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RETAIN IN SELLER'S FILES**

**CONDOMINIUM INFORMATION STATEMENT  
TOWNHOMES AT GATTIS CONDOMINIUMS**

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**PURCHASER'S AFFIRMATION AND RECEIPT OF CONDOMINIUM DOCUMENTS**

**I/WE, THE UNDERSIGNED PURCHASER(S), HEREBY ACKNOWLEDGE AND  
AGREE AS FOLLOWS:**

- (A) THAT ON THE DATE SHOWN BELOW I RECEIVED THE FOLLOWING INFORMATION FOR TOWNHOMES AT GATTIS CONDOMINIUMS:
- CONDOMINIUM INFORMATION STATEMENT;  
DECLARATION OF CONDOMINIUM REGIME;  
COMMUNITY MANUAL;  
PROPOSED BUDGET; AND  
LIMITED WARRANTY.
- (B) I/WE (1) RECEIVED A CONDOMINIUM INFORMATION STATEMENT FROM THE SELLER BEFORE I/WE SIGNED THE PURCHASE CONTRACT AND/OR (2) SIGNED A PURCHASE CONTRACT THAT CONTAINED AN UNDERLINED OR BOLD-PRINT PROVISION ACKNOWLEDGING MY RECEIPT OF THE CONDOMINIUM INFORMATION STATEMENT AND RECOMMENDING THAT I/WE READ THE CONDOMINIUM INFORMATION STATEMENT BEFORE EXECUTING THE PURCHASE CONTRACT AND/OR (3) HAVE RECEIVED THE CONDOMINIUM INFORMATION STATEMENT ON THE DATE INDICATED BELOW.
- (C) HAVING RECEIVED THE CONDOMINIUM INFORMATION STATEMENT PRIOR TO EXECUTING THE PURCHASE CONTRACT, I/WE DO NOT HAVE THE RIGHT OF RESCISSION AFFORDED PURSUANT TO SECTION 82.156(B) OF THE TEXAS UNIFORM CONDOMINIUM ACT.

**PURCHASER 1:**

Date I received the items set forth in subparagraph (A) above: \_\_\_\_\_, 20\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**PURCHASER 2:**

Date I received the items set forth in subparagraph (A) above: \_\_\_\_\_, 20\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date Signed: \_\_\_\_\_

**TOWNHOMES AT GATTIS  
CONDOMINIUMS  
CONDOMINIUM INFORMATION  
STATEMENT**

**ISSUED JULY 7, 2022**

**NOTICE TO PURCHASER  
READ THIS DOCUMENT FOR YOUR OWN PROTECTION.  
IT CONTAINS INFORMATION REQUIRED BY STATUTE FOR ALL TEXAS  
CONDOMINIUMS CREATED AFTER JANUARY 1, 1994.**

**NAME OF REGIME:** TOWNHOMES AT GATTIS CONDOMINIUMS

**LOCATION OF REGIME:** Lot 1 Block A, Townhomes at Gattis, a subdivision in the City of Round Rock, Williamson County, Texas, according to the plat recorded as Document No. 2020025805, Official Public Records of Williamson County, Texas

**NAME OF DECLARANT:** GREEN ABODE DEVELOPERS, LLC, a Texas limited liability company

**ADDRESS OF DECLARANT:** 3073 Blantyre Bend, Round Rock, Texas 78664

**EFFECTIVE DATE:** July 7, 2022

This Condominium Information Statement presents certain information regarding the condominium regime and the Units being offered for sale by Declarant. It consists of two parts, a narrative portion and an attachments portion. The attachments include legal documents that will be required for the creation and operation of the condominium. The attachments will control in the event of any inconsistency between the attachments and the narrative.

