

DECLARATION

OF

**COVENANTS, CONDITIONS,
RESTRICTIONS and EASEMENTS**

ON AND FOR

**PAINTED PRAIRIE RANCH
LOTS 1 - 17**

**LUBBOCK COUNTY
TEXAS**

**[AND TERMINATION OF PRIOR COVENANTS, CONDITIONS AND
RESTRICTIONS RECORDED IN VOLUME 10219, PAGE 50 OF THE
OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS]**

***NOTICE: THIS DOCUMENT CONTAINS PROVISIONS WAIVING AND RELEASING
DECLARANT AND THE ASSOCIATION FROM LIABILITY FOR NEGLIGENCE IN
SPECIFIED CIRCUMSTANCES.***

TABLE OF CONTENTS

PREAMBLE	1
DECLARATION	1
I. DEFINITIONS	1
II. PROPERTY SUBJECT TO THIS DECLARATION	4
Section 1. <u>Existing Property</u>	4
Section 2. <u>Additions to Existing Property</u>	4
III. INSURANCE; REPAIR; RESTORATION	4
Section 1. <u>Owner’s Insurance; Security</u>	4
IV. ARCHITECTURAL REVIEW	4
Section 1. <u>Architectural Review Committee</u>	4
Section 2. <u>ARC Jurisdiction</u>	5
Section 3. <u>Design Guidelines</u>	6
Section 4. <u>Plan Submission and Approval</u>	7
Section 5. <u>Liability</u>	7
Section 6. <u>No Waiver</u>	7
Section 7. <u>Construction</u>	7
Section 8. <u>Variances</u>	8
V. USE OF LOTS IN THE SUBDIVISION; PROTECTIVE COVENANTS	8
Section 1. <u>Residential Lots</u>	8
Section 2. <u>Minimum Floor Space</u>	10
Section 3. <u>Garages; Parking</u>	10
Section 4. <u>Setback Requirements</u>	11
Section 5. <u>Fences</u>	12
Section 6. <u>Construction Standards for Lots</u>	13
Section 7. <u>Landscaping of Lots</u>	15
Section 8. <u>Screening</u>	16
Section 9. <u>Utilities</u>	16
Section 10. <u>Trash Container</u>	16
Section 11. <u>General</u>	16
Section 12. <u>Easements</u>	17
Section 13. <u>Duty of Maintenance</u>	18
VI. EASEMENTS AND TELECOMMUNICATION SERVICES; UTILITY SERVICES	18
Section 1. <u>Utility Easements</u>	18
Section 2. <u>Ingress, Egress and Maintenance by the Declarant</u>	19
Section 3. <u>Telecommunication Services</u>	19
Section 4. <u>Water and/or Sewer Services</u>	19

VII.	GENERAL PROVISIONS	20
	Section 1. <u>Further Development</u>	20
	Section 2. <u>Duration</u>	20
	Section 3. <u>Amendments</u>	20
	Section 4. <u>Enforcement</u>	21
	Section 5. <u>Additional Restrictions</u>	21
	Section 6. <u>Resubdivision or Consolidation</u>	21
	Section 7. <u>Severability of Provisions</u>	21
	Section 8. <u>Notice</u>	21
	Section 9. <u>Titles</u>	22
	Section 10. <u>Adjacent Property</u>	22
	Section 11. <u>Assumption of Risk, Disclaimer, Release and Indemnity</u>	22
	Section 12. <u>Joinder of Lenders and Existing Owners</u>	24
VIII.	TERMINATION OF PRIOR COVENANTS, CONDITIONS AND RESTRICTION.....	24
Exhibit "A"	Legal Description of Subdivision	

This DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is made and effective as of the _____ day of _____, 2009, by 806 LAND CO., LLC, a Texas limited liability company (sometimes referred to herein as the Declarant); ROBIN HENSON and husband, HAROLD HENSON (hereinafter collectively referred to as "Henson"); GREGORY PAUL NICHOLS and wife, BEVERLY PENNY NICHOLS (hereinafter collectively referred to as "Nichols"); JOSEPH D. BRAKE and wife, RIKA METHOLA BRAKE (hereinafter collectively referred to as "Brake"); REUBEN G. McCOWEN and wife, KAI D. McCOWEN (hereinafter collectively referred to as "McCowen"); and, TRACY RASBERRY and wife, LAURA RASBERRY (hereinafter collectively referred to as "Rasberry"). The Declarant, Henson, Nichols, Brake, McCowen and Rasberry are sometimes collectively referred to in this Declaration as the "Owners".

PREAMBLE

Declarant is the owner and developer of certain residential Lots within a tract of land now commonly known and described as Painted Prairie Ranch, an Addition to Lubbock County, Texas (the lots subject to this Declaration being more particularly described on Exhibit "A" attached hereto). Henson is the owner of Lot 12, Painted Prairie Ranch; Nichols is the owner of Lot 1; Brake is the owner of Lot 6; McCowen is the owner of Lot 8; and, Rasberry is the owner of Lot 11. Declarant and the Owners of the previously described Lots propose to establish and implement plans for residential living, recreation, aesthetic and quality-of-life considerations. The purposes of this Declaration are to protect the Declarant and the Owners against inappropriate development and use of Lots within the Properties; to assure compatibility of design of improvements within the Subdivision; to secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; to provide for landscaping and the maintenance thereof; and, in general to encourage construction of attractive, quality, permanent improvements that will promote the general welfare of the Declarant and the Owners. Declarant desires to impose these restrictions on the Painted Prairie Ranch property now and yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the quality and distinction of the Painted Prairie Ranch project.

DECLARATION

The Declarant and Owners hereby declare that the residential lots described on Exhibit "A" attached hereto, and such phases or additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be owned, held, mortgaged, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements (sometimes collectively referred to hereinafter as "the Covenants") hereinafter set forth.

ARTICLE I. CONCEPTS AND DEFINITIONS

The following words, when used in this Declaration or in any amended or supplementary Declaration (unless the context shall otherwise clearly indicate or prohibit), shall have the following respective concepts and meanings:

"Amended Declaration" shall mean and refer to each and every instrument recorded in the Official Public Records of Lubbock County, Texas which amends, supplements, modifies, clarifies or restates some or all of the terms and provisions of this Declaration.

"Architectural Review Committee" (sometimes referred to herein as the "ARC") shall mean and refer to that particular committee which is described and explained within Article IV below.

“Central Appraisal District” (“CAD”) shall mean and refer to the governmental and/or quasi-governmental agency(ies) (including without limitation the Lubbock Central Appraisal District) established in accordance with Texas Property Tax Code Section 6.01 et seq. (and its successor and assigns as such law may be amended from time to time) or other similar statute which has, as one of its purposes and functions, the establishment of an assessed valuation and/or fair market value for various lots, parcels and tracts of land in Lubbock County, Texas.

“Covenants” shall mean and refer to all covenants, conditions, restrictions, and easements set forth within this Declaration.

“Declarant” shall mean and refer to 806 Land Co., LLC, and any or a successor(s) and assign(s) of 806 Land Co., LLC, with respect to the voluntary disposition of all (or substantially all) of the assets and/or membership interest of 806 Land Co., LLC and/or the voluntary disposition of all (or substantially all) of the right, title and interest of 806 Land Co., LLC in and to the Properties. However, no person or entity merely purchasing one or more Lots from 806 Land Co., LLC in the ordinary course of business shall be considered a “Declarant”.

“Declaration” shall mean and refer to this particular instrument entitled “Declaration of Covenants, Conditions, Restrictions and Easements on and for Painted Prairie Ranch,” together with any and all amendments or supplements hereto.

“Deed” shall mean and refer to any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

“Design Guidelines” shall mean and refer to those particular standards, restrictions, guidelines, recommendations and specifications applicable to most of the aspects of construction, placement, location, alteration, maintenance and design of any improvements to or within the Properties, and all amendments, bulletins, modifications, supplements and interpretations thereof.

“Development Period” shall mean a period commencing on the date of the recording of this Declaration in the Official Public Records of Lubbock County, Texas and continuing thereafter until the earlier of the following dates: (i) the expiration of 10 years; or (ii) the date on which Declarant no longer owns any Lots within the Subdivision.

“Dwelling Unit” shall mean and refer to any building or portion of a building situated upon the Properties which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

“Easement Area” shall mean and refer to those areas which may be covered by an easement specified in Article VI below.

“Homebuilder” shall mean and refer to each entity and/or individual which is regularly engaged in the ordinary business of constructing residential dwellings on subdivision lots for sale to third-party homeowners as their intended primary residence.

“Improvement” or “Improvements” shall mean any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or properties of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting

or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

“Lot” shall mean and refer to each separately identifiable portion of the Subdivision which is platted, filed and recorded in the office of the County Clerk of Lubbock County, Texas and which is assessed by any one or more of the Taxing Authorities.

“Owner” shall mean and refer to the holder(s) of record title to the fee simple interest of any Lot whether or not such holder(s) actually reside(s) on any part of the Lot. On the date of this Declaration, the Owners are those persons and entities named in the introductory paragraph.

“Properties” shall mean and refer to the land described within Exhibit “A” attached hereto and shall include any property added to this Declaration pursuant to Article II hereof.

