

39.  
B

PARK AT DUVAL

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS §  
COUNTY OF TRAVIS §

WHEREAS, Sue A. Binder is the owner of that real property known as Lot 7 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; Steven W. Beathard and Kim M. Beathard are the owners of that real property known as Lot 8 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; Mir Mohammed Ali and Asma Naiem Ali Delmar are the owners of that real property known as Lot 9 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; Hager and Linda Hager are the owners of that real property known as Lot 24 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Richard Rand and Mary T. Rand are the owners of that real property known as Lot 18 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and John J. Cortell is the owner of that real property known as Lot 17 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Clarence Hoover Roberts and Dorothy Lee Roberts are the owners of that real property known as Lot 25 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Thomas Blake Buffington, Jr. and Shannon Decker Buffington are the owners of that real property known as Lot 19 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Kathryn A. Donnelly is the owner of that real property known as Lot 16 at the or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Bradley McCown is the owner of that real property known as Lot 20 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Robert S. Reed and Sherrille J. Reed are the owners of that real property known as Lot 27 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Weldon C. Gentry and Gale

Gentry are the owners of that real property known as Lot 22 at the Park at Duval, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Russell J. Steele and Martha A. Steele, are the owners of that real property known as Lot 15 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and James Gray Buffington, Jr. is the owner of that real property known as Lot 26 at the Park at Duval, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Mark A. Ruther and Deedra Ann Weishuhn are the owners of that real property known as Lot 5 at the Park at Duval, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; and Camille Barton and James Lee are the owners of that real property known as Lot 21 at the Park at Duval, a subdivision in Travis County, Texas according to the map or plat thereof recorded in Plat Book 95, Page 298, Plat Records of Travis County, Texas; Each of the lots named above shall hereinafter be referred to jointly as the "Subdivision". Steven W. Beathard and Kim M. Beathard, Sue A. Binder, Mir Mohammed Ali and Asma Naiem Ali Delmar, Richard Rand and Mary T. Rand, Delmar Hager and Linda Hager, John J. Cortell, Clarence Hoover Roberts and Dorothy Lee Roberts, Thomas Blake Buffington, Jr. and Shannon Decker Buffington, Kathryn A. Donnelly, Bradley McCown, Robert S. Reed and Sherrille J. Reed, Russell J. Steele and Martha A. Steele, Weldon C. Gentry and Gale Gentry, James Gray Buffington, Jr., Mark A. Ruther and Deedra Ann Weishuhn and Camille Barton and James Lee shall hereinafter be referred to jointly as the "Declarant"; and

WHEREAS, all of the Subdivision (the "Property") is intended to be developed for single family residential purposes; and

WHEREAS, Declarant desires to create upon the Property a residential community and to carry out a uniform plan for the improvement and development of the Property for the benefit of the present and future owners of the Property; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in said community and, to that end, desires to subject the Property to the covenants, conditions and restrictions hereinafter set forth, each of which is for the benefit of the Property and each owner thereof;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof; and (ii) that each

contract or deed which may hereafter be executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following covenants, conditions and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

## ARTICLE I DEFINITIONS

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

1.01. Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration to review and approve plans for the construction of Improvements upon the Property.

1.02. Architectural Committee Rules. "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.

1.03. Declarant. "Declarant" shall mean Steven W. Beathard and Kim M. Beathard, Sue A. Binder, Mir Mohammed Ali and Asma Naiem Ali Delmar, Richard Rand and Mary T. Rand, Delmar Hager and Linda Hager, John J. Cortell, Clarence Hoover Roberts and Dorothy Lee Roberts, Thomas Blake Buffington, Jr. and Shannon Decker Buffington, Kathryn A. Donnelly, Bradley McCown, Robert S. Reed and Sherrille J. Reed, Russell J. Steele and Martha A. Steele, Weldon C. Gentry and Gale Gentry, James Gray Buffington, Jr., Mark A. Ruther and Deedra Ann Weishuhn and Camille Barton and James Lee and any of the above named parties duly authorized representatives or their respective successors or assigns; provided that any assignment of the rights of any of the above named parties as Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.04. Declaration. "Declaration" shall mean this instrument as it may be amended and supplemented from time to time.

1.05. Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, and

poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.06. Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on the Plat of the Subdivision, together with all Improvements located thereon, save and except any areas dedicated to any governmental entity or public utility.

1.07. Mortgages. "Mortgage" shall mean any lien covering any portion of the Property given to secure the payment of a debt.

1.08. Mortgagee. "Mortgagee" shall mean the holder of any Mortgage.

1.09. Owner. "Owner" shall mean a person or entity, including Declarant, holding a fee simple interest in any portion of the Property, but shall not mean a Mortgagee.

