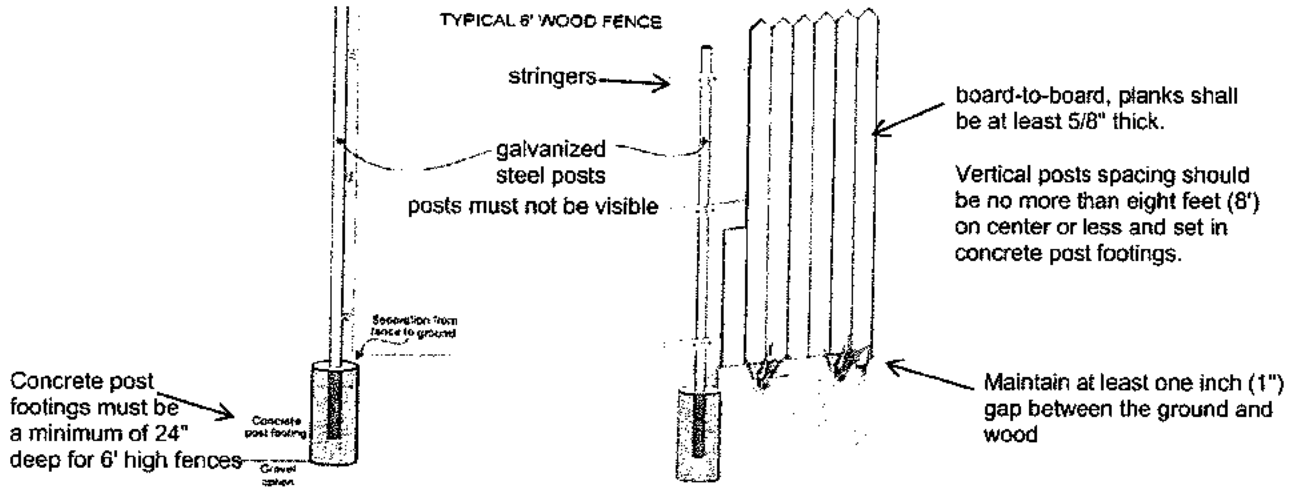
Exhibit Attachment 1.2.2.1

6' Wood Fence Detail

# EXHIBIT ATTACHMENT 1.2.2.1

## STANDARD SIDE AND REAR YARD FENCES

Fences shall be constructed of spruce or better





**APPENDIX "E"**

**TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
EKO PARK**

**BYLAWS  
[SEE ATTACHED]**

**BYLAWS  
OF  
Eko Park TOWNHOME OWNERS ASSOCIATION, INC.**

**ARTICLE I  
INTRODUCTION**

The name of the corporation is Eko Park Townhome Owners Association, Inc., a Texas non-profit corporation, hereinafter referred to as the "Association". The principal office of the Association shall be located in Dallas County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, as may be designated by the Board of Directors.

The Association is organized to be a nonprofit corporation.

**Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Declaration of Covenants, Conditions and Restrictions for Eko Park recorded in the Official Public Records of Dallas County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.**

**ARTICLE II  
DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

**Section 2.1. Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

**Section 2.2. Association.** "Association" shall mean and refer to Eko Park Townhome Owners Association, Inc., a Texas non profit corporation.

**Section 2.3. Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now are hereafter owned or held by the Association.

**Section 2.4. Association Restrictions.** "Association Restrictions" shall mean the Declaration of Covenants, Conditions and Restrictions for Eko Park as the same may be amended from time to time, together with the Certificate, Bylaws, and Association Rules from time to time in effect.

**Section 2.5. Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

**Section 2.6. Board.** "Board" shall mean the Board of Directors of the Association. During the period of Declarant control, Declarant shall have the sole right to appoint and remove Directors of the Board.

**Section 2.7. Bylaws.** “Bylaws” shall mean the Bylaws of the Association which may be adopted by the Board and as the same may be amended from time to time.

**Section 2.8. Certificate.** “Certificate” shall mean the Certificate of Formation of Eko Park Townhome Owners Association, Inc., a Texas non-profit corporation, filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended. A copy of the Certificate of Formation is attached hereto as Exhibit A.

**Section 2.9. Declarant.** “Declarant” shall mean OWENHUNT, LLC, a Texas limited liability company, and its duly authorized representatives or their successors or assigns; provided that any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

**Section 2.10. Declaration.** “Declaration” shall mean the “Declaration of Covenants, Conditions and Restrictions for Eko Park”, recorded in the Official Public Records of Dallas County, Texas, as the same may be amended from time to time.

**Section 2.11. Development.** “Development” shall mean and refer to the property subject to the terms and provisions of the Declaration.

**Section 2.12. Manager.** “Manager” shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

**Section 2.13. Member.** “Member” or “Members” shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

**Section 2.14. Mortgage.** “Mortgage” or “Mortgages” shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**Section 2.15. Mortgagee.** “Mortgagee” or “Mortgagees” shall mean the holder or holders of any lien or liens upon any portion of the Property.

**Section 2.16. Owner.** “Owner” or “Owners” shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

Unless otherwise defined in these Bylaws or the context otherwise requires, each term used in these Bylaws with its initial letter capitalized which has been specifically defined in the Declaration and not otherwise specifically defined in this Article II shall have the same meaning herein as given to such term in the Declaration.

### **ARTICLE III MEETING OF MEMBERS**

**Section 3.1. Annual Meetings.** The first annual meeting of the Members shall be held on such date as selected by the Board of Directors which is on or before the earlier of (i) the date which is one hundred twenty (120) days after seventy-five percent (75%) of the Lots have been sold to non-Declarant Owners, or (ii) ten (10) years from the date on which the Declaration is

recorded in the Official Public Records of Dallas County, Texas, and each subsequent regular annual meeting of the Members shall be held on such date as selected by the Board of Directors who shall, whenever possible, hold the annual meeting in the same month each year thereafter unless a different date is selected by the Board of Directors. The annual meeting shall not be held on a Saturday, Sunday, or legal holiday.

**Section 3.2. Special Meetings.** Special meetings of the Members may be called at any time by the President or by a majority vote of the Board of Directors, or upon written request of the Members who are entitled to vote fifty-one percent (51%) or more of the votes of the Association.

**Section 3.3. Place of Meetings.** Meetings of the Association may be held at the Development or at a suitable place convenient to the Members, as determined by the Board.

**Section 3.4. Notice of Meetings.** At the direction of the Board, written notice of annual or special meetings of the Association will be given to the Members at least ten (10) days but not more than sixty (60) days prior to the meeting. Notices of meetings will state the date, time, and place the meeting is to be held. Notices will identify the type of meeting as annual or special, and will state the particular purpose of a special meeting. Notices may also set forth any other items of information deemed appropriate by the Board.

**Section 3.5. Voting Member List.** The Board will prepare and make available a list of the Association's voting Members in accordance with the Texas Business Organization Code.

**Section 3.6. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the total votes of the membership shall constitute a quorum for any action, except as otherwise provided in the Certificate, the Declaration, or these Bylaws. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be ten percent (10%) of all the votes of all Members. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting. If the required quorum is not present or represented at any meeting, the Members entitled to vote at the meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

**Section 3.7. Proxies.** Votes may be cast in person or by written proxy. To be valid, each proxy must: (i) be signed and dated by a Member or his attorney-in-fact; (ii) identify the Lot to which the vote is appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (a) the proxy has been

acknowledged or sworn to by the Member, before and certified by an officer authorized to take acknowledgments and oaths; or (b) the Association also receives the original proxy within five (5) days after the vote.