“Resident” shall mean and refer to:

- (a) each Owner of the fee simple title to any Lot within the Properties;
- (b) each person residing on any part of the Properties who is a bona-fide lessee pursuant to a written lease agreement with an Owner; and
- (c) each individual lawfully domiciled in a Dwelling Unit other than an Owner or bona-fide lessee.

“Structure” shall mean and refer to: (i) any thing or device, other than trees, shrubbery (less than two feet high if in the form of a hedge) and landscaping (the placement of which upon any Lot shall not adversely affect the appearance of such Lot) including but not limited to any building, garage, porch, shed, greenhouse or bathhouse, cabana, covered or uncovered patio, swimming pool, play apparatus, fence, curbing, paving, wall or hedge more than two feet in height, signboard or other temporary or permanent living quarters or any temporary or permanent Improvement to any Lot; (ii) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot; and (iii) any enclosure or receptacle for the concealment, collection and/or disposition of refuse; (iv) any change in the grade of any Lot of more than three (3) inches from that existing at the time of initial approval by the Architectural Review Committee.

“Subdivision” shall mean and refer to those Lots and Tracts described on Exhibit “A,” within Painted Prairie Ranch, a subdivision in Lubbock County, Texas as shown on the map and plat thereof filed of record in the Map/Plat and/or Dedication Records of Lubbock County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto. The “Subdivision” will also include any additional land which is added or annexed hereto by Declarant in accordance with Article II, Section 2 of this Declaration.

“Taxing Authorities” shall mean and refer to Lubbock County, the Frenship School District, the City of Wolfforth, Texas and the State of Texas and any and all other governmental entities or agencies which have, or may in the future have, the power and authority to impose and collect ad valorem taxes on the Properties or any Lot within the Subdivision, in accordance with the Texas Constitution and applicable statutes and codes.

ARTICLE II.
PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The residential Lots which are, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration within the Painted Prairie Ranch addition are more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

Section 2. Additions to Existing Property. Additional land(s) may become subject to this Declaration, or the general scheme envisioned by this Declaration, as follows: The Declarant may (without the joinder and consent of any person or entity) add or annex additional real property to the scheme of this Declaration within the next ten (10) years by filing of record an appropriate enabling declaration, generally similar to this Declaration, which may extend the scheme of the Covenants to such property. Provided further; however, such other declaration(s) may contain such complementary additions and modifications of these Covenants as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept and purpose of this Declaration.

ARTICLE III.
INSURANCE; REPAIR; RESTORATION

Section 1. Owner's Insurance; Security. The Declarant will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners or Residents (and their respective family members and guests). **THE DECLARANT IS NOT INSURING THE REAL OR PERSONAL PROPERTY OF THE OWNERS OR RESIDENTS AND NO SECURITY SERVICES ARE BEING PROVIDED.**

Each Owner and Resident expressly understands, covenants and agrees with the Declarant that:

(a) The Declarant does not have any responsibility or liability of any kind or character whatsoever regarding or pertaining to the real and personal property of each Owner and Resident;

(b) Each Owner and Resident shall, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's and Resident's own selection to select, purchase, obtain and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner or Resident covering his or her real and personal property and insuring against bodily injury, death or property damage, and general liabilities; however, each Owner or Resident must purchase, obtain and maintain not less than an insurance policy (such as a homeowner's insurance policy) which covers all improvements on the Lot for their full insurable value as determined when the policy is issued and renewed, and which contains public liability and property damage insurance applicable to the property being insured;

(c) **EACH OWNER AND RESIDENT SHALL TAKE SUCH ACTION AS EACH OWNER AND RESIDENT DEEMS NECESSARY TO PROTECT AND SAFEGUARD PERSONS AND PROPERTY.**

ARTICLE IV.
ARCHITECTURAL REVIEW

Section 1. Architectural Review Committee. During the Development Period, the Architectural Review Committee ("ARC") shall be composed of at least three (3) individuals selected and

appointed by the Declarant, each generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for a consistent approach to and construction of improvements within the Subdivision. The Declarant, or an authorized manager, member, representative or agent of Declarant is entitled to be a member of the ARC during the Development Period. In the event of the death, incapacity or resignation of any member of the ARC, the Declarant (during the Development Period) shall have full authority to designate and appoint a successor. From and after conclusion of the Development Period, the ARC members shall be appointed, and replaced in the event of death, incapacity or resignation, by the then-serving members of the ARC, acting by majority vote. If at any time there should be no then-serving members of the ARC, the then-current owners of the Lots within the Subdivision, acting by majority vote, shall appoint three members to the ARC and the members so appointed thereafter shall exercise all rights, powers and authority granted to the ARC herein. If, as provided herein, the Owners of the Lots are entitled to appoint members to the ARC, the Owners of each Lot within the Subdivision will be entitled to one vote per Lot. Where more than one Owner holds record fee interest in a Lot, such Owners may divide and cast portions of the one vote as they decide, but in no event shall any one Lot yield more than one vote. No member of the ARC shall be entitled to any compensation for his or her services on the ARC; except however, an architect or other professional may charge a fee for services rendered in said person's professional capacity.

Section 2. ARC Jurisdiction. No building, Structure, fence, wall, Dwelling Unit, or Improvement of any kind or nature shall be erected, placed or altered on any Lot within the Subdivision until all plans and specifications (the "Plans") have been submitted to and approved in writing by the ARC, or a majority of its members, as to:

- (i) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and proper facing of main elevation with respect to nearby streets, all in accordance with this Declaration and/or the Design Guidelines and/or bulletins;
- (ii) minimum finished floor elevation and proposed footprint of the dwelling;
- (iii) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping;
- (iv) drainage solutions;
- (v) the observance of and compliance with applicable setback lines and easement areas; and
- (vi) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within the Design Guidelines, bulletins promulgated by the ARC, or matters in which the ARC has been vested with the authority to render a final interpretation and decision.

The Plans to be submitted to the ARC will include:

- (i) a site plan showing the location, description of materials and architectural treatment of all walks, driveways, fences, walls, the Dwelling Unit and any other Structures and Improvements;
- (ii) floor plan showing the exact window and door locations, exterior wall treatment and materials, and the total square feet of air conditioned living area;

- (iii) exterior elevations of all sides of any Structure must be included, the type of roofing materials must be indicated, and the type, use and color of exterior wall materials must be clearly indicated throughout;
- (iv) front, rear, and side elevations must show all ornamental and decorative details;
- (v) specifications of materials may be attached separately to the plans or written on the plans themselves (plans will not be approved without specifications - specifications must include type, grade of all exterior materials, and color of all exposed materials); and
- (vi) landscaping plan.

In addition to the Plans, the Owner must also submit One Hundred and No/100 Dollars (\$100.00) made payable to the Painted Prairie Ranch ARC (the "Plan Review Fee"). The Plan Review Fee will be utilized by the ARC to pay all administrative costs and fees incurred by the ARC in reviewing the Plans.

The ARC is authorized and empowered to consider and review any and all aspects of construction, location and landscaping, which may, in the reasonable opinion of the ARC, adversely affect the living enjoyment of one or more Owner(s) or Residents or the general value of the Properties. Also, the ARC is permitted to consider technological advances and changes in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the ARC.

The ARC may require as a condition precedent to any approval of the Plans, that the applicant obtain and produce an appropriate building permit from the City of Lubbock, Texas or the City of Wolfforth, Texas. The ARC is also authorized to coordinate with the City and County of Lubbock, and the City of Wolfforth, Texas, in connection with the applicant's observance and compliance of the construction standards set forth in this Declaration, the Design Guidelines, and any bulletins or lot information sheets promulgated thereunder. However, the mere fact that the City of Lubbock or the City of Wolfforth issues a building permit with respect to a proposed structure does not automatically mean that the ARC is obliged to unconditionally approve the Plans. Similarly, the ARC's approval of any Plans does not mean that all applicable building requirements of the City or County of Lubbock or the City of Wolfforth have been satisfied.

Section 3. Design Guidelines. The ARC may, from time to time, publish and promulgate additional or revised Design Guidelines, and such design guidelines shall be explanatory and illustrative of the general intent of the proposed development of the Properties and are intended as a guide to assist the ARC in reviewing plans and specifications.

 PRIOR TO ACQUIRING ANY INTEREST IN A LOT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE AND OWNER OF ANY LOT IN THE SUBDIVISION IS STRONGLY ENCOURAGED TO CONTACT THE DECLARANT OR THE ARC TO OBTAIN AND REVIEW THE MOST RECENT DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION AND USE OF THE LOT.

Section 4. Plan Submission and Approval. Within thirty (30) days following its receipt of the Plans and the Plan Review Fee, the ARC shall advise the submitting Owner whether or not the Plans are approved. If the ARC shall fail to approve or disapprove the Plans in writing within said 30-day period, it shall be conclusively presumed that the ARC has approved the Plans. If the Plans are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove certain portions of the same, whether conditionally or unconditionally. The ARC shall not approve any Plans unless it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding Lots, that the appearance of any structures affected thereby will be in harmony with surrounding structures and that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of the Subdivision or the enjoyment thereof by the Owners. Approval shall be based, among other things, on adequacy of site dimensions, structural design, proximity with and relation to existing neighboring structures and sites, as well as proposed and future neighboring structures and sites, relation of finished grades and elevations and elevations to existing neighboring site and conformity to both specific and general intent of the terms of this Declaration. The ARC may adopt rules or guidelines setting forth procedures for the submission of Plans and may increase or adjust the Plan Review Fee in order to defray the costs of having the Plans reviewed. The ARC may require such details in Plans submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of the Plans, the Plan Review Fee, and any other information or materials requested by the ARC, the ARC shall not be deemed to have received such Plans or be obligated to review the same.