1.10. Person. "Person" shall mean any individual or entity having the legal right to hold title to real property.

1.11. Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide or control the construction or erection of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.12. Plat. "Plat" shall mean the subdivision plat of Park at Duval of record in the Plat Records of Travis County, Texas, as the same may be amended from time to time.

1.13. Property. "Property" shall mean and refer to Park at Duval, together with such other real property as may hereafter be made subject to the terms of this Declaration.

1.14. Supplemental Declaration. "Supplemental Declaration" shall mean any declaration of covenants, conditions and restrictions recorded by Declarant after the date of this Declaration in order to add to the Property; to subject any portion of the Property to further restrictions, covenants or conditions, or to withdraw land from the Property.

ARTICLE II  
ARCHITECTURAL COMMITTEE

2.01. Membership of Architectural Committee. The Architectural Committee shall consist of not more than three (3) voting members ("Voting Members") appointed by Declarant and such additional non-voting members serving in an advisory capacity ("Advisory Members") as the Architectural Committee deems appropriate. The initial members of the Architectural Committee shall be Brian Lott, Blake Buffington, and Gray Buffington.

2.02. Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by a majority vote of the Voting Members.

2.03. Advisory Members. The Voting Members may from time to time designate Advisory Members.

2.04. Term. Each member of the Architectural Committee shall hold office until such time as he has resigned or has been removed and his successor has been appointed, as provided herein.

2.05. Declarant's Rights of Appointment. Declarant, its successors or assigns, shall have the right to appoint and remove all members of the Architectural Committee.

2.06. Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties, including but not limited to a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable.

2.07. Review of Proposed Construction. Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as otherwise specifically provided herein, prior to the commencement of any construction of any Improvement, or any alteration, addition to, removal or repair, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and such construction, alteration, addition to, removal or repair shall not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. The foregoing notwithstanding, the construction, alteration, addition to, repair or removal of any Improvements on the Property by Declarant shall be exempt from this Article II. The Architectural Committee shall have the right to impose limitations on driveway design, including materials, aprons, locations and point of contact with dedicated roads, streets or private driveways in the Subdivision. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration. Until receipt by the Architectural Committee of

all information or documents deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. The decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for inspecting any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

2.08. Actions of the Architectural Committee. The Architectural Committee may, by resolution, unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken without a meeting shall constitute an act of the Architectural Committee.

2.09. Failure of Architectural Committee to Act. If the Architectural Committee fails to approve or disapprove any Plans or Specifications or to reject them as being inadequate within thirty (30) days of submittal, it shall be conclusively presumed that the Architectural Committee has approved such Plans and Specifications.

2.10. No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any other Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

2.11. Work in Progress. The Architectural Committee, at its option, may inspect all work in progress to insure compliance with approved Plans and Specifications. If there shall be a material deviation from the approved Plans and Specifications in any completed Improvements, such Improvements shall be in violation of this Article II to the same extent as if erected without prior approval of the Architectural Committee. The Architectural Committee or any Owner may maintain an action at law or in equity for the removal or correction of any non-conforming Improvement and, if successful, shall recover from the Owner of the non-conforming Improvement all costs, expenses and fees incurred in the prosecution thereof.

2.12. Non-Liability of Architectural Committee Members. Neither the Architectural Committee, nor any member thereof, shall be liable to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Architectural Committee's duties under this Declaration.

2.13. Address. Plans and Specifications shall be submitted to the Architectural Committee in care of Brian Lott, 8716 North MoPac, Suite 100, Austin, Texas 78759, or such other address as may be designated from time to time.

ARTICLE III  
EASEMENTS

3.01. Reserved Easements. All dedications, limitations, restrictions and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant prior to the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which said easement shall have a maximum width of 5 feet on each side of such Lot line. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to supplement these covenants, conditions, and restrictions as necessary to provide for the implementation and maintenance of a Vegetative Filter Strip as may be necessary on any of the Lots. Such Vegetative Filter Strip shall be properly described by survey and any restrictions or uses shall be delineated fully and filed of record.

3.02. Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, gas, telephone, electricity and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto, on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Improvement. Notwithstanding any provision contained in this section, no electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Architectural Committee. The utility companies furnishing service shall have the right to remove all trees situated

within utility easements, and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

3.03. Drainage Easements. Each Owner covenants to provide easements for drainage and water flow, as contours of land and the arrangement of Improvements approved by the Architectural Committee thereon require. There shall be no construction of Improvements, temporary or permanent, in any drainage easement, nor shall any plantings or other materials be located in any drainage easement which would hinder or affect the flow of water through the drainage easement, except as may be approved in writing by the Architectural Committee. All drainage easements shall be continuously maintained by the Owner of the Lot upon which such easements are located except for drainage easements for which a governmental entity is responsible.