**Section 3.8. Conduct of Meetings.** The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. Votes should be tallied by tellers appointed by the person presiding over the meeting. Meetings shall be orderly; any Owner disrupting a meeting may be requested to leave the meeting.

**Section 3.9. Order of Business.** Unless the notice of meeting states otherwise or the assembly adopts a different agenda at the meeting, the order of business at meetings of the Association is as follows:

- Determine votes present by roll call or check-in procedure
- Announcement of quorum
- Proof of notice of meeting
- Approval of minutes of preceding meeting
- Reports of Officers (if any)
- Election of Directors (when required)
- Unfinished or old business
- New business

**Section 3.10. Adjournment of Meeting.** At any meeting of the Association, a majority of the Members present at that meeting, either in person or by proxy, may adjourn the meeting to another time and place.

**Section 3.11. Action without Meeting.** Subject to Board approval, any action which may be taken by a vote of the Members at a meeting of the Association may also be taken without a meeting by written consents. The Board may permit Members to vote by any method allowed by the Texas Business Organization Code, which may include hand delivery, United States Mail, facsimile, e-mail, or any combination of these. Written consents by Members representing at least a majority of votes in the Association, or such higher percentage as may be required by the Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of Directors.

**Section 3.12. Telephone Meetings.** Members of the Association may participate in and hold meetings of the Association by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in the meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**ARTICLE IV  
BOARD OF DIRECTORS**

**Section 4.1. Authority; Number of Directors.**

(a) The affairs of the Association shall be governed by a Board of Directors consisting of three (3). The number of Directors shall be fixed by the Board of Directors from time to time but shall in no event be greater than five (5). The initial Directors shall be those Directors named in the Certificate of Formation. The initial Directors shall serve until their successors are elected and qualified. Except as is provided in the Declaration and in Sections 4.1(b) and 4.1(c) below, **Declarant shall have the absolute right to appoint and remove members of the Board of Directors during for as long as Declarant owns any Lot affected by the Declaration.**

(b) From and after the first annual meeting of Members and until the date (the "Transition Date") which is the earlier of (i) one hundred-twenty (120) days after seventy-five (75%) of the Lots have been sold to non-Declarant Owners, or (ii) ten (10) years from the date on which the Declaration is recorded in the Official Public Records of Dallas County, Texas, the Board of Directors shall consist of three (3) persons appointed by Declarant who need not be Members of the Association. On and after the Transition Date, the Board of Directors shall include two (2) persons appointed by Declarant and one (1) person elected by a majority vote of Class A Members ("Non-Declarant Director") at such meeting at which quorum is present, which Non-Declarant Member shall serve for a period which is the shorter of one (1) year, or until the next annual meeting of the Members at which the Non-Declarant Member (or replacement thereof) shall be elected. The Non-Declarant Director shall be elected at the first annual meeting (or special meeting called for such purpose by the President of the Association) of Members held on or after the Transition Date. On and after the date on which the last Lot is sold to a non-Declarant Owner (the "Declarant Turnover Date"), the President of the Association will call a meeting of the Members of the Association where the Members will elect one (1) Director for a three (3) year term, and two (2) Directors for a two (2) year term. The member obtaining the most votes will serve the three (3) year term and the remaining two (2) will serve a term of two (2) years. Upon expiration of the term of a Director elected by the Members pursuant to this Section 4.1(b), his or her successors shall serve the same term as the expiring member notwithstanding, no term after the initial Board elected after the Declarant Turnover Date shall serve a term of more than two (2) years. A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The Board of Directors shall have the power and authority when it is deemed in the best interest of the Association to change or alter the terms of office which shall be done by Board resolution notwithstanding, terms must remain staggered for the purpose of continuity.

(c) Each Director, other than Directors appointed by Declarant, shall be a Member and resident, or in the case of corporate or partnership ownership of a Lot, a duly authorized agent or representative of the corporate or partnership Owner. The corporate, or partnership Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors.

**Section 4.2. Compensation.** The Directors shall serve without compensation for such service.

**Section 4.3. Nominations to Board of Directors.** Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

**Section 4.4. Removal of Directors for Cause.** If a Director breaches such Director's duties or fails to perform the duties assigned hereunder or violates the terms of the Declaration, the Certificate, the Association Rules or these Bylaws, such Director may be removed by Declarant unless Declarant no longer has the right to appoint and remove Directors in accordance with Section 4.1 of these Bylaws, and then by a majority vote of the remaining Directors after Declarant's right to appoint and remove Directors has expired. To the maximum extent permitted under applicable law, no Director shall have any voting rights nor may such Director participate in any meeting of the Board of Directors at any time that such Director is delinquent in the payment of any Assessments or other charges owed to the Association.

**Section 4.5. Vacancies on Board of Directors.** At such time as Declarant's right to appoint and remove Directors has expired or been terminated, if the office of any elected Director shall become vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws.

**Section 4.6. Removal of Directors by Members.** Subject to the right of Declarant to nominate and appoint Directors as set forth in Section 4.1 of these Bylaws, an elected Director may be removed, with or without cause, by a majority vote of the Members at any special meeting of the Members of which notice has been properly given as provided in these Bylaws; provided the same notice of this special meeting has also been given to the entire Board of Directors, including the individual Director whose removal is to be considered at such special meeting.

**Section 4.7. Consent in Writing.** Any action by the Board of Directors, including any action involving a vote on a fine, damage assessment, appeal from a denial or architectural control approval, or suspension of a right of a particular Member before the Member has an opportunity to attend a meeting of the Board of Directors to present the Member's position on the issue, may be taken without a meeting if all of the Directors shall unanimously consent in writing to the action. Such written consent shall be filed in the Minute Book. Any action taken

by such written consent shall have the same force and effect as a unanimous vote of the Directors.

## **ARTICLE V MEETINGS OF DIRECTORS**

**Section 5.1. Regular Meetings.** Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

**Section 5.2. Special Meetings.** Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

**Section 5.3. Quorum.** A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

**Section 5.4. Telephone Meetings.** Members of the Board or any committee of the Association may participate in and hold meetings of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Participation in such meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 5.6. Action without a Meeting.** Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote.

## **ARTICLE VI POWERS AND DUTIES OF THE BOARD**

**Section 6.1. Powers.** The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Declaration:

(a) adopt and publish the Association Rules, and other policies, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof. Initial policies adopted by the Board are attached hereto as Exhibits B through E attached hereto;

(b) to the maximum extent permitted under applicable law, suspend the voting rights of a Member and right of a Member to use of the Association Property during any period in which such Member shall be in default in the payment of any Assessment levied by the



Association, or after notice and hearing, for any period during which an infraction of the Association Rules by such Member exists;

(c) exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Association Restrictions which shall include the right to establish Ad Hoc or other Committees which shall serve at the sole discretion of the Board. Committee Members shall be volunteers and shall be appointed and removed, with or without cause, solely by the Board. Committee Members shall be overseen by the Board or its Managing Agent and shall be subject to certain charters, policies, rules, or regulations as the Board may determine or establish from time to time. The Board of Directors or Declarant during the period of Declarant Control shall have the sole right and authority to create, suspend, or dissolve any Committee at any time and from time to time, without cause;

(d) to enter into any contract or agreement including with a municipal agency or utility company to provide electric utility service to all or any portion of the Property;

(e) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;

(f) employ such employees as they deem necessary, and to prescribe their duties;

(g) as more fully provided in the Declaration, to:

(1) fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and

(2) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(h) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

(i) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(j) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(k) exercise such other and further powers or duties as provided in the Declaration or by law which shall include but, is not limited to the adoption, amendment, or repeal of Policies, Rules, and Regulations.