Section 5. Liability. Neither Declarant nor the ARC, nor any of the members of the ARC shall be liable in damages to anyone submitting Plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans or specifications. No approval of Plans and specifications and no publication of any Design Guidelines, architectural bulletins or lot information sheets shall be construed as representing or implying that such Plans, specifications, guidelines, bulletins or sheets will, if followed, result in properly designed improvements and/or improvements built in a good and workmanlike manner. Every person or entity who submits Plans or specifications, and every Owner of each and every Lot, agrees that he will not bring any action or suit against Declarant the ARC, or the members, employees and agents of any of them, to recover any such damages and hereby releases, remises and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

Section 6. No Waiver. No approval by the ARC of any Plans for any work done or proposed to be done shall be deemed to constitute a waiver of any rights on the part of the ARC to withhold approval or consent to any similar Plans which subsequently are submitted to the ARC for approval or consent.

Section 7. Construction. Upon approval of the Plans by the ARC, the Owner submitting such Plans for approval promptly shall commence construction of all Improvements and Structures described therein and shall cause the same to be completed in compliance in all material respects with the approved Plans, and in compliance with Article V, Section 11 of these Covenants. If an Owner shall vary materially from the approved Plans in the construction of any Improvements and Structures, the ARC shall have the right to order such Owner to cease construction and to correct such variance so that the Improvement will conform in all material respects to the Plan as approved. If an Owner shall refuse to

abide by the ARC's request, the ARC shall have the right to take appropriate action to restrain and enjoin any further construction on a Lot that is not in accordance with approved Plans.

Section 8. Variances. The ARC may authorize variance from compliance with any of the provisions of this Declaration relating to construction of Improvements and Structures on a Lot, including restrictions upon height, size, floor area or replacement of Structures, or similar restrictions, when circumstances such as governmental code changes, topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least a majority of the members of the ARC and shall become effective upon their execution. Such variances may be recorded. If such variances are granted, no violation of any of the provisions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Lot.

ARTICLE V.

USE OF LOTS IN THE SUBDIVISION; PROTECTIVE COVENANTS

The Subdivision (and each Lot situated therein) shall be constructed, developed, occupied and used as follows:

Section 1. Residential Lots. All Lots within the Subdivision except for Lot 12 (as long as Declarant retains ownership) shall be used, known and described as residential Lots, unless otherwise indicated on the Subdivision plat. Lots shall not be further subdivided and, except for the powers and privileges herein reserved by the Declarant, the boundaries between Lots shall not be relocated without the prior express written consent of the ARC. No building or Structures shall be erected, altered, placed or permitted to remain on any residential Lot other than one (1) single-family Dwelling Unit and, if any, its customary and usual accessory Structures (unless otherwise prohibited herein). No building or Structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on such premises, or any part thereof, save and except those related to development, construction and sales purposes of a Homebuilder or the Declarant. Except on Lot 12 (as long as Declarant retains ownership), no Owner or Resident shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any Lot or within any Dwelling Unit which would: (i) attract automobile, vehicular or pedestrian traffic to the Lot; (ii) involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Subdivision. The restrictions on use herein contained shall be cumulative of, and in addition to, such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City of Wolfforth, or the City and County of Lubbock, Texas or any other governmental authority having jurisdiction over the Subdivision. As used in this Article V, the following words shall be deemed to have the following meanings:

- (i) "rear yard" shall mean that portion of a Lot existing from the rear of the Dwelling Unit located thereon to the rear property line, and from side property line to side property line;
- (ii) "front yard" shall mean that portion of a Lot existing from the front of the Dwelling Unit located thereon to the front property line, and from side property line to side property line; and

(iii) “side yard” shall mean that portion of a Lot existing between the front and rear of the Dwelling Unit located thereon, and from the side of such Dwelling Unit to the side property line.

The “front” property line shall be the property line abutting a street or county road as hereinafter described, and the “rear” property line shall be the property line abutting an alley (however, Lots 1 through 6, and Lots 12 through 16, are subject to 20 foot wide underground utility easement and garbage collection easement as shown on the Plat of the Subdivision filed in the Official Public Records of Lubbock County, Texas, and said Lots do not abut an alley). The “front” property line of corner Lots shall be determined by the ARC, and the location of the Dwelling Unit on each corner Lot must be approved by the ARC, and must be situated such that the Dwelling Unit faces the front property line. “Corner lots,” in reference to the Lots described on Exhibit “A” shall mean Lots 1, 8, 11, 12 and 17.

Use of all Lots within the Subdivision shall comply with the following:

(a) No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may become an annoyance, danger, or nuisance to the neighborhood.

(b) Except as may be otherwise permitted herein, no Structure or Improvement of a temporary character, including, but not limited to, a trailer, recreational vehicle, mobile home, manufactured home, tent, shack, barn or any other Structure or building (other than the Dwelling Unit to be built thereon) shall be placed on any Lot either temporarily or permanently. No Dwelling Unit, garage or other Structure appurtenant thereto, shall be moved upon any Lot from another location; except however, a modular home set by Declarant on any Lot shall be permitted.

The Declarant reserves the right to erect, place, maintain, and to permit Homebuilders to erect, place and maintain such facilities in and upon any Lot as in its discretion may be necessary or convenient during the period of or in connection with the improvement and/or sale of any Lots.

(c) No animals shall be permitted which are obnoxious, offensive, vicious (e.g. pit bull terriers shall not be permitted within the Properties) or dangerous. Further, no swine, goats or fighting roosters shall be permitted on any Lot. Other than dogs, cats and other domestic animals which are kept as family pets, no other animals shall be kept on any Lot, except as follows:

Not more than two (2) large animals (livestock) such as horses, steers, heifers, sheep or similar animals.

Any structure built or placed on a Lot to keep, maintain or house animals must first be approved by the ARC in the same manner as any other Structure or Improvement. All animals must be kept and maintained in the rear yard of the Lot, or on a leash. All animal waste shall be disposed of in a proper manner by removing said waste entirely from the Property or utilizing appropriate trash containers as required under Article V, Section 10 of the Declaration. Under no circumstances shall animal waste be discarded in an alley, street, or any other portion of the Property. Failure to remove animal waste shall be considered a noxious or offensive activity which is prohibited under Article V, Section 1(a) of the Declaration.

(d) No rubbish, trash, garbage, debris or other waste shall be dumped or allowed to remain on any Lot.

(e) No clothesline may be maintained on any Lot, unless enclosed by a hedge or other type of screening enclosure as approved by the ARC, such as a fence approved for the rear yard, where such fence is of a height that exceeds the height of the clothesline.

(f) No antenna, tower, wind turbine, or other similar vertical structure shall be erected on any Lot for any purpose; however, a flagpole or a windmill will be permitted where approved in writing by the ARC (decorative windmills may be considered for approval; however, in no event shall the ARC approve a windmill or wind turbine designed for the production of electricity or power). No antenna or tower shall be affixed to the outside of any Dwelling Unit on any Lot without the prior written consent of the ARC. No satellite reception device or equipment used in the reception of satellite signals shall be allowed on any Lot or structure unless approved in writing by the ARC and approval will be granted only where the devices are reasonably concealed from view of any street, public areas and neighboring Lots, and structures. No satellite dishes will be permitted which are larger than one meter in diameter. The Declarant shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Properties. The Declarant by promulgating this Section is not attempting to violate the Telecommunications Act of 1996 (the "Act"), as may be amended from time to time. This Section shall be interpreted to be as restrictive as possible while not violating the Act.

(g) No oil drilling, oil development operation, oil refining, or quarrying or mining operations of any kind shall be permitted on or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on or in any Lot. No derrick or other structure designed for use of boring for oil and/or natural gas shall be erected, maintained or permitted on any Lot.

(h) No sign of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than five (5) square feet advertising the property for sale, or a sign used by Declarant or a Homebuilder to advertise the building of Improvements on such property during the construction and sales period.

Section 2. Minimum Floor Space. Each Dwelling Unit on any Lot must contain not less than 1,800 square feet of air-conditioned floor area (exclusive of all porches, garages or breezeways attached to the main dwelling). Each one-and-one half (1.5) and two (2) story dwelling constructed on any Lot shall contain not less than 1,200 square feet of air-conditioned floor area on the first floor. No Structure will be in excess of two (2) stories (however, a Dwelling Unit may have a basement and two above-ground stories, provided that the first floor of the Dwelling Unit contains not less than 1,200 square feet of air-conditioned floor area).