The condominium regime contemplated by this Condominium Information Statement is in the final stages of formation. Consequently, this Condominium Information Statement and the documents necessary to create the condominium regime are subject to revision. Declarant reserves the right to modify this Condominium Information Statement and such documents as may be required by law, any title insurance company, any mortgagee, or any property insurer, and Declarant reserves the right to make changes that affect the units in the regime, the general common elements, the limited common elements and/or the operation of the condominium regime without notice or consent of any purchaser, except as provided in Section 17 hereof (the "**General Information**").

This Condominium Information Statement is not intended to be all-inclusive or to address every significant feature of the condominium. Because purchasing real property is an important decision, the purchaser is encouraged to review this Condominium Information Statement with an attorney and to consult other sources for information not covered by this Condominium Information Statement.

Under limited circumstances, a purchaser has a six (6) day period after receiving the Condominium Information Statement during which the purchaser may cancel the contract of sale and obtain a full refund of any money deposited in connection with the contract. This right to cancel does not apply if the purchaser received the Condominium Information Statement before signing the contract or if the contract contains an underlined or bold-print provision acknowledging the purchaser's receipt of the Condominium Information Statement and recommending that the purchaser read the Condominium Information Statement before signing the contract. If the purchaser has such right to cancel and elects to cancel, notice of cancellation must be given pursuant to Section 82.156 of the Texas Uniform Condominium Act. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded under Document No. 2022029926 in the Official Public Records of Williamson County, Texas, as amended.

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

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| <b>ATTACHMENT 2</b> | Community Manual of Townhomes at Gattis Condominiums recorded or to be recorded in the Official Public Records of Williamson County, Texas                    |
| <b>ATTACHMENT 3</b> | Proposed Budget for Townhomes at Gattis Condominium Community, Inc.   |
| <b>ATTACHMENT 4</b> | Limited Warranty  |

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

**1. INTRODUCTION**

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**GREEN ABODE DEVELOPERS, LLC**, a Texas limited liability company (“**Declarant**”), is the developer of Townhomes at Gattis Condominiums (the “**Regime**”). The principal office and mailing address of Declarant is 3073 Blantyre Bend, Round Rock, Texas 78664. The principal mailing address of the Regime is 11624 Jollyville Rd., #528, Austin, Texas 78759.

**2. CONDOMINIUM OWNERSHIP**

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The Regime utilizes the condominium form of ownership and will be established pursuant to the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas (the “**Declaration**”). The Declaration will establish individual residential units (individually, a “**Unit**” and collectively the “**Units**”). The Declaration is attached to this Condominium Information Statement as Attachment 1.

Each Owner of a Unit will own its individual unit in its entirety. All other portions of the Regime will be designated as either “**Limited Common Elements**” or “**General Common Elements**” of the Regime. Limited Common Elements and General Common Elements are sometimes referred to herein collectively as “**Common Elements**”. Limited Common Elements are common elements allocated for the exclusive use of one or more owners of Units, e.g., a unit balcony. Certain Common Elements established by the Declaration will be maintained by the Association, with the maintenance costs, capital repairs, reserve funds, insurance premiums, and administrative costs allocated to each Unit. These regular and recurring expenses will be collected by the Association as “**Regular Assessments**.” Regular Assessments are allocated to each Unit as set forth in the Declaration.

Each purchaser of a Unit will own an undivided interest in the Common Elements. The undivided interest in the Common Elements owned and appurtenant to each Unit is expressed as a percentage on Attachment 3 to the Declaration.

**3. PROPERTY; UNITS**

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The Declaration establishes individual Units on the Property. The Units are restricted to residential use as set forth more fully in the Declaration.

The condominium established by the Declaration initially establishes twenty-four (24) Units. The maximum number of Units which may be created by the Declaration is seventy-four (74). The minimum number of additional Units that may be created is zero (0) and the maximum number of additional Units that may be created is fifty (50).

No assurance is given as to the dispersion of Units, the total number of Units, or the size of Units to be created. Additional Units may be added through the conversion of Common Elements to Units, the subdivision of Units, and through the addition of land and the creation of Units thereon. The Declarant may also elect to modify the type, boundaries and size of Units.