**Section 6.2. Duties.** It shall be the duty of the Board to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members who are entitled to cast fifty-one percent (51%) of all outstanding votes; and

(b) supervise all officers, agents, committee members, and employees of the Association, and to see that their duties are properly performed.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

**Section 7.1. Enumeration of Offices.** The officers of the Association shall be a President, Vice-President, who shall at all times be members of the Board, and a Secretary, and such other officers as the Board may from time to time create by resolution. The office of Secretary and Treasurer may be held by the same person.

**Section 7.2. Election of Officers.** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

**Section 7.3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

**Section 7.4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 7.5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 7.6. Vacancies.** A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7.7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

**Section 7.8. Duties.** The duties of the officers are as follows:

(a) **President.** The President, or any person designated by the Board, presides over meetings of the Association or may designate this responsibility to whomever he/she pleases; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments such as promissory notes. If, at any time, the President fails or refuses to perform his/her duties as needed in order for the Board to continually or routinely conduct business as needed, the Vice President shall assume the duties of the President upon a majority vote of the Board and may conduct the business the President has failed or refused to perform.

The Board may prepare a Resolution outlining the business conducted which shall include the ability to sign contracts, see that orders and resolutions are carried out; sign leases, mortgages, deeds and other written instruments such as promissory notes or other actions as needed. The Board may assign duties to its Managing Agent specifically duties often assigned to the office of Secretary or Treasurer for the purpose of ensuring the business of the Association is conducted promptly and effectively and that records of the Association are maintained as may be required by the Declaration, the Bylaws, or the Articles of Incorporation.

(b) **Vice President.** The Vice President, if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated by the President or the Board.

(c) **Secretary.** The Secretary shall cause to be recorded the votes and cause to be kept the minutes of all meetings and proceedings of the Board and of the Members; serve notice or cause to be served notice of meetings of the Board and of the Members; cause to be kept appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board. Secretary shall sign and acknowledge all ratifications and cause them to be filed as part of the minutes of the meeting and may sign and acknowledge certain documents when the acknowledgment or verification of the Secretary of the Board is deemed appropriate.

(d) **Assistant Secretaries.** Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) **Treasurer.** The Treasurer in conjunction with the Management Company, if applicable, shall oversee the receipts and deposits in appropriate bank accounts all monies of the Association and shall oversee the disbursement of such funds as directed by resolution of the Board; shall sign, at the direction of the Board, promissory notes of the Association; cause to be kept proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall cause to be prepared an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and cause to be delivered a copy of each to the Members.

**ARTICLE VIII  
OTHER COMMITTEES OF THE BOARD OF DIRECTORS**

The Board may, by resolution adopted by affirmative vote of a majority of the number of Directors fixed by these Bylaws, may designate two or more Directors (with such alternates, if any, as may be deemed desirable) or other Members to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board. Committees and their members are subject to the Board and its Managing Agent at all times and may not perform or conduct business of any kind without the express written approval of the Board. Committee Members may be appointed or removed with or without cause at the sole discretion of the Board. The Board may adopt policies, rules, and regulations by which Committees must perform and conduct themselves. A breach or violation of such policies, rules, and regulations is cause for immediate removal. Notwithstanding the foregoing or anything to the contrary contained herein, the Architectural Control Committee shall be established by Declarant and comprised of members appointed by Declarant until such time as the appointing Declarant either relinquishes such power by written notice to the Board, or no longer owns any Lot in accordance with Section 3.2 of the Declaration, as amended from time to time.

**ARTICLE IX  
BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Association Restrictions shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

**ARTICLE X  
ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Declaration.

**ARTICLE XI  
CORPORATE SEAL**

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

## ARTICLE XII DECLARANT PROVISIONS

**Section 12.1. Conflict.** The provisions of this Article control over any provision to the contrary elsewhere in these Bylaws.

**Section 12.2. Board of Directors.** As provided in Section 4.1 of these Bylaws, **Declarant is entitled to appoint and remove all members of the Board of Directors until the Transition Date and thereafter, two members of the Board of Directors until the Declarant no longer owns any portion of the Property.** Until Declarant's right to appoint members of the Board of Directors terminates, the Directors appointed by Declarant need not be Owners or residents and may not be removed by the Owners. In addition, Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

## ARTICLE XIII AMENDMENTS

**Section 13.1.** These Bylaws may be amended, (i) on or before the Declarant Turnover Date, by written consent of Declarant, and thereafter (ii) by a majority vote or written consent of a majority of the Directors on the Board of Directors of the Association.

**Section 13.2.** In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

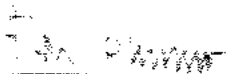
## ARTICLE XIV INDEMNIFICATION OF DIRECTORS AND OFFICERS

THE ASSOCIATION SHALL INDEMNIFY EVERY DIRECTOR AND OFFICER OF THE ASSOCIATION AGAINST, AND REIMBURSE AND ADVANCE TO EVERY DIRECTOR AND OFFICER FOR, ALL LIABILITIES, COSTS AND EXPENSES' INCURRED IN CONNECTION WITH SUCH DIRECTORSHIP OR OFFICE AND ANY ACTIONS TAKEN OR OMITTED IN SUCH CAPACITY TO THE GREATEST EXTENT PERMITTED UNDER THE TEXAS BUSINESS ORGANIZATION CODE AND ALL OTHER APPLICABLE LAWS AT THE TIME OF SUCH INDEMNIFICATION, REIMBURSEMENT OR ADVANCE PAYMENT; PROVIDED, HOWEVER, NO DIRECTOR OR OFFICER SHALL BE INDEMNIFIED FOR: (A) A BREACH OF DUTY OF LOYALTY TO THE ASSOCIATION OR ITS MEMBERS; (B) AN ACT OR OMISSION NOT IN GOOD FAITH OR THAT INVOLVES INTENTIONAL MISCONDUCT OR A KNOWING VIOLATION OF THE LAW; (C) A TRANSACTION FROM WHICH SUCH DIRECTOR OR OFFICER RECEIVED AN IMPROPER BENEFIT, WHETHER OR NOT THE BENEFIT RESULTED FROM AN ACTION TAKEN WITHIN THE SCOPE OF DIRECTORSHIP OR OFFICE; OR (D) AN ACT OR OMISSION FOR WHICH THE LIABILITY OF SUCH DIRECTOR OR OFFICER IS EXPRESSLY PROVIDED FOR BY STATUTE.

I, the undersigned, being the Secretary and a Director of Eko Park Townhome Owners Association, Inc. does hereby certify that the foregoing are the Bylaws of said non-profit corporation, as adopted by the Association's Board of Directors pursuant to a Unanimous Consent of Directors in Lieu of Organizational Meeting of the Association attached herein as Exhibit A.

Miles Durham

\_\_\_\_\_  
Miles Durham, Secretary and Director



\_\_\_\_\_  
Signature

**Exhibit A**

**ORGANIZATIONAL CONSENT**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.**

*[see attached]*

**CONSENT OF DIRECTORS IN LIEU OF  
ORGANIZATIONAL MEETING  
OF  
EKO PARK TOWNHOME OWNERS ASSOCIATION, INC..**

The undersigned, being all of the members of the Board of Directors of Eko Park Townhome Owners Association, Inc., a Texas non profit corporation (hereinafter referred to as the "Association"), do hereby consent, pursuant to the Texas Business Organization Code, to the adoption of the following resolutions:

**1. DIRECTORS**

RESOLVED, that each of the undersigned, being all of the directors of the Association, as named in its Certificate of Formation filed with the Secretary of State of the State of Texas on April 17, 2017, does hereby accept appointment to such office and does hereby agree to serve as a director of the Association until the first annual meeting of the members and until said director's successor or successors have been duly elected and qualified or until his or her earlier death, resignation, retirement, disqualification or removal from office.