Section 3. Garages; Parking. Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) and a maximum of four (4) conventional automobiles, unless otherwise specifically approved by the ARC. Each Owner and Resident shall use their respective best efforts to park and store their automobiles within the garage. All garage doors shall be closed at all times when not in use. Carports are not encouraged but may be permitted under limited rigid circumstances if, as and when, in the absolute opinion of the Architectural Review Committee, the exterior surface and appearance will substantially compare with a garage and if absolutely no storage of items, which would otherwise be visible, will occur thereunder. Any and all proposed garage or carport plans and specifications must be submitted to the Architectural Review Committee for review and approval. A garage will be situated on the Lot in such a manner that the garage door or entry will face not less than a ninety degree (90°) angle away from the street upon which the Lot is situated (such that all garages will be rear-entry or side-entry). The ARC may adjust this angle as necessary to accommodate the particular

dimensions of each Lot; however, an effort must be made to face the garage doors away from the abutting street. Each Owner and Resident shall use their respective best efforts to refrain from:

- (a) habitually parking any automobile or vehicle on any Lot outside of an approved garage area between any Dwelling Unit and the abutting front street or between any Dwelling Unit and an abutting side street; and
- (b) performing, permitting or allowing repair or maintenance work to any automobile or other vehicle outside the garage and visible to the abutting street(s).

Under no circumstances or conditions shall any automobile be parked on a non-paved portion of any Lot. Residents are strongly encouraged to store trailers, motor homes, boats and recreational vehicles at locations away from the Subdivision, and not on any Lot; and under no circumstances will trailers, motor homes, boats and recreational vehicles be parked in a driveway or other paved area of the front yard or side yard of a Lot except for a period, not to exceed twenty-four hours, for loading or unloading such vehicle for use. Except for loading and unloading purposes, trailers, motor homes, boats and recreational vehicles may be parked only in the rear yard of a Lot, and only at a location within the rear yard that said trailer, motor home, boat or recreational vehicle is concealed from the view of all other Lots and from the streets which border such Lot. On corner Lots, a trailer not to exceed sixteen feet in length or eight feet in height may be stored on a portion of the side yard where the Lot opens from a side street [provided that the area of the side yard where the trailer is stored shall be paved with a material that is approved for driveway construction as described in Article V, Section 6(f)]. Under no circumstances may trailers, motor homes, boats and recreational vehicles be parked or stored on unpaved portions of the front yard or side yard of a Lot (an unpaved portion of the front yard or side yard of any Lot shall be any portion not improved with a driveway, as "driveway" is described in Article V, Section 6(f) of this Declaration).

Section 4. Setback Requirements. Each Dwelling Unit will face the street which abuts the front of the Lot upon which the Dwelling Unit is to be situated as described in Article V, Section 1 of this Declaration; however, for all corner Lots, the ARC will determine the location of the Dwelling Unit in accordance with the Plans submitted by each Owner. No Structure shall be placed within the following setback lines:

- (a) On all Lots except 13, 14, 15 and 16, 75 feet from the front property line of the Lot (on Lots 3, 4, 5, 12 and 13, the front setback line may be adjusted by ARC so that the Dwelling Units on those Lots will conform with the Dwelling Units on adjacent Lots); on Lots 13, 14, 15 and 16, 60 feet from the front property line of the Lot (and on said Lots, and on all other Lots, the ARC must approve the location of the Dwelling Unit to assure that the Dwelling Units face and conform to the curvature of the county road).
- (b) 25 feet from any public street or right-of-way (other than a street abutting the front property line of the Lot);
- (c) 10 feet from the rear property line of the Lot (except on Lots 1 through 6 and Lots 12 through 16, the setback is 30 feet from the rear property line, it being recognized that there is a 20 foot-wide underground utility easement and garbage collection easement at the rear of said Lots);
- (d) 10 feet from any side property line of the Lot; except that if an Owner owns two or more adjacent Lots and desires to construct one Dwelling Unit on such Lots, construction of which Dwelling Unit would violate the side lot setback lines provided

herein, the ARC may waive, in writing, said side lot setback line as to such Dwelling Unit, and such Lots shall be considered to be one Lot solely for purposes of determining the setback lines.

The following Structures are expressly excluded from the setback restrictions:

- (i) structures below and covered by the ground;
- (ii) steps, walks, driveways and curbing;
- (iii) landscaping as approved by the ARC pursuant to Article IV hereof;
- (iv) planters, walls, fences or hedges, not to exceed 8 feet in height, and which comply with the restrictions set forth in this Declaration;
- (v) any other Structures exempted from the setback restrictions by the ARC on a case-by-case basis and as provided in Article IV hereof.

In no event shall the ARC exempt from the setback restrictions, any roofed structure other than swimming pool equipment houses, cabanas, greenhouses, barns and storage sheds; and, in the case of swimming pool equipment houses, cabanas, greenhouses, barns and storage sheds, such structures may in no event be exempted from side setback restrictions, and such structures may in no event be situated within ten (10) feet of the rear property line of the Lot; and further, such structures must be situated wholly within a fence on the Lot, and must meet any other design and construction requirements as established by the ARC.

Section 5. Fences. Any fence to be constructed on a Lot must conform to the following requirements:

(a) A perimeter fence may, but is not required, to be constructed on each Lot. If a perimeter fence is to be constructed, it must be constructed (i) across the rear property line of each Lot (except that a perimeter fence will not be constructed within the 20-foot underground utility easement and garbage collection easement at the rear of Lots 1 through 6 and Lots 12 through 16) and (ii) along the side of each Lot from the rear fence corner to a point which is not behind the rear building line of the Dwelling Unit on the Lot nor in front of the front building line of such Dwelling Unit. Perimeter fences shall be constructed only of white three-rail PVC fencing (as approved by the ARC), and shall be not more than five feet (5') in height. No fence, wall or hedge (which serves as a barrier) shall be erected, placed or altered on any Lot without the approval of the ARC. All perimeter fences shall be located wholly within the boundaries of a Lot and shall not encroach across such boundaries; provided, however, that the Owners of adjoining Lots may agree to construct a fence along the common boundary of such Lots which extend onto each Lot. Any such agreement must be in writing and must be recorded in the Lubbock County Clerk's office in Lubbock, Texas. To the extent any such common perimeter fence is constructed, the Owners of the Lots on which it is located shall be jointly and severally responsible for the maintenance and repair thereof. The Declarant may, but shall not be required to construct perimeter fences on one or more of the Lots within the Subdivision. Regardless of whether the Declarant has constructed the original perimeter fence located on a Lot, under no circumstances shall the Declarant have any obligation to repair, replace, or maintain the perimeter fence, and all perimeter fence repair, replacement and maintenance shall be the sole obligation of the Owner of the Lot on which the fence is situated.

(b) Fences and walls shall not be permitted within the front yard directly in front of any Dwelling Unit; provided, however, decorative fences and walls shall be allowed which do not exceed

thirty inches in height and which are approved by the ARC. The area of each Lot between the boundary line of the Lot and the fence shall be landscaped as approved by the ARC and maintained by the Owner or Resident of the Lot.

(c) A “privacy fence” (as “privacy fence” is hereinafter defined) may, but is not required to be constructed on each Lot. A “privacy fence” shall refer to a fence constructed in the rear yard of a Lot to screen a portion of the rear yard from the view of neighboring Lots, alleys or other properties. If a privacy fence is to be constructed, it must be constructed only in the rear yard and side yard of a Lot. A privacy fence, if constructed, shall be connected to the Dwelling Unit, and must not extend into the side yard of the Lot more than twelve feet (12') from either side of the Dwelling Unit, nor extend into the rear yard more than thirty-five feet (35') from the rear building line of the Dwelling Unit. Privacy Fences, if constructed, shall be constructed of brick, stone, white PVC, or cedar pickets [provided that any fence shall be of such design and construction as conform to the design of the Dwelling Unit, and as are approved by the ARC]. Privacy fences shall be not less than five feet (5') nor more than eight feet (8') in height. Additional privacy fencing may be allowed to enclose a swimming pool, a recreational vehicle or a trailer, or for some other privacy concern, provided that the ARC has first approved the location of the additional privacy fencing and the materials to be utilized to construct the additional privacy fencing.

(d) Fences not otherwise provided for in this Section 5 shall be constructed of such materials and design as approved by the ARC; however, the ARC shall not approve a fence constructed of chain link, barbed wire, r-panel metal fencing, or other material not expressly permitted and approved by the ARC.

Section 6. Construction Standards for Lots. In addition to meeting all applicable building codes, all Improvements and Structures on each Lot shall meet with the following requirements (except as may be modified in writing by the ARC):

(a) **EXTERIOR WALLS:** The exposed exterior wall area, exclusive of doors, windows and covered porch area, shall be not less than eighty percent (80%) brick, stone, stucco, concrete siding having the appearance of wood (such as Hardi-lap siding), or other masonry materials approved by the ARC (the use of concrete siding such as Hardi-lap siding for exterior walls is strongly encouraged; and, if exterior walls utilize a material other than concrete siding, then concrete siding is encouraged for accents, fascia and soffit). Any exposed exterior area not covered by brick, stone, stucco, concrete siding or other approved masonry materials shall be covered by wood or siding (metal or synthetic) having the appearance of wood, and as approved by the ARC. The ARC is specifically authorized to require a continuous uniform surface with respect to all Structures which directly face the street or county road or another Lot.