**4. THE ASSOCIATION**

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The Declarant, as permitted by Texas Uniform Condominium Act, has retained the right to control the operation and administration of the Association by the appointment of the board members

TOWNHOMES AT GATTIS  
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and officers. The period of time the Declarant is allowed to retain control of the Association through the appointment of board members and officers is limited by the Texas Uniform Condominium Act, which limitations are described below.

By acquiring a Unit, you will be under the jurisdiction of a residential owners association, known as Townhomes at Gattis Condominium Community, Inc., a Texas nonprofit association (the **Association**) that will administer Townhomes at Gattis Condominiums. During the "Declarant Control Period", as defined in the Declaration, Declarant will retain certain rights regarding operation and administration of the Association, namely the right to appoint and remove all directors and officers of the Association. The Declaration and the Texas Uniform Condominium Act provide for a two-step transition process to resident control of the Association. The first step occurs within one hundred twenty (120) days after fifty percent (50%) of the Units that may be created under the Declaration have been conveyed by Declarant. Within this one hundred twenty (120) day period, the current Board of the Association will call a meeting of all Unit Owners. At this meeting the Owners, excluding the Declarant, will elect one Board member out of a 3-person Board. Declarant will retain the right to appoint and remove two (2) Board members. The second step occurs within one hundred twenty (120) days after seventy-five percent (75%) of the Units that may be created under the Declaration have been conveyed by Declarant. Within this one hundred twenty (120) day period, the current Board of the Association will call a meeting of all Unit Owners. At this meeting the Owners, including Declarant, will elect the entire Board. The Declarant Control Period is described in Appendix "A" of the Declaration.

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**5. DESCRIPTION OF UNITS**

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The legal boundaries of each Unit are established by the Declaration and described by the Plat and Plans attached as Attachment 2 to the Declaration.

Each Unit includes the spaces and improvements within the lower, upper, and lateral boundaries defined in the Declaration, including without limitation the building, the roof and foundation of the building, landscaping, driveways, sidewalks, yards, utility lines and meters and all other improvements located within the Unit. Each Unit also includes improvements, fixtures and equipment serving the Unit exclusively, whether located within, outside or below the Unit.

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**6. ESTIMATED MONTHLY ASSESSMENTS AND FEES PAYABLE TO THE ASSOCIATION AT CLOSING**

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Attachment 3 to this Condominium Information Statement includes an estimate of monthly Regular Assessments for each Unit. The purchaser may also be required to pay a prorated amount of Regular Assessments if the closing occurs in a partial month.

The Declaration requires that each purchaser of a Unit contribute the amount of Two Hundred and No/100 Dollars (\$200.00) to the Association's working capital fund. This amount will be paid when the purchaser acquires title to the Unit and will be a part of the purchaser's closing costs. Contributions to the working capital fund are not advance payments of Assessments and are not refundable. Declarant cannot use working capital funds to pay the Association's operational expenses while the Declarant controls the Association.

Also at closing, each purchaser will pay the amount of Five Hundred and No/100 Dollars (\$500.00) to the Association's replacement reserve funds.

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**7. ENCUMBRANCES**

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Title to each Unit and all Common Elements will be subject to all easements, restrictions, liens, leases and encumbrances recorded against the Property and easements established by the Declaration. The recorded easements, restrictions, liens, leases and encumbrances are listed on Exhibit "B" to the Declaration. When you receive a title commitment for the Unit, these items will be listed on Schedule B of the title commitment. There may be additional items listed on Schedule B that are not included on Exhibit "B" to the Declaration. Each purchaser is advised to review Schedule B of the title commitment and to request copies of any items listed on Schedule B from the title company handling the closing.

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**8. LIMITED WARRANTY**

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The Limited Warranty for a Unit is attached to this Condominium Information Statement