**2. BYLAWS**

RESOLVED, that the form of bylaws are approved and adopted as the Bylaws of the Association, and the Secretary of the Association is instructed to insert the original thereof in the minute book of the Association.

**3. OFFICERS**

RESOLVED, that each of the following-named persons be and they hereby are elected as officers of the Association for the office or offices set forth below opposite his or her name, and to hold any such office to which elected until the first annual meeting of the Board of Directors of the Association and until his or her successor should be chosen and qualified in his or her stead, or until his or her earlier death, resignation, retirement, disqualification or removal from office:

Sam Prager	-	President
Coby Russell	-	Vice President
Miles Durham	-	Secretary/Treasurer

**4. REGISTERED OFFICE; REGISTERED AGENT**

RESOLVED, that the registered office of the Association be established and maintained at 4300 N. Central Expressway, Suite 301, Dallas, Texas 75206, and Sam Prager is hereby appointed as registered agent of the corporation in said office.



## **5. BOOKS AND RECORDS**

RESOLVED, that the Secretary of the Association be and hereby is authorized and directed to procure all necessary books and records of the Association.

## **6. ORGANIZATIONAL EXPENSES**

RESOLVED, that the President of the Association or other officer be and hereby is authorized and directed to pay all fees, expenses and costs incident to or necessary for the incorporation and organization of the Association and to reimburse any person who may have paid any of such fees, expenses and costs.

## **7. CORPORATE SEAL**

RESOLVED, that a corporate seal is not adopted at this time and that no impression of a corporate seal is required on any Association document.

## **8. DEPOSITORY RESOLUTIONS**


RESOLVED, that an account shall be established in the name of the Association with a financial institution to be determined or agreed upon by the Board (the "Bank"), under the rules and regulations as prescribed by said Bank wherein may be deposited any of the funds of this Association, whether represented by cash, checks, notes or other evidences of debt, and from which deposit withdrawals are hereby authorized in the name of the Association by any one of the following persons:

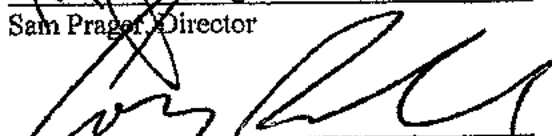
Ron Corcoran, Essex Association Management, LP

Anna Corcoran, Essex Association Management, LP

BE IT FURTHER RESOLVED, that the Bank is hereby authorized to honor any and all withdrawal items against the Association's funds, although payable to the officer or agent signing or countersigning the same and whether presented for encashment or for credit to the personal account of such officer or agent or any other person, and said Bank need make no inquiry concerning such items and/or the disposition of the money, items, or credit given therefor.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of and effective the 9 day of May, 2017.

  
\_\_\_\_\_  
Sam Prager, Director

  
\_\_\_\_\_  
Coby Russell, Director

\_\_\_\_\_  
Miles Durham, Director

IN WITNESS WHEREOF, the undersigned have executed this instrument as of and effective the 9 day of May, 2017.

\_\_\_\_\_  
Sam Prager, Director

\_\_\_\_\_  
Coby Russell, Director

[Signature]  
\_\_\_\_\_  
Miles Durham, Director

**Exhibit B**

**RECORDS REPRODUCTION AND COPYING POLICY  
EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.**

*[see attached]*

## RECORDS PRODUCTION AND COPYING POLICY

### EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.

1. **Standard paper copy.** The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.

2. **Nonstandard copy.** The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

- (A) Diskette--\$1.00;
- (B) Data cartridge--actual cost;
- (C) Rewritable CD (CD-RW)--\$1.00;
- (D) Non-rewritable CD (CD-R)--\$1.00;
- (E) Digital video disc (DVD)--\$3.00;
- (F) JAZ drive, Thumb Drive, or other external hard drive --actual cost;
- (G) Other electronic media--actual cost;
- (H) All other mediums for copying data not provided herein — actual cost;
- (I) Oversize paper copy or specialty paper (e.g.: 11 inches by 17 inches, greenbar, bluebar)--\$.50 per page;

3. **Labor charge for programming.** If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the Association may charge a reasonable fee for the location of the Property for the programmer's time.

4. **Labor charge for locating, compiling, manipulating data, and reproducing public information.**

(A) The charge for labor costs incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

(B) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records.

5. **Labor charge for third parties.** A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information to determine whether the Association will raise any exceptions to disclosure of the requested information under applicable law.

6. Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

7. Postal and shipping charges. The Association may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

8. Payment. The Association that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee. The Association may require advance payment of the charges in this Policy. The Association will provide an invoice to the Owner within 30 days after delivering the requested information. In the event the invoiced amount is less than the pre-paid amount, the Association will refund the excess amount to the Owner within 30 days after the invoice is sent to the Owner. If the actual cost invoiced is greater than the pre-paid amount, the Owner will pay such excess within 30 days of receipt of the invoice. In the event such excess is not paid by the owner timely, the Association may add such unpaid amounts to the Owner's assessment account.

9. Savings Clause. This Policy is subject to periodic reevaluation and update. Notwithstanding anything to the contrary, the Association will not in any event be entitled to receive or collect the charges in this Policy in amounts greater than the maximum allowed by applicable law. In the event the Association receives amounts charged which are in excess of the maximum charges permitted by law, the excess amount will be returned to the Owner.

This is to certify that the foregoing Records Production and Copying Policy was adopted by the Board of Directors, in accordance with Section 209.005 of the Texas Property Code, and supersedes any policy regarding records production which may have previously been in effect.



Miles Durham, Secretary

## RECORD RETENTION POLICY

### Eko Park TOWNHOME OWNERS ASSOCIATION, INC.

The Record Retention Policy of Eko Park Townhome Owners Association ensures that necessary records and documents are adequately protected and maintained and that records that are no longer needed or are of no value are discarded at the proper time.

**1. Policy.** This Policy represents the Association's policy regarding the retention and disposal of records and the retention and disposal of electronic documents.

**2. Administration.** The Record Retention Schedule herein is approved as the initial maintenance, retention and disposal schedule for physical records of the Association and the retention and disposal of electronic documents. The Board or Secretary of the Association ("Administrator") is the officer in charge of the administration of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed. The Administrator is also authorized to: make modifications to the Record Retention Schedule from time to time to ensure that it is in compliance with local, state and federal laws and includes the appropriate document and record categories for the Corporation; monitor local, state and federal laws affecting record retention; annually review the record retention and disposal program; and monitor compliance with this Policy.

**3. Suspension of Record Disposal In Event of Litigation or Claims.** In the event the Association is served with any subpoena or request for documents or any employee becomes aware of a governmental investigation or audit concerning the Association or the commencement of any litigation against or concerning the Association, such employee shall inform the Administrator and any further disposal of documents shall be suspended until such time as the Administrator, with the advice of counsel, determines otherwise. The Administrator will take such steps as is necessary to promptly inform all staff of any suspension in the further disposal of documents.

**4. Applicability.** This Policy applies to all physical records generated in the course of the Association's operation, including both original documents and reproductions. It also applies to the electronic documents described above.