(b) **ROOFING DESIGN AND MATERIAL:** Flat roofs, mansard roofs and other “exotic” roof forms shall not be permitted. All roofing materials utilized on any Structure on a Lot must be approved by the ARC. The ARC will not approve of a roof of crushed stone, marble or gravel, it being intended that each roof shall be constructed only of metal, composition or wood shingles (provided that any composition shingles must be at least 30-year shingles), tile, slate, or other materials approved by the ARC taking into account harmony, conformity, color, appearance, quality and similar considerations. All roof pitches must be a minimum of a 6/12 pitch.

(c) **CHIMNEYS:** All fireplace chimneys shall be constructed of the same brick, stone, stucco, concrete siding or other masonry materials as appropriate to match the materials used on the Dwelling Unit.

(d) **GARAGES:** In addition to meeting the requirements stated in Article V, Section 3, all garages shall be given the same architectural treatment as the Dwelling Unit located on such Lot. All garage doors shall remain closed when not in use. The interior walls of all garages must be finished (taped, floated and painted as a minimum). No garage shall be enclosed for living area or utilized for any other purpose than storage of automobiles and related normal uses.

(e) **EXTERIOR LIGHTING:** No exterior light shall be installed or situated such that neighboring Lots are unreasonably lighted by the same, and all exterior lighting to be located within the front yard or side yard of a Lot must be approved by the ARC. All freestanding exterior lights located between the property lines and the Dwelling Unit shall be architecturally compatible with the Dwelling Unit, and shall be approved by the ARC.

(f) **DRIVEWAYS:** Driveways shall be a minimum of 12-feet wide. The driveway shall be constructed of concrete, crushed limestone, recycled asphalt, coal ash, gravel or other material as may be approved by the ARC. The Owner of each Lot shall keep and maintain the driveways free of weeds, grass and other plants.

(g) **WINDOW UNITS:** No Structure shall utilize window mounted or wall-type air conditioners or heaters.

(h) **SKYLIGHTS:** Skylights shall be permitted on the roof of a Dwelling Unit, subject to approval by the ARC. No other equipment, including without limitation, heating or air conditioning units, solar panels, solar collection units, satellite dishes, and antennas, shall be located on the roof of any Dwelling Unit or Structure, unless the same are concealed from view from adjoining Lots and public streets, and do not materially alter the roof line of the Dwelling Unit or Structure; and further, plans and designs for such equipment to be located on a roof must be submitted with the Plans required pursuant to Article IV hereof, and the design, plans, and installation of skylights, and all equipment located on the roof, are subject to the approval of the ARC.

(i) **SWIMMING POOLS:** Any swimming pool shall be located in the rear yard of the Lot, and shall be securely enclosed by a fence and gates designed to prevent children and animals from accidentally entering the pool enclosure. An enclosed pool may be constructed at the rear of the Dwelling Unit (either attached to the Dwelling Unit or as a separate Structure), provided that the enclosure for such pool shall be of the same materials used on, and in the same architectural style, as the Dwelling Unit. An above-ground spa or hot tub may be constructed on a Lot provided that the same is located on a porch or deck associated with the Dwelling Unit. All swimming pools, and all swimming pool enclosures, must be approved by the ARC.

(j) **TENNIS COURTS:** No tennis court shall be constructed on any Lot unless and until the design, plans and specifications for the tennis court have been approved by the ARC. Approval will be limited to those tennis courts which are located only in the rear yard of the Lot, and which: (i) utilize only "low profile" lighting; (ii) have no chain-link fencing or chain-link backstops; (iii) are fenced with material compatible with those materials utilized on the exterior of the Dwelling unit; and (iv) are concealed to the greatest extent possible from view from any street, neighboring Lot, or other public area.

(k) **SEPTIC SYSTEMS:** No cesspool, outhouse or outside toilet shall be permitted on any Lot. Toilets located in any Structure, shall be connected to either an approved public sewage disposal system or to a septic tank located in the side yard of the Lot on which such Structure is constructed. Sewage disposal facilities and septic tanks must comply in all respects with all applicable state, county and/or other governmental laws, rules and regulations. Septic tanks on each Lot shall be restricted to the

side yard of each Lot. Placement of each septic tank will be determined by the ARC based on the location of the septic tanks on the adjacent lots. The placement of the septic tank on the Lots of those Owners executing this Declaration is acceptable, and no Owner executing this Declaration will be required to move an existing septic tank, or discontinue the use of an existing septic tank. The ARC may approve a different location for a septic tank to address issues that may arise in regard to an individual Lot.

(l) WATER WELLS: Water wells on a Lot must comply in all respects with all applicable state, county and/or governmental laws, rules and regulations. Water wells on a Lot shall be restricted to the side yard of each Lot as approved by the ARC based on the location of the other wells on adjacent lots, and shall be located not closer than 50 feet to any side property line or the rear property line. Only submersible pumps having not more than one and one-half (1 ½) horsepower in capacity shall be used in any water wells located on the Lot, except that on Lots 4 and 17, submersible pumps having not more than two (2) horsepower in capacity shall be permitted. Under no circumstances shall any above-ground irrigation motors or similar devices (whether gasoline or electric) be located on a Lot and/or used in connection with providing water to that Lot for household use and watering of landscaping. All water wells shall be cased from the surface to the water formation. Owners and Residents may utilize water from a water well for domestic purposes only, and all water produced from a well shall be utilized solely on the Lot from which the water is removed. No Owner or Resident may remove or sell water from their Lot to the public, or to any person or entity. The placement of the water well on the Lots of those Owners executing this Declaration is acceptable, and no Owner executing this Declaration will be required to move an existing water well, or discontinue the use of an existing well. The ARC may approve a different location for a water well to address issues that may arise in regard to an individual Lot.

(m) MAILBOXES: Mailbox location and design will be subject to approval by the ARC, and all mailboxes must be harmonious with the Dwelling Unit. In regard to the construction of mailboxes, the ARC will approve only designs for mailboxes which incorporate and utilize materials which match the Dwelling Unit; mailboxes shall thus be constructed of the same brick, stone, stucco or other masonry as approved by the ARC in regard to the Dwelling Unit.

(n) APPROVED STRUCTURES OTHER THAN DWELLING UNIT: No Structure or Improvement shall be permitted on any Lot other than the Dwelling Unit and such permanent Structures and Improvements as are approved in writing by the ARC, such as swimming pool equipment houses, cabanas, greenhouses, barns and storage sheds; however, in no event will the ARC approve a Structure or Improvement that does not meet the following requirements: (i) the sidewalls of the Structure will have a height of not greater than 16 feet; (ii) the maximum height of the roof peak of the Structure will be not greater than 22 feet; (iii) roofing materials must match and be of the same material as utilized on the Dwelling Unit, except that greenhouses and swimming pool enclosures may utilize a clear material that does not produce a glare or reflection that may be visible from neighboring Lots, and storage sheds and barns may have metal roofs meeting the requirements set forth below; (iv) the Structure will be constructed with exteriors of the same materials as are used on the Dwelling Unit, or that will match with and be compatible with the Dwelling unit; except however, barns and storage sheds may be pre-engineered metal buildings, provided that they are of all new construction, are 26 gauge or better pre-painted non-reflective steel siding, and the barn or shed is not more than 60 feet in length or width, and the roof peak of said barn or shed is not more than 22 feet in height; (v) the Structure will be no more than 60 feet in length or width; and (vi) the Structure will be screened to the extent possible, from neighboring Lots by landscaping or fencing materials which meet the requirements set forth in this Declaration .

Section 7. Landscaping of Lots. Construction of each and every Dwelling Unit within the Properties shall include the installation and placement of appropriate landscaping. A drought resistant grass is required. All landscaping shall be completed by no later than one year after final completion of

the Dwelling Unit. Landscaping must (i) permit reasonable access to public and private utility lines and easements for installation and repair; (ii) provide an aesthetically pleasing variety of trees, shrubs, groundcover and plants; and (iii) provide for landscaping of all portion of the Lot not covered by Improvements. Landscaping shall include, groundcover, trees, shrubs, vegetation and other plant life. A drought resistant variety of grass is required. Landscaping shall not include gravel, concrete, timber or rocks except where used as borders, walkways, accent pieces, or as otherwise approved by the ARC. A swimming pool, where approved by the ARC, may be considered landscaping. Except for typical garden hoses having a diameter of not more than one-inch, and common portable yard sprinklers that may be attached to such hoses, no pipes, hoses, sprinklers, or other parts of any irrigation system for watering of landscaping on a Lot shall be located above the ground. An under-ground irrigation system adequate to suitably water all landscaping located in the front yard and side yard of each Lot shall be installed at the time the Dwelling Unit is constructed. The landscaping on the Lots of those Owners executing this Declaration is acceptable and will not require modification.

Section 8. Screening. All utility meters, equipment, air conditioning compressors, swimming pool filters, heaters and pumps and any other similar exposed mechanical devices on any Lot must be screened so that the same are not visible from other Lots or any public street or county road on which the Lot borders. All screens must be solid and constructed in the same architectural style and of the same material as the Dwelling Unit on a Lot.