3.04. Surface Areas. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

#### ARTICLE IV RESIDENTIAL RESTRICTIONS

4.01. Residential Use. All Lots shall be improved and used solely for single family residential use inclusive of a garage, fencing and such other Improvements as are necessary or customarily incident to residential use, or for greenbelt, open space or other use approved by Declarant. The foregoing shall not prohibit the use of any Lot as a site for a construction trailer, or sales office, or for a model home or sales office during the period of development of the Subdivision; however, such uses shall be subject to Declarant's approval as to nature, size, duration and location of such use.

4.02. Building Height. No Improvement shall exceed two (2) stories in height and no Improvement greater than thirty feet (30') in height may be constructed on any Lot without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the top of the finished floor to the ridge line of the roof of the proposed Improvement.

4.03. Dwelling Size. All single-story dwellings shall contain not less than 1400 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports. All two-story dwellings shall contain not less than 1600 square feet of enclosed living space, exclusive of porches (open or covered), decks, garages and carports.



4.04. Building Materials. All building materials shall be approved by the Architectural Committee, and only new building materials (except for used brick) shall be used in constructing any Improvements. Exposed metal roof decks which reflect light in a glaring manner, such as galvanized steel, are specifically prohibited. Other roofing materials may be used with the prior written consent of the Architectural Committee, which may specify a minimum quality or grade of materials. All projections from a dwelling or other structure, including but not limited to chimney flues, vents, gutters, downspouts, utility boxes, porches, railings and exterior stairways, shall coordinate with the color of the surface from which they project, or shall be of a color approved by the Architectural Committee. No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including without limitation the exterior surfaces of any Improvements.

4.05. Exterior Finish: Masonry Requirements. The exterior finish material for all Improvements shall be subject to the approval of the Architectural Committee. The masonry requirements shall be as follows:

- (a) The exposed surface of the front and side exterior walls of the first floor of all single-family dwellings, garages, and other approved accessory buildings shall be constructed of seventy-five percent (75%) masonry, exclusive of porches, roofs, eaves, soffits, windows, gables, trim work and second floor surfaces not structurally suitable for masonry.
- (b) Masonry shall mean stone, brick, stucco, hardiplank, or other similar surface approved by the Architectural Committee.

4.06. Construction in Place. All dwellings constructed on the Property shall be built in place on the Lot and the use of prefabricated materials shall be allowed only with the prior written approval of the Architectural Committee.

4.07. Setback Requirements. No building shall be located or erected nearer to any Lot line bordering a street right-of-way than is indicated by the building line shown on the Plat of the Subdivision. For purposes of these covenants, eaves, steps and open porches shall not be considered as part of the building; provided, however, that this shall not be construed to allow any such structure to encroach upon another Lot.

#### ARTICLE V GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions.

5.01. Antennae; Satellite Dishes; Solar Collectors. No exterior radio, television or radio antenna or aerial, satellite dish or similar apparatus or solar collector device or equipment shall be erected or maintained within the Property without the prior written approval of the Architectural Committee. Any such apparatus which may be approved shall be required to be installed and maintained in such a manner as to be screened from public view from adjoining Lots and public street right-of-way.

5.02. Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the Improvements located thereon without the prior written approval of the Board.

5.03. Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the Architectural Committee.

5.04. Signs. No sign of any kind shall be displayed to the public view on the Property without the prior written approval of the Architectural Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising a portion of the Property for sale or lease or it may set standards for the same.

5.05. Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and such containers shall be kept within enclosed structures or appropriately screened from view, except on the designated day for solid waste collection.

5.06. Nuisance; Noise. No noxious or offensive activity shall be carried on upon any Lot. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property or to its occupants.

5.07. Repair of Buildings. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

5.08. Hazardous Activities. No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or

permitted except within safe and well-designed interior fireplaces, or in contained barbeque units while attended and in use for cooking purposes.

5.09 Temporary Structures. No tent, shack or other temporary building, improvement or structure shall be placed upon the Property without the prior written approval of the Architectural Committee; provided, however, that temporary structures necessary for storage of tools and equipment, restrooms and office space for architects, builders and foremen during the period of actual construction on a Lot only may be maintained with the prior approval of Declarant, such approval to include the nature, size, duration and location of such structure.

5.10. Mining and Drilling. No portion of the Property shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth.

5.11. Unightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from any other portion of the Property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure constructed within the Property shall have sufficient garage space, as approved by the Architectural Committee, to house all vehicles to be kept on the Lot. Lot Owners shall not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours. No automobiles or other vehicles may be parked overnight for more than two (2) consecutive nights on any roadway within the Property. No inoperable vehicle or equipment, or vehicle or equipment without a current license tag, shall be maintained on any portion of the Property, including any street right-of-way adjacent to a Lot, so as to be visible from any adjoining Lot or public right-of-way. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view.