**5.**

#### Record Retention Schedule

The Record Retention Schedule is organized as follows:

#### SECTION TOPIC

- A. Accounting and Finance
- B. Contracts
- C. Corporate Records
- D. Electronic Documents
- E. Payroll Documents
- F. Personnel Records
- G. Property Records
- H. Tax Records

The following are the Association's retention periods. These apply to both physical and electronic documents. If no physical copy of an electronic document is retained, the means to 'read' the electronic document must also be retained. If a record does not fall within the following categories, Board approval must be obtained to dispose of such record.

**A. ACCOUNTING AND FINANCE**

**Record Type**

Accounts Payable & Accounts Receivable ledgers and schedules

Annual Audit Reports and Financial Statements

Annual Audit Records, including work papers and other documents that relate to the audit

Bank Statements and Canceled Checks

Employee Expense Reports

General Ledgers

Notes Receivable ledgers and schedules

Investment Records

**Retention Period**

7 years

Permanent

7 years after completion of audit

7 years

7 years

Permanent

7 years

7 years after sale of investment



## B. CONTRACTS

<u>Record Type</u>	<u>Retention Period</u>
Contracts and Related Correspondence (including any proposal that resulted in the contract and all other supportive documentation)	4 years after expiration or termination

## C. ASSOCIATION RECORDS

<u>Record Type</u>	<u>Retention Period</u>
Corporate Records (unless otherwise specifically addressed in this Policy - Governing Documents, Dedicatory Instruments, minute books, signed minutes of the Board and all committees, corporate seals, annual corporate reports)	Permanent
Licenses and Permits	Permanent
Account records of current owners	5 years

## D. ELECTRONIC DOCUMENTS

- 1. Electronic Mail:** Not all email needs to be retained, depending on the subject matter.
  - All e-mail—from internal or external sources—is to be deleted after 12 months.
  - Staff will strive to keep all but an insignificant minority of their e-mail related to business issues.
  - The Corporation will archive e-mail for six months after the staff has deleted it, after which time the e-mail will be permanently deleted.
  - The Corporation's business-related email should be downloaded to a service center or user directory on the server, when determined by the Board.
  - Staff will not store or transfer the Corporation's related e-mail on non-work-related computers except as necessary or appropriate for the Corporation's purposes.
  - Staff will take care not to send confidential/proprietary information to outside sources.
- 2. Electronic Documents:** Retention depends on the subject matter and follows D.1 above
- 3. Web Page Files: Internet Cookies**
  - All workstations: Internet Explorer should be scheduled to delete Internet cookies once per month.

## **E. PAYROLL DOCUMENTS**

<b><u>Record Type</u></b>	<b><u>Retention Period</u></b>
Employee Deduction Authorizations	4 years after termination
Payroll Deductions	Termination + 7 years
W-2 and W-4 Forms	Termination + 7 years
Garnishments, Assignments, Attachments	Termination + 7 years
Payroll Registers (gross and net)	7 years
Time Cards/Sheets	2 years
Unclaimed Wage Records	6 years

## **F. PERSONNEL RECORDS**

<b><u>Record Type</u></b>	<b><u>Retention Period</u></b>
Commissions/Bonuses/Incentives/Awards EEO-1/EEO-2 - Employer Information Reports	7 years
Employee Earnings Records	2 years after superseded or filing (whichever is longer)
Employee Handbooks	Separation + 7 years
Employee Personnel Records (including individual attendance records, application forms, job or status change records, performance evaluations, termination papers, withholding information, garnishments, test results, training and qualification records)	1 copy kept permanently  6 years after separation
Employment Contracts — Individual	
Employment Records - Correspondence with Employment Agencies and Advertisements for Job Openings	7 years after separation
Employment Records - All Non-Hired Applicants (including all applications and resumes - whether solicited or unsolicited, results of post-offer, pre-employment physicals, results of background investigations, if any, related correspondence)	3 years from date of hiring decision  2-4 years (4 years if file contains any correspondence which might be construed as an offer)
Job Descriptions	3 years after superseded

<u>Record Type</u>	<u>Retention Period</u>
Personnel Count Records	3 years
Forms 1-9	3 years after hiring, or 1 year after separation if later

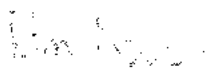
#### G. PROPERTY RECORDS

<u>Record Type</u>	<u>Retention Period</u>
Correspondence, Property Deeds, Assessments, Licenses, Rights of Way	Permanent
Property Insurance Policies	Permanent

#### H. TAX RECORDS

<u>Record Type</u>	<u>Retention Period</u>
Tax-Exemption Documents and Related Correspondence	Permanent
IRS Rulings	Permanent
Tax Bills, Receipts, Statements	7 years
Tax Returns - Income, Franchise, Property	Permanent
Tax Workpaper Packages - Originals	7 years
Annual Information Returns - Federal and State	Permanent
IRS or other Government Audit Records	Permanent
All other Tax Records	7 years

This is to certify that the foregoing Records Retention Policy was adopted by the Board of Directors, in accordance with Section 209.005 of the Texas Property Code, and supersedes any policy regarding records retention which may have previously been in effect.



Miles Durham, Secretary

**Exhibit C**

**ALTERNATE PAYMENT PLAN POLICY**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC**

*[see attached]*

EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.

ALTERNATE PAYMENT SCHEDULE  
GUIDELINES FOR CERTAIN ASSESSMENTS  
Dedicatory Instrument

WHEREAS, the Board of Directors (the "Board") of Eko Park Townhome Owners Association, Inc. (the "Association") wishes to adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the Association for delinquent regular or special assessments or any other amount owed to the Association;

WHEREAS, the Board wishes to adopt these reasonable guidelines in compliance with Section 209.0062 of the Texas Property Code; and

WHEREAS, the Board intends to file these guidelines in the real property records of each county in which the subdivision is located, in compliance with Section 209.0062 of the Texas Property Code; and

NOW THEREFORE, IT IS RESOLVED that the following guidelines are established by the Board:

Upon the request of a delinquent owner, the Association shall enter into an alternative payment schedule with such owner, subject to the following guidelines:

Payment Plans:

1. The Association will allow payment plans for repayment of delinquent amounts with a minimum of three (3) months duration.
2. Terms for repayment of delinquent amounts shall not exceed twelve (12) months without Board approval.
3. Assessments that become due and are added to the homeowner's account during the term of the payment plan must be paid when due in addition to repayment of delinquent amounts.
4. A one-time fee of Thirty-Five and No/100 Dollars (\$35.00) shall be charged to the Owner's account which shall serve to reimburse the Association and / or its Managing Agent for its efforts to negotiate, establish, and initiate a payment plan for the owners' delinquent balance. This charge shall be paid by Owner and shall be due along with the first installment payment. Account may be subject to an additional fee of \$5.00 per month which may be charged by the Management Company at the sole discretion of the Management Company or as may be stipulated in the management contract for the monthly monitoring of the account and any subsequent follow up required due to late payments or defaulting on a payment plan.
5. The plan must include the total debt owed to the Association, including late fees, interest, fines and/or other collection costs. Waiver of any late or collection fees which may be allowed will not be adjusted until the completion of the payment plan. If Owner

defaults on a payment plan, all waivers or settlement agreements become null and void and the full amount becomes due.

6. There shall be no waiver of any charges on the homeowner's account unless the owner submits a written request for consideration and approval has been obtained by the Board. The Association cannot negotiate settlements on any portion of fees or charges owed to the Managing Agent. Only the Managing Agent may determine what portion, if any, may be waived or included in a settlement offer.