Section 9. Utilities. All public or private utility and service connections including, but not limited to gas, water, electricity, telephone, cable television or security system, or any wires, cables, conduits or pipes used in connection therewith, located upon any Lot shall be underground; except that fire plugs, gas meters, supply pressure regulators, electric service pedestals, pad mount transformers, and street lights may be located above ground only when necessary to furnish the service required by the use of such utilities. In no event shall any poles be permitted, other than for street lights or as otherwise permitted herein, and no wires or transmission lines to or from such street lights shall exist above the ground.

Section 10. Trash Container. All dumpsters and other trash containers shall be located in the alley or the garbage collection easement at the rear of each Lot. Such containers shall be placed as close to the rear fence on the Lot as reasonably possible so that said container will not interfere with use of the alley or the easement. Each Owner, at Owner's expense, shall contract with a public or private trash service for the regular pickup of all trash and other debris (all of which shall be placed in the dumpsters or other trash containers, it being understood that at no time shall any Owner pile or stack trash or other debris in the alley or on a Lot).

Section 11. General.

(a) CONSTRUCTION DEBRIS: During the construction or installation of any Improvement or Structure on any Lot, construction debris shall be removed from the Lot on a regular basis and the Lot shall be kept as clean as possible and an appropriate trash container will be maintained on the Lot during all construction activities.

(b) STOPPAGE OF CONSTRUCTION: Construction must be completed within 18 months from the purchase date of the lot. Once commenced, construction shall be diligently pursued to the end that it will be completed within 12 months from the date commenced. For purposes of this Declaration, construction shall be deemed to commence on the earlier of (i) the date on which any governmental authority shall issue any building permit or other permission, consent or authorization required in connection with such construction, or (ii) the date on which excavation or other work for the construction of the footings and/or foundation of any Improvements or Structures shall begin.

(c) **LIABILITY FOR CONSTRUCTION ACTIVITIES ON LOT.** Each Homebuilder and each Lot Owner (or the Owner's builder) is solely responsible and liable for all construction activities on the Lot, and construction activities on the Lot will comply with all federal, state and local laws, statutes, ordinances, regulations and rules, as well as all requirements set forth in this Declaration and all amendments and supplements thereto. Without limiting the generality of the preceding sentence, each Homebuilder and Lot Owner (or the Owner's builder) assumes all obligations and duties imposed by the Texas Commission on Environmental Quality ("TCEQ") related to discharges from construction activities. Each Homebuilder and Lot Owner (or Owner's builder) will be solely responsible for obtaining from TCEQ all required permits and any required Notice of Intent; and, each Homebuilder and Lot Owner (or Owner's builder) will be solely responsible for performing all construction activities and best management practices on the Lot in a manner that complies with federal, state and local laws, statutes, ordinances, regulations and rules, including those imposed by the TCEQ. By purchasing a Lot within the Subdivision, each Homebuilder and Lot Owner accepts all responsibility and liability for compliance with federal, state, and local laws, statutes, ordinances, regulations and rules, including those imposed by the TCEQ, and each Homebuilder and Lot Owner agrees to indemnify and hold harmless Declarant from all claims, fines, suits, actions, liabilities and proceedings whatsoever and of every kind, known or unknown, fixed or contingent which may be brought or asserted against Declarant on account of or growing out of any and all injuries or damages relating to construction activities on the Lot being performed by each Homebuilder and Lot Owner (or Owner's builder), and all losses, liabilities, judgments, settlements, costs, penalties, damages, fines and expenses relating thereto, including, but not limited to, attorney's fees and other costs of defending against, investigating and settling said claims.

Section 12. Easements. Easements for the installation and maintenance of utilities, drainage facilities, and garbage collection are reserved in this Declaration and as shown on the recorded subdivision plat. Utility service may be installed along or near the front and/or side and/or rear Lot lines and each Lot Owner shall have the task and responsibility of determining the specific location of all such utilities. Except as may be otherwise permitted by the ARC (e.g. fencing, flatwork, landscaping, etc.), no Owner shall erect, construct or permit any obstructions or permanent Improvements or Structures of any type or kind to exist within any easement area, nor shall anything be done or permitted within an easement area which would restrict or adversely affect drainage. Electrical (and possibly other utility) easements are likely to be located at or near or along the rear Lot line(s), and each Lot Owner assumes full, complete and exclusive liability and responsibility for all cost and expense related to damage, repair, relocation and restoration of such improvements or fence. Except as to special street lighting or other aerial facilities which may be required by the City or County of Lubbock, Texas or the City of Wolfforth, Texas, or which may be required by the franchise of any utility company or which may be installed by the Declarant pursuant to its development-plan, no aerial utility facilities of any-type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed on the Subdivision whether upon individual Lots, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Subdivision, and all utility service facilities (including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility. All utility meters, equipment, air conditioning compressors, water wells and similar items must be visually screened and located in areas designated by the Architectural Review Committee. The Association or the Architectural Review Committee shall have the right and privilege to designate the underground location of any CATV-related cable.

Each Owner shall assume full and complete responsibility for all costs and expenses arising out of or related to the repair, replacement or restoration of any utility equipment damaged or destroyed as a result of the negligence or mischief of any Resident of the Owner. Each Owner agrees to provide, at the

sole cost and expense of each Owner, such land and equipment and apparatus as are necessary and appropriate to install and maintain additional lighting and security-related measures which becomes technologically provident in the future.

Section 13. Duty of Maintenance. Each Owner of any Lot shall have the responsibility, at his or her sole cost and expense, to keep such Lot, including any Improvements thereon, in a well maintained, safe, clean and attractive condition at all times. Such maintenance shall include, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste, and regular cutting of weeds and grasses on the Lot prior to and during construction of any Improvements;
- (b) Regular mowing of grasses;
- (c) Tree and shrub pruning;
- (d) Keeping landscaped areas alive, free of weeds, and attractive;
- (e) Watering;
- (f) Keeping parking areas and driveways in good repair;
- (g) Complying with all government health and police requirements;
- (h) Repainting of Structures and Improvements;
- (i) Repair of exterior damages to Improvements;
- (j) Taking whatever action is necessary to assure proper water drainage across each Lot, and to prevent water from being impounded or dammed on Lot.

Each Owner of any Lot shall have the responsibility, at his or her sole cost and expense, to keep all areas located between the boundaries of such Lot and the paved portion of any streets or roads on which such Lot borders in a well maintained, safe, clean and attractive condition. Each Owner shall have the further responsibility, at his or her sole cost and expense, to keep all alleys (to the middle of the alley) on which such Lot borders in a well maintained, safe, clean and attractive condition.

ARTICLE VI.
EASEMENTS AND TELECOMMUNICATION SERVICES;
UTILITY SERVICES

Section 1. Utility Easements. Non-exclusive easements for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area not less than two feet (2') nor more than five feet (5') wide perimeter of each Lot are reserved by Declarant for itself and all utility and CATV companies and their respective successors and assigns, serving the Subdivision and no Improvement or Structure shall be constructed or placed thereon without the express prior written consent of the ARC. Full rights of ingress and egress shall be had by Declarant and all utility and CATV companies serving the Subdivision, and their respective successors and assigns, at all times over the Subdivision for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction (excluding, however, any driveway, fence or other Improvement or

Structure which has been theretofore specifically approved by the ARC) that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility.

Section 2. Ingress, Egress and Maintenance by the Declarant. Full rights of ingress and egress shall be had by the Declarant at all times during the Development Period over and upon the front, rear and side setback areas applicable for each Lot for the carrying out by the Declarant of its functions, duties and obligations hereunder; provided, however, that any such entry by the Declarant upon any Lot shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Declarant at the expense of Declarant.

Section 3. Telecommunication Services. The Declarant may (but without obligation) provide, either directly or by contracting with other parties, various telecommunication services to the Lots within the Subdivision. The Declarant shall have the sole discretion to determine whether or not such telecommunication services are provided, and if the Declarant is to provide such services the Declarant shall have the sole discretion to determine the types of services to be provided, the manner in which such services will be provided, the amounts to be charged, and the method of paying for such services. The amounts charged for such services shall not exceed those authorized or required by any regulatory authority with jurisdiction over such matters. The types of telecommunication services that may be provided by or through the Declarant shall include, but not be limited to, the following: (i) local and long-distance telephone service; (ii) voice mail service; (iii) cable television service; (iv) private television channels for education and community purposes; (v) security monitoring of streets; (vi) central home security systems for fire and burglary detection; (vii) electronic utility meter reading systems; (viii) electronic mail systems; and (ix) such other similar telecommunication services the Declarant determines to be necessary or beneficial for the safety, welfare or enjoyment of the Owners and Residents of the Subdivision.