5.12. Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time, and no travel trailers, recreational vehicles or similar vehicles shall be parked on any portion of the Property so as to be visible from other

REAL ESTATE RECORDS  
DALLAS COUNTY, TEXAS

12968 2215

portions of the Property or public or private thoroughfares for more than forty-eight (48) hours.

5.13. Fences. The construction of fences shall be restricted, and no fence shall be constructed on the Property without the prior written consent of the Architectural Committee. The Architectural Committee may, in its discretion, prohibit the construction of any proposed fence, specify the height or location of the proposed fence, specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property.

5.14. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and in a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

5.15. Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept or maintained on the Property. No more than three (3) domestic pets may be kept on any Lot. No domestic pet shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property, other than on the Lot of its Owner, unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property and no kennels or breeding operations will be allowed. No domestic pet shall be allowed to run at large and all domestic pets shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Committee, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

5.16. Lawns and Plantings. The front yard of each Lot and the front and the side yard adjacent to the street of each corner Lot shall be fully sodded prior to the occupancy of the residence located on such Lot. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot cultivated, pruned, free of trash, and other unsightly material. In the event any Owner fails to do so,

Declarant or the Architectural Committee shall have the right at any reasonable time to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon and to charge the cost thereof to the Owner of the Lot.

5.17. Window Treatment. No aluminum foil, reflective film, or similar treatment shall be placed on windows or glass doors on any Improvement.

5.18. Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the Architectural Committee provided that such waiver shall be only for the reasonable period of such construction.

5.19. Compliance With Restrictions. Each Owner shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

5.20. No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms and provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

#### ARTICLE VI MISCELLANEOUS

6.01. Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall run with the land comprising the Subdivision until December 31, 2016, unless amended as herein provided. After December 31, 2016, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended

for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the Property then subject to this Declaration and filed in the Real Property Records of Travis County, Texas.

6.02. Amendment.

(A) By Declarant. This Declaration may be amended by the Declarant, acting alone, until December 31, 2026, and thereafter for so long as Declarant owns any Lots within the Subdivision. No amendment by Declarant after December 31, 2026, shall be effective until there has been recorded in the Real Property Records of Travis County, Texas, an instrument executed and acknowledged by Declarant, setting forth the amendment and the Lot(s) then owned by Declarant.

(B) By Owners. In addition to the method in Section 6.02(A), after December 31, 2016, this Declaration may be amended by the recording in the Real Property Records of Travis County, Texas, of an instrument executed and acknowledged by the Owners of at least three-fourths (3/4) of the Lots.

6.03. Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

6.04. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

6.05. Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

6.06. Assignment of Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in

part, any of its privileges, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Any such assignment shall be in writing and filed of record in the Real Property Records of Travis County, Texas.

6.07. Enforcement and Non-Waiver.

(A) Right of Enforcement. The Architectural Committee any Owner at his own expense, or Declarant shall have the right to enforce all of the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision. In addition, in the event that any Owner fails to maintain his Lot as required herein, or in the event of emergency, the Declarant, the Association, or the Architectural Committee shall have the right to enter upon the Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Lot. Entry upon the Lot as provided herein shall not be deemed a trespass, and neither the Architectural Committee nor the Declarant shall be liable for any damage resulting therefrom unless such damage is caused by the Architectural Committee's or the Declarant's willful misconduct or gross negligence.

(B) Non-Waiver. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said Restrictions.

(C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

6.08. Construction.

(A) Restrictions Severable. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural, the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise effect that which is set forth in any of the paragraphs, sections, or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the 27 day of June, 1997.

*Sue A. Binder*  
SUE A. BINDER

STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 27 day of June, 1997, by SUE A. BINDER.



*Terri A. Wolff*  
NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

(stamped or printed name of notary)  
My commission expires: \_\_\_\_\_

**FILED**  
97 JUL -2 PM 3:32

DANA DEBEAUVOIR  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

STATE OF TEXAS COUNTY OF TRAVIS  
I hereby certify that this instrument was FILED on  
the date and at the time stamped herein by me, and  
was duly RECORDED, in the Volume and Page of the  
named RECORDS of Travis County, Texas, on

JUL 2 1997



*Dana Debeauvoir*  
COUNTY CLERK  
TRAVIS COUNTY, TEXAS

RECEIPT #: 80078162 TRAVIS #: 83361 DEPT: REGULAR RECORDS \$29.00  
CASHIER: KIMED FILE DATE: 7/2/97 TRANS DATE: 7/8/97  
PAID BY: CHECK # 6581

REAL PROPERTY RECORDS  
TRAVIS COUNTY, TEXAS

12968 2220