7. To be eligible for a payment plan, the homeowner must not have defaulted on a prior payment plan within a two (2) year period preceding the request for a payment plan. If such a default exists, the Board may, but is not obligated, to allow a payment plan. The Board shall review and determine every request on a case by case basis.

8. Interest, late and/or collection charges shall not accrue during the payment plan so long as the Owner remains current on payments throughout the duration of the payment plan. Should the Owner default on his/her payment plan, the Association and its Managing Agent shall be entitled to add any interest, late and/or collection fees due up to and through the date the Owner defaulted and forward unless the payment plan reinstates which shall be at the sole discretion of the Board of Director's or its Managing Agent. As stated in Subsection 7 above, Owner's who default on a payment plan may not be entitled to another payment plan for a minimum of two (2) years.

9. The plan must contain a schedule setting forth the date that each payment will be made and the exact amount of each payment to be made.

10. Payment plans approved after the account has been turned over to the Association's attorney shall be administered by the Attorney. Attorney charges are Excluded from Sub Section 8 above and will be charged to the Owner's account.

11. Payment plans approved after notice has been given to a homeowner that the property is in foreclosure must include a minimum amount which shall be established by the Board of Directors. The Managing Agent, acting on behalf of the Board of Directors, shall communicate this information to the Association's attorney for the individual payment plan request and the initial payment must be received on or before the deadline established by the Association's attorney.

Settlements: The Board of Directors will consider written offers to settle an account and may but, are not obligated to include accounts at the foreclosure stage. Settlements must be paid in certified funds and may be subject to the deadlines established by the Association's attorney.

Default: The Board of Directors shall herein establish criteria for determining what constitutes "default" on payment plans.

"Default" may include one or all of the following:

1. Failure of homeowner to make a payment by the proposed date in accordance with the approved payment plan.
2. Failure of homeowner to make the full amount of a payment as stated in the approved payment plan.

3. Failure of homeowner to make a timely payment of any additional assessments or charges that come due during the term of the payment plan.

Should the homeowner default on a payment plan:

1. The outstanding balance shall become due and payable immediately and may require payment in certified funds. The Association and its Managing Agent shall be entitled to add any interest, late and/or collection fees due up to and through the date the Owner defaulted and forward.

2. The Managing Agent shall proceed with appropriate collection measures in accordance with the Association's Collection Policy in order to secure payment of amounts due to the Association.

Any payment received by the Association from a homeowner whose account reflects an unpaid balance and the homeowner is in default under a payment plan entered into with the Association, the payment shall be applied to the outstanding balance in the following order so long as and unless a conflict between this policy and the Texas State Property Code exists, in which case the order of application of payment shall be as set forth in the Texas State Property Code:

- 1) Cost of Collection including attorneys' fees
- 2) Special Individual Assessments, including Violation Fines (if applicable)
- 3) Late Charges
- 4) Accrued but Unpaid Interest
- 5) Other costs of Collection
- 6) Special Assessments
- 7) Annual Assessments
- 8) Any other amounts owed to the Association

This is to certify that the foregoing Alternative Payment Schedule Guidelines for Certain Assessments was adopted by the Board of Directors, in accordance with Section 209.0062 of the Texas Property Code.



Miles Durham, Secretary

**Exhibit D**

**COLLECTION POLICY**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC**

*[see attached]*



## **Eko Park Townhome Owners Association, Inc.**

### **POLICIES AND PROCEDURES FOR THE COLLECTION OF ASSESSMENTS AND OTHER CHARGES OF THE ASSOCIATION**

Eko Park Townhome Owners Association, Inc. (the "Association") has adopted the following policies and procedures for the collection of assessments and other charges of the Association. The policies and procedures detailed herein will be implemented on behalf of the Board of Directors by its Managing Agent (the "Management Company") as agent for the Association unless otherwise stated.

#### **Obligation to Pay Assessments**

Membership in the Association is mandatory pursuant to the terms and conditions of the Declaration. A property owner is legally obligated to pay the Assessments to the Association even if the Association's facilities or amenities are not used by the property owner. The property owner may not withhold assessment payments even if the association is not providing maintenance or other services mandated by the Association's governing documents.

#### **Due Dates**

Assessments are due on the 1st day of each calendar month and are delinquent if not paid by the 10<sup>th</sup> day of each calendar month.

#### **Invoices**

The association may, but shall not be required to, invoice a property owner as a condition to an owner's obligation to pay assessment or other charges of the Association. As a matter of course, assessments are invoiced by statements. **Non-receipt of an invoice (statement) shall in no way relieve the property owner of the obligation to pay the amount due by the due date.** Property owners who do not receive their invoice (statement) are responsible for contacting the Management Company prior to the due date to request a replacement. Property owners are responsible for notifying the Management Company of their mailing address at the time of acquiring property ownership and any subsequent mailing address change thereafter.

**Written Notice of Delinquency.** Subsequent to an Owner becoming delinquent, and prior to referring the account to the Association's legal counsel for collection, the Association will send written notice of the delinquency to the Owner via certified mail (the "*Delinquency Notice or sometimes known as 30 Day Demand Letter*"). The Delinquency Notice shall: (i) detail each delinquent amount and the total amount owed; (ii) describe the options the Owner has to avoid having the account referred to the Association's legal counsel, including the availability of a payment plan, and (iii) provide the Owner a period of at least thirty (30) days to cure the delinquency before further collection action is taken.

#### **Late Payment Charges and Collection Fees**

**Late Charges.** In the event any assessment, or any portion thereof, is not paid in full by the Delinquency Date, late charges in an amount up to \$25.00 shall be assessed against the Owner's account each month and every month until the assessment is paid in full. Such late charge, as and when levied, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments. The Board may, in its sole discretion, waive the collection of any late charge; provided, however, that the waiver of any late charge shall

not constitute a waiver of the Board's right to collect any or late charges or any other charges in the future.

**Collection Fees.** In the event any assessment, or any portion thereof, is not paid in full by the Delinquency Date, collection fees in an amount up to \$15.00 shall be assessed against the Owner's account each month and every month until the assessment is paid in full. Collection fees are charges by the managing agent for the collection of delinquent accounts and may not be waived by the Board without the consent of the managing agent. Such collection fee, as and when levied, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments. Managing Agent may and probably will have additional fees related to collection efforts performed on a delinquent account which may include but, are not limited to demand letter fees and payment plan set up and monitoring fees. These fees shall be assessed against the Owner's account. Such collection fees, as and when levied, is secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments.

### **Return Payment Charges**

A non-negotiable fee equal to the amount of charge levied by the Bank to the Association will be assessed to the property owner for any payment processed that is not honored by a bank or financial institution for any reason including but not limited to insufficient funds notwithstanding, the minimum such charge shall be \$25.00. Such return payment charge shall be due and payable immediately upon demand. Any applicable late payment charges, which would have been assessed if the payment had not been made, may also be applied to the property owner's account. The payment of the outstanding account balance may be required to be paid with a money order or cashier's check. Personal checks will not be accepted to satisfy an outstanding account balance when an insufficient fund check makes up a portion of the balance.

### **Referral of Delinquent Accounts to Lien Services or Collection Agencies**

**Collection Agencies.** In the event an account has not been paid in full following thirty (30) days from the date Delinquency Notice was mailed to the Owner, the Association's agent may refer the account to a collection agency for collection, including reporting delinquent account to any credit bureau or other agency providing credit histories to authorized entities. All costs incurred by the Association for using the services of a collection agency, or administering the referral and handling of the account to a collection agency, are deemed costs of collection of the Association. Such costs of collection, when incurred by the Association and added to an Owner's account, are secured by the Assessment Lien described in the Declaration, and will be subject to recovery in the manner provided herein for assessments.