Section 4. Water and/or Sewer Services. Declarant reserves for itself and for its successors and assigns, the exclusive right, but not the obligation or duty, to create, own or have an interest in, and/or operate a "retail public utility" or a "water supply or sewer service corporation" (as "retail public utility" and "water supply or sewer service corporation" are defined in the Texas Water Code, Section 13.002, as now existing or hereafter amended), for the purpose of providing "retail water or sewer utility service" (as "retail water or sewer utility service" is defined by the Texas Water Code, Section 13.002) to all Owners and Residents of the Subdivision and to any other persons or entities as desired by Declarant. "Retail public utility" and "water supply or sewer service corporation" are hereinafter sometimes collectively referred to as "the Utility." If the Utility is created under the authority herein reserved to Declarant, and if a certificate of public convenience and necessity (the "Certificate") is obtained by the Utility in accordance with the provisions of the Texas Water Code, then each Owner who thereafter purchases a Lot within an area being serviced by the Utility will purchase all water and/or sewer services (as are then being provided by the Utility) from the Utility, and no Owner will drill a water well or install a septic tank on a Lot receiving said service from the Utility. The provisions of this Section 4 shall not apply to any Owner who drills a water well and installs a septic tank prior to the Utility being created and obtaining a Certificate; however, the provisions of this Section 4 shall apply to any subsequent Owner who, after the Utility has been created and obtains a Certificate, purchases a Lot within the service area of the Utility, on which a water well or septic tank is in existence. If an Owner purchases a Lot after the Utility has been created and the Certificate obtained, and if the Lot has an existing water well and septic tank, the Owner will discontinue use of the water well if the Utility is providing water, and will discontinue use of the septic tank if sewer service is being provided by the Utility; and, at the time of the purchase of the Lot, water and/or sewer service shall be provided to the Lot on such terms and conditions as are then in effect for such service by the Utility. To the extent that the provisions of this Section 4 conflict with the provisions

of Article V, Section 6, (k) and (l), the provisions of this Section 4 shall control. Any Owner who drills a water well and installs a septic tank prior to the Utility being created and obtaining a Certificate, may elect, upon creation of the Utility, to discontinue use of the water well and/or septic tank, and instead receive water and/or sewer service (as may then be available) from the Utility and upon such terms and conditions as are then in effect for such service by the Utility. Nothing within this Section 4 shall be construed as an obligation, duty, or representation by Declarant to create the Utility. If the Utility is created, the Utility may utilize any Lot and/or the water well easement described above in Article VI, Section 1, then owned by Declarant to drill and maintain water wells for use by the Utility in providing water service, and the Utility shall have such access to said Lot and/or easement as is necessary for the purpose of drilling and maintaining the water wells, tanks, equipment and underground pipelines as are related to such water wells. The utility easements described in Article VI, Sections 1 and 2, may be utilized by the Utility in providing the services of the Utility. Declarant may use any Lot or other property which it owns within or outside of the Subdivision for the purpose of drilling and maintaining water wells, tanks, equipment and pipeline related to the utility.

ARTICLE VII.
GENERAL PROVISIONS

Section 1. Further Development. During the Development Period, each and every Owner and Resident waives, relinquishes and shall not directly or indirectly exercise any and all rights, powers or abilities regarding the following: to contest, object, challenge, dispute, obstruct, hinder or in any manner disagree with the proposed or actual development (including, without limitation, zoning or rezoning efforts or processes) pertaining to residential, commercial or recreational uses of any real property owned by the Declarant or by the affiliates, assignees or successors of the Declarant within a one-mile radius of the Subdivision.

Section 2. Duration. The Covenants of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Declarant and by any Owner and Resident of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original forty (40) year term expiring on the fortieth (40th) anniversary of the date of recordation of this Declaration, after which time these Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least fifty-one percent (51%) of all Lots within this Subdivision and all Lots of any additions added or annexed to the scheme of this Declaration as provided in Article II of this Declaration, which instrument is recorded in the Official Public Records of Lubbock County, Texas, and which contains and sets forth an agreement to abolish these Covenants; provided, however, no such agreement [where approved by less than seventy-five percent (75%) of the Owners of all Lots within this Subdivision and all Lots of any additions added or annexed to the scheme of this Declaration] to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 3. Amendments. The covenants, conditions and restrictions of this Declaration may be amended or terminated only as follows:

- a. **BY THE OWNERS:** This Declaration may be amended or terminated only by the affirmative vote of the Owner or Owners of not less than sixty percent of the total number of Lots. Each Lot shall be entitled to a single vote, and, in case there are multiple Owners of a Lot, that Lot's vote shall be cast as determined by a majority of its Owners. The Owner of multiple Lots shall be entitled to one vote for each Lot owned. The Declarant shall be considered an Owner and shall be entitled to one vote for each Lot owned. For example, if there are 17 Lots in the Subdivision, the Owner or Owners of 11 or more Lots

must vote in favor of amending or terminating this Declaration, in order for the amendment or termination to be effective (60% of 17 = 10.2), and if only one Owner owning 11 Lots votes in favor of the amendment or termination, such amendment or termination shall nevertheless be effective. However, under no circumstances may the Owners terminate the covenants, conditions and restrictions of this Declaration at any time within the next ten years from the date that this Declaration is filed in the Official Public Records of Lubbock County, Texas, unless the Declarant joins in and agrees to such termination.

- b. **BY THE DECLARANT:** During the Development Period, Declarant reserves to itself and to its successors and assigns, and shall have the continuing right, at any time, and from time to time, without the joinder or consent of any party, to amend this Declaration by an instrument in writing duly executed, acknowledged and filed of record for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or for adding or deleting any restriction, term or provision of this Declaration, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by the Declaration, and shall not impair or materially adversely affect the vested property or other rights of any Owner.

Section 4. Enforcement. Enforcement of the covenants and restrictions contained herein shall be by any proceeding at law or in equity against any persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages. Failure by the Declarant or any other Owner to enforce any such covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter. Declarant shall have no special obligation to any Owner to enforce any of the covenants and restrictions contained in this instrument, and any Owner or Owners aggrieved by any violation or alleged violation of these covenants and restrictions shall be responsible for enforcing the same (provided that Declarant shall have the right to join in such enforcement in the event Declarant, in Declarant's sole discretion, elects to do so).

Section 5. Additional Restrictions. Declarant may make additional restrictions applicable to any Lot by appropriate provision in the deed conveying such Lot to the Owner, without otherwise modifying the general plan set forth herein, and any such other restrictions shall inure to the benefit of and be binding upon the parties to such deed in the same manner as if set forth at length herein.

Section 6. Resubdivision or Consolidation. No Lot shall be resubdivided in any fashion to create a Lot having smaller dimensions than the original Lot. With the prior written approval of the ARC, entire Lots may be consolidated to form a single building site, and a Lot may be resubdivided and portions thereof combined with another Lot to create a new Lot having dimensions that are at least as large as the largest of the two original Lots.

Section 7. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court with competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses, and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses, or phrases shall become or be illegal, null or void.

Section 8. Notice. Wherever written notice to an Owner is permitted or required hereunder,

such notice shall be given by mailing the same to such Owner at the address of such Owner designated in the Deed conveying a Lot or Lots to that Owner, as recorded in the Lubbock County Clerk's office in Lubbock, Texas, or to the address of the Owner shown in the records of the Lubbock Central Appraisal District in Lubbock, Texas, or other governmental authority imposing or collecting ad valorem taxes on such Lot. Such notice shall conclusively be deemed to have been given by placing same in the United States mail, properly addressed, whether received by the addressee or not.

Section 9. Titles. The titles, headings, and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 10. Adjacent Property. Declarant intends to develop certain property adjacent to or in the vicinity of the Lots. Such adjacent property may be subject to restrictions materially varying in form from those contained in this instrument. Nothing contained in this instrument shall be deemed to impose upon Declarant any obligation with respect to such adjacent property, including, without limitation, any obligation to enforce any covenants or restrictions applicable thereto. Declarant may, in the future, develop certain property adjacent to or in the vicinity of the Lots as additional residential lots, or for commercial use, or for a recreational use, or any combination of such uses. However, nothing within this Declaration shall be construed as constituting an obligation, promise, covenant or duty on the part of Declarant to develop the adjacent property in a particular manner or for a particular use. Nothing contained in or inferable from this Declaration shall ever be deemed to impose upon any other land owned or to be owned by Declarant, or any related entity, any covenants, restrictions, easements or liens, or to create any servitudes, negative reciprocal easements, or other interests in any such land in favor of any person or entity other than Declarant.

Section 11. ASSUMPTION OF RISK, DISCLAIMER, RELEASE AND INDEMNITY.

(a) Assumption of Risk. Each Owner and any Homebuilder, by his or her purchase of a Lot within the Subdivision, and each Resident, by his or her residence within or use of the Subdivision, hereby expressly assumes the risk of personal injury, property damage, or other loss caused by use, maintenance, and operation of the Properties, and any Lot, and including but not limited to the design, development and construction of the Subdivision.

(b) Disclaimer and Release. Except as specifically stated in this Declaration or in any Deed, Declarant hereby specifically disclaims any warranty, guaranty, or representation, oral or written, expressed or implied, past, present or future, of, as to, or concerning:

(i) the nature and condition of the Subdivision, the Properties, and any Lot, including but not by way of limitation, the water (either quantity or quality), soil, subsurface, and geology, and the suitability thereof and of the Subdivision, the Properties, and any Lot within the Subdivision, for any and all activities and uses which Owner, Resident, or any Homebuilder may elect to conduct thereon;

(ii) the manner, construction, design, condition, and state of repair or lack of repair of any improvements located on the Properties and any Lot;

(iii) except for any warranties contained in the Deed delivered from Declarant to an Owner or any Homebuilder, the nature and extent of any right-of-way, possession, reservation, condition or otherwise that may affect the Properties and any Lot; and

(iv) the compliance of the Properties and any Lot with any laws, rules, ordinances or regulations of any governmental or quasi-governmental body (including without limitation, zoning, environmental and land use laws and regulations).