### **Referral of Delinquent Accounts to Attorneys**

**Remedies and Legal Actions.** If an Owner fails to cure the delinquency within the thirty (30) day period stated in the Delinquency Notice, the Association may, at its discretion and when it chooses, refer the delinquency to legal counsel for the Association. Any attorney's fees and related charges incurred by virtue of legal action taken will become part of the Owner's assessment obligation and may be collected as such as provided herein. Upon direction of the Board or the Association's agent, legal counsel for the Association may pursue any and all available legal remedies with regard to the delinquencies referred to it including, but not limited to, the following:

**Notice Letter.** The initial correspondence to a delinquent Owner from the Attorney.

**Notice of Lien.** If an Owner fails to cure the delinquency indicated in the Notice Letter, upon being requested to do so by the Board and/or Management, counsel may prepare and record in the Official Public Records of Tarrant County, a written notice of assessment lien (referred to as the "Notice of Lien") against the Lot. A copy of the Notice of Lien will be sent to the Owner, together with an additional demand for payment in full of all amounts then outstanding.

**Foreclosure.** In the event that the Owner fails to cure the delinquency, the Board may direct legal counsel to pursue foreclosure of the lien. In any foreclosure proceedings, the Owner shall be required to pay the costs and expenses of such proceedings, including reasonable attorney's fees.

**Expedited Foreclosure Pursuant to Rules 735 & 736 of the Texas Rules of Civil Procedure.** The Board may decide to foreclose its lien by exercising its power of sale granted by the Declaration. In such event, counsel may commence expedited foreclosure lawsuit under Rules 735 and 736 of the Texas Rules of Civil Procedure ("Expedited Foreclosure"). Upon receipt from the Court of an order authorizing foreclosure of the Lot, counsel may post the Lot at the Tarrant County Courthouse for a foreclosure sale. The Association shall have the power to bid on the Owner's Lot and improvements at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. The Association may institute, a personal judgment suit against the former Owner for any deficiency resulting from the Association's foreclosure of its assessment lien.

**Judicial Foreclosure.** The Association may file suit for judicial foreclosure ("Judicial Foreclosure") of the assessment lien, which suit may also seek a personal money judgment. Upon receipt from the Court of an order foreclosing the Association's assessment lien against the Lot, the sheriff or constable may post the Lot for sheriff's sale. The Association shall have the power to bid on the Owner's Lot and improvements at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

**Lienholder Notification.** In pursuing Expedited Foreclosure or Judicial Foreclosure, the Association shall provide the 61-day notice letter to inferior lienholders pursuant to Section 209.0091 of the Texas Property Code.

The Association may file suit for a money judgment in any court of competent jurisdiction.

**Bankruptcy.** Upon notification of a petition in bankruptcy, the Association may refer the account to legal counsel.

All rights and remedies provided in this Policy and herein above are cumulative and not exclusive of any other rights or remedies that may be available to the Association, whether provided by law, equity, and the Association's governing documents or otherwise. In order to expedite the resolution of a delinquent account, the Board may, at any time, compromise or waive the payment of interest, late charges, handling charges, collection costs other than collection fees, unless approved by the managing agent, legal fees or any other application charge.

### Use of Regular Mail / Certified Mail

In the event the Association shall send a delinquency notice or demand notice to a property owner by regular mail, certified or certified, return receipt requested, the association will use the property address unless the owner has contacted the Association or its Managing Agent and has provided updated mailing address information. Once the notice(s) have been placed in a U.S. mail receptacle or given to a U.S. postal representative, the notice will be considered to have been duly delivered. It is the sole responsibility of the owner to provide and maintain up to date mailing address information with the Association and/or its Managing Agent.

### Waivers

The Association may grant a waiver of any provision herein upon petition in writing by a property owner showing a personal hardship. Such relief granted a property owner shall be appropriately documented in the files with the person representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances. **The Association reserves the right to consider each petition or make its determination regarding referral to an attorney or a third party collection service on a case by case basis.** Costs owed to the Managing Agent for their efforts in the processing, handling and collections of an account cannot be waived by the Association without the consent of the Managing Agent.

### Effective Date and Enforcement

The foregoing collection procedure has been adopted by the association and is effective as of the date recorded. Nothing specified in this document shall require the Association to take specific actions. The foregoing collection procedures is a directive by the Board of the Association to the Management Company and is intended to be a guide to collection of Assessments owed to the Association. The Board of the Association may at any time revise the foregoing collection procedure and may at any time direct the Management Company to proceed differently with collection of an individual account based on circumstances applicable to that account and advice and guidance from the Management Company or the Association's attorney. **Failure by the Management Company or the Board of the Association to follow the foregoing collection procedure shall not in any way affect the property owner's obligation to pay all Assessments when due, along with all applicable late payment charges and costs of collection.** To obtain any information regarding this collection procedure or to obtain the most up-to-date collection procedure, a property owner should contact the Management Company. In the event that any provision herein shall be determined by a court with jurisdiction to be invalid or unenforceable in any respect, such determination shall not affect the validity or enforceability of any other provision, and this Policy shall be enforced as if such provision did not exist. Furthermore, in the event that any provision of this Policy is deemed by a court with jurisdiction to be ambiguous or in contradiction with any law, this Policy and any such provision shall be interpreted in a manner that complies with an interpretation that is consistent with the law. In the event any provision of this Policy conflicts with the Declaration, the Declaration controls.

(1) A Statement of Account and/or a delinquency notice will not be sent in cases whereby the Management Company has received notice of a property owner bankruptcy filed in the U.S. Bankruptcy Court, a Notice of Pendency on the owner's property or when an active judgment plan is in place and being paid in arrears.

(2) The Management Company will continue to post assessments and applicable late payment penalties to the account. The attorney or lien service may, however, have other charges not reflected on the account or may have entered into payment arrangements not reflected on the account. The Management Company will adjust the amount as instructed by the attorney or lien serv. to be notified on or the time of closure.

This collection policy was adopted by the Board of Directors and is intended to comply with the provisions of the Declaration. In the event of a discrepancy between this policy and the Declaration, the latter shall prevail. This policy shall be subject to the final decision of the Board of Directors. This policy shall be the binding and enforceable instrument in the event of any dispute regarding collection which has been previously taken in effect.

10/17/02  
Management Company

**Exhibit E**

**NOTICE AND FINING POLICY**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC**

*[see attached]*

# **Eko Park Townhome Owners Association, Inc.**

## **NOTICE AND FINING POLICY**

Eko Park Townhome Owners Association, Inc. has adopted the following Notice and Fining Policy for the enforcement of the Association's Governing Documents (to include the CC&R's, By-Laws, and Rules & Regulations). This policy is hereby adopted to be enforced in conjunction with the Governing Documents of the Association and may be amended or repealed by the Declarant or Board of Directors at their sole discretion).

In the event of a discrepancy between this policy and any governing document of the Association, including but not limited to Rules and Regulations, the higher standard shall prevail. The amending of this policy shall not require the consent or joinder of the Members notwithstanding, any amendment shall be posted to the HOA's website, if applicable, and a copy shall be mailed to each Owner via regular U.S. mail. Be it therefore known the Board of Directors of the Eko Park Townhome Owners Association does hereby adopt the following:

1. **Violation Notice (Warning):** Homeowners will be notified when a violation occurs and will be given a time period of not more than ten (10) days in which to correct the violation. Violations which present hazards for residents, are damaging property, creating an ongoing nuisance or can be considered an emergency requiring immediate correction shall be subject to self-help actions by the Association as described in the Declaration of Covenants, Conditions and Restrictions (the "CCR's") or in this Notice and Fining Policy should Owner fail to cure the violation. Self Help actions considered an emergency requiring immediate attention will be addressed within seventy-two (72) hours or less by the Association. A notice in the case of an emergency may be delivered by hand, posted to the front door of the property, electronic mail, or U.S. mail. Any costs for initiating Self Help to cure a violation including the costs of postage and handling shall be assessed to the Owner's account. \*\*The Association may, but is not obligated, to provide more than one initial notice of violation as set forth in the CCR's and this Fining Policy. Should additional violation notices be sent, each notice shall allow a period of not more than ten (10) days in which to correct the violation. \*\*
2. **Assessment of Fine (Hearing Notice):** If after the initial notice (or subsequent notices if given) the violation continues, the Owner will be notified that a fine will be levied against his/her account. This notice shall include the amount of the fine to be levied and shall contain verbiage pursuant to Section 209.006 of the Texas Property Code regarding an Owner's right to request a hearing before a committee (or the Board in the absence of a committee). Owner shall have thirty (30) days to request a hearing in writing from the date of notice. The Association or its Managing Agent shall set the hearing within thirty (30) days of receipt of the written request and the Owner shall be notified in writing of the hearing date, time and place not less than ten (10) days prior to the hearing date.
3. **"Damage Assessment":** Violations that result in property damage or cause the Association to incur cleanup costs will result in a "Special Assessment" on the homeowner's account. Non-payment of this type of assessment may result in additional fees, and collection actions as allowed by law. Any attorney fees or other costs incurred by the Association will be assessed to the Owner's account.

## ***FINE SCHEDULE***

**Each fine notice shall contain the verbiage as required by the Texas State Property Code or the Declaration and Bylaws.**

- 1st Fine:** First fine for a violation not cured by the Owner after the initial fine warning notice has been given shall be \$50.00, then;
- 2<sup>nd</sup> Fine:** After seven (7) days, the Board or its Managing Agent shall inspect the Owner's property for compliance. If the violation remains, a second fine warning letter shall be sent to the violating Owner advising that a second fine in the amount of \$75.00 shall be assessed to the Owner's account, then;
- 3<sup>rd</sup> Fine:** After five (5) additional days, the Board or its Managing Agent shall inspect the Owner's property for compliance. If the violation remains, a third fine warning letter shall be sent to the violating Owner advising that a third fine in the amount of \$100.00 shall be assessed to the Owner's account.
- 4<sup>th</sup> & After:** If compliance is not met after the end of five (5) days from the date the third fine warning letter is sent, the Owner will receive one (1) final notice advising that fines shall escalate at the rate of \$50.00 every week for each week the violation remains until the maximum fine amount of \$1,000.00 is reached at which time the violation process shall start over and shall be treated as a recurring violation subject to additional fines as outlined in this section ("4<sup>th</sup> and After") so long as the violation remains.
4. The maximum fine amount is based on a per violation occurrence and can be assessed each time a violation occurs whether or not it is the same type or kind or whether it is a recurring violation. Based on the severity of the violation or a history of recurring violations, the Association or its Board of Directors shall, in their sole discretion, have the right to issue a one-time fine for the maximum amount allowed of \$1,000.00.

If Owner submits a written request for a hearing, all fines shall be suspended until after the hearing. The committee or the Board of Directors shall provide written notice to the Owner with copies to the Association and its Managing Agent which shall outline the findings and subsequent results of the hearing. The Association or its Managing Agent shall immediately proceed and comply with any instructions and/or with the findings and results as written in the notification received. If the hearing is held by a committee appointed by the Board, the Owner shall have the right to appeal the decision of the committee to the Board of Directors and the decision of the Board of Directors is final. If the hearing is held by the Board of Directors in the absence of a committee, the decision of the Board of Directors is final.

**Note:** All fines are subject to collections and will be collected in the same manner as are the association dues.

This is to certify that the foregoing Notice and Fining Policy was adopted by the Board of Directors and supersedes any policy regarding notice and fining which may have previously been in effect.

*Miles Durham*

\_\_\_\_\_  
Miles Durham, Secretary



**Exhibit F**

**CERTIFICATE OF FORMATION**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC**

*[see attached]*

Form 202

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709



**Certificate of Formation  
Nonprofit Corporation**

Filed in the Office of the  
Secretary of State of Texas  
Filing #: 802699227 04/17/2017  
Document #: 728734300003  
Image Generated Electronically  
for Web Filing

Filing Fee: \$25

**Article 1 - Corporate Name**

The filing entity formed is a nonprofit corporation. The name of the entity is :

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.**

**Article 2 – Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

**Sam Prager**

C. The business address of the registered agent and the registered office address is:

Street Address:

**4300 N. Central Expressway, Suite 301 Dallas TX 75206**

**Consent of Registered Agent**

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

**Article 3 - Management**

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Sam Prager**

Title: **Director**

Address: **4300 N. Central Expressway, Suite 301 Dallas TX, USA 75206**

Director 2: **Miles Durham**

Title: **Director**

Address: **4300 N. Central Expressway, Suite 301 Dallas TX, USA 75206**

Director 3: **Coby Russell**

Title: **Director**

Address: **4300 N. Central Expressway, Suite 301 Dallas TX, USA 75206**

**Article 4 - Organization Structure**

A. The corporation will have members.

or

B. The corporation will not have members.

**Article 5 - Purpose**

The corporation is organized for the following purpose or purposes:

**Homeowners Association**

**Supplemental Provisions / Information**

[The attached addendum, if any, is incorporated herein by reference.]

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Organizer**

The name and address of the organizer are set forth below.

**Sam Prager**      **4300 N. Central Expressway, Suite 301, Dallas, TX 75206**

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

**Sam Prager**

Signature of organizer.

FILING OFFICE COPY

**Exhibit G**

**EMAIL REGISTRATION POLICY**

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.**

*[see attached]*

**EKO PARK TOWNHOME OWNERS ASSOCIATION, INC.**  
**EMAIL REGISTRATION POLICY**

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Declaration of Covenants Conditions and Restrictions for Eko Park Townhome Owners Association, Inc. recorded or to be recorded in the Official Public Records of Dallas County, Texas, as the same may be amended from time to time.

1. Purpose. The purpose of this Email Registration Policy is to facilitate proper notice of annual and special meetings of members of the Association pursuant to Section 209.0051(e) of the Texas Property Code.

2. Email Registration. Should the owner wish to receive any and all email notifications of annual and special meetings of members of the Association, it is the owner's sole responsibility to register his/her email address with the Association and to continue to keep the registered email address updated and current with the Association. In order to register an email address, the owner must provide their name, address, phone number and email address through the method provided on the Association's website, if any, and/or to the official contact information provided by the Association for the community manager.

3. Failure to Register. An owner may not receive email notification or communication of annual or special meetings of members of the Association should the owner fail to register his/her email address with the Association and/or properly and timely maintain an accurate email address with the Association. Correspondence to the Association and/or Association manager from an email address or by any method other than the method described in Paragraph No. 2 above will not be considered sufficient to register such email address with the Association.

4. Amendment. The Association may, from time to time, modify, amend, or supplement this Policy or any other rules regarding email registration.

**Filed and Recorded**  
**Official Public Records**  
**John F. Warren, County Clerk**  
**Dallas County, TEXAS**  
**05/12/2017 10:51:10 AM**  
**\$522.00**  
**201700133433**