Declarant's sale of each Lot within the Subdivision is on an "AS IS, WHERE IS, WITH ALL FAULTS" basis, and each Owner or any Homebuilder purchasing a Lot within the Subdivision expressly acknowledges that, as part of the consideration for the purchase of the Lot, and except as expressly provided in this Declaration or in any Deed, Declarant makes NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, HABITABILITY, SUITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTIES, OR ANY LOT WITHIN THE SUBDIVISION.

Each Owner, Homebuilder, and Resident hereby waives, releases, acquits and forever discharges Declarant, any successor or assign of Declarant, and the Declarant's directors, officers, shareholders, general partners, limited partners, members, agents, employees, representatives, attorneys and any other person or entity acting on behalf of Declarant (sometimes referred to in this Section 10 as the "Released Parties"), of and from, any claims, actions, causes of action, demands, rights, damages, liabilities, costs and expenses whatsoever (including court costs and attorney's fees), direct or indirect, known or unknown, foreseen or unforeseen, which Owner, Homebuilder, or Resident now has or which may arise in the future, on account of or in any way growing out of or in connection with the design or physical condition of the Subdivision, the Properties, or any Lot, or any law, rule, order, statute, code, ordinance, or regulation applicable thereto.

Each Owner, Homebuilder, and Resident waives and releases the Released Parties from any liability to said Owner, Homebuilder, and Resident and to said Owner's, Homebuilder's, and Resident's respective heirs, successors and assigns, for the design and/or condition of the Subdivision, Properties, or any Lot, known or unknown, present and future, including liabilities, if any, due to the existence, now or hereafter, of any hazardous materials or hazardous substances, on the Properties, or any Lot, and due to the existence, now or hereafter, of a violation, if any, of any environmental laws, rules, regulations or ordinances.

EACH OWNER, HOMEBUILDER, AND RESIDENT EXPRESSLY WAIVES THE RIGHT TO CLAIM AGAINST THE RELEASED PARTIES BY REASON OF, AND RELEASES THE RELEASED PARTIES FROM ANY LIABILITY WITH RESPECT TO, ANY INJURY TO PERSON OR DAMAGE TO OR LOSS OF PROPERTY (INCLUDING CONSEQUENTIAL DAMAGES) RESULTING FROM ANY CAUSE WHATSOEVER (EXPRESSLY INCLUDING THE RELEASED PARTIES OWN NEGLIGENCE).

(c) **Indemnity.** Each Owner, Homebuilder, and Resident agrees to indemnify and hold harmless the Released Parties from all claims, suits, actions, liabilities and proceedings whatsoever and of every kind, known or unknown, fixed or contingent (the "Claims") which may be brought or asserted against any Owner, Homebuilder, Resident, or Released Parties, on account of or growing out of any and all injuries or damages, including death, to persons or property relating to the use, occupancy, ownership, construction, operations, maintenance, design, repair or condition of the Subdivision, the Properties, any Lot, or any improvements located thereon, prior to this date of this Declaration or after the date of this Declaration, **even if such Claims arise from or are caused in whole or in part by the sole or concurrent negligence (whether active or passive, gross negligence or strict liability) of the Released Parties,** and all losses, liabilities, judgments, settlements, costs, penalties, damages and expenses relating

thereto, including, but not limited to, attorney's fees and other costs of defending against, investigating and settling the Claims. The indemnity agreement provided herein includes without limitation all Claims, whether from:

- (i) the design, maintenance, operation or supervision of the Subdivision, the Properties, any Lot, or any improvement located thereon;
- (ii) the activities on the Subdivision, the Properties, any Lot, or any improvement located thereon;
- (iii) the existence, now or hereafter of hazardous materials or substances on the Properties, or any Lot; or
- (iv) due to a violation, now or hereafter, of any environmental laws, rules, regulations or ordinances, or otherwise. Each Owner, Homebuilder, and Resident does assume on behalf of the Released Parties and will conduct with due diligence and in good faith the defense of all Claims against any of the Released Parties.

Section 12. Joinder of Lenders and Existing Owners. Peoples Bank, holder of a lien of record against the Properties, joins in this Declaration for the sole purpose of showing its assent thereto and that it has no objections to the filing of this Declaration. No violation of any covenant contained within this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Properties; providing however, that any mortgagee in actual possession, or any purchaser at any mortgagee's foreclosure sale, as well as all other owners, shall be bound by and subject to this Declaration as fully as any other Owner of any portion of the Properties. Henson, Nichols, Brake, McCowen and Rasberry join in this Declaration for the purpose of showing their assent thereto and that they have no objections to the filing of this Declaration, and that they agree that their Lots shall be subject to the terms and provisions of this Declaration; and Henson, Nichols, Brake, McCowen and Rasberry, and their respective heirs, successors and assigns, agree to be bound by the terms and provisions of this Declaration.

ARTICLE VIII.
TERMINATION OF PRIOR COVENANTS,
CONDITIONS AND RESTRICTIONS

The Owners acknowledge that the Subdivision and other land described as the "Northwest ¼ of Section 29, Block CB, S.F. 118 J.W. White Survey, Lubbock County, Texas" is subject to the "Covenants, Conditions and Restrictions for Lots of Painted Prairie Ranch to the County of Lubbock" recorded on November 18, 2005 in Volume 10219, Page 50 of the Official Public Records of Lubbock County, Texas (herein referred to as the "Prior Restrictions"). The Owners desire that this Declaration replace the Prior Restrictions and that the Prior Restrictions be terminated. As evidenced by their execution of this Declaration, the Owners do hereby cancel and hold for naught the Prior Restrictions recorded in Volume 10219, Page 50 of the Official Public Records of Lubbock County, Texas, and said Owners agree that the Subdivision shall instead be subject to the covenants, conditions and restrictions set forth in this Declaration. Saddleback Land Co., LLC, the owner of that portion of the Northwest One-Quarter of Section 29, Block CB, S.F. 118 J.W. White Survey, Lubbock County, Texas that does not include the Subdivision, joins in this Declaration for the sole purpose of consenting to the cancellation of the Prior Restrictions on the real property which it owns within Section 29, Block CB, Lubbock County, Texas. It is the intention of Owners and Saddleback Land Co., LLC that the Prior Restrictions are cancelled in their entirety as to all of the real property described in the Prior Restrictions, and that this Declaration shall be

applicable to the Subdivision (but not to the remainder of Section 29, Block CB, S.F. 118, J.W. White Survey, Lubbock County, Texas that is owned by Saddleback Land Co., LLC). The execution of this Declaration by Saddleback Land Co., LLC shall not be deemed to impose on the land owned by Saddleback Land Co., LLC any covenants, restrictions, easements or liens, or to create any servitudes, negative reciprocal easements, or other interests in any such land in favor of any person or entity.

EXECUTED as of the day and year first above written.

DECLARANT:

806 LAND CO., LLC

By: _____

Name: _____

Title: _____

Owner of Lots _____

THE STATE OF TEXAS
COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the instrument as the act of 806 LAND CO., LLC, a limited liability company, and that she executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2009.

Notary Public, State of Texas

OWNERS OF LOT 12:

ROBIN HENSON

HAROLD HENSON

THE STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the ____ day of _____, 2009, by
ROBIN HENSON and HAROLD HENSON.

Notary Public, State of Texas

OWNERS OF LOT 1:

GREGORY PAUL NICHOLS

BEVERLY PENNY NICHOLS

THE STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the ____ day of _____, 2009, by
GREGORY PAUL NICHOLS and BEVERLY PENNY NICHOLS.

Notary Public, State of Texas

OWNERS OF LOT 6:

JOSEPH D. BRAKE

RIKA METHOLA BRAKE

THE STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the ____ day of _____, 2009, by
JOSEPH D. BRAKE and RIKA METHOLA BRAKE.

Notary Public, State of Texas

OWNERS OF LOT 8:

REUBEN G. McCOWEN

KAI D. McCOWEN

THE STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the ____ day of _____, 2009, by
REUBEN G. McCOWEN and KAI D. McCOWEN.

Notary Public, State of Texas

OWNERS OF LOT 11:

TRACY RASBERRY

LAURA RASBERRY

THE STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the ____ day of _____, 2009, by TRACY RASBERRY and LAURA RASBERRY.

Notary Public, State of Texas

SADDLEBACK LAND CO., LLC, a Texas limited liability company

By: _____
Name: _____
Title: _____

THE STATE OF TEXAS
COUNTY OF LUBBOCK

BEFORE ME, the undersigned, being a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the instrument as the act of SADDLEBACK LAND CO., LLC, a limited liability company, and that she executed the instrument on behalf of the limited liability company for the purposes and consideration expressed, and in the capacity hereinabove stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 2009.

Notary Public, State of Texas

EXHIBIT "A"

Lots One (1) through Seventeen (17), PAINTED PRAIRIE RANCH, an Addition to Lubbock County, Texas, according to the Map, Plat and/or Dedication Deed thereof recorded in Volume 9986, Page 86 of the Official Public Records of Lubbock County, Texas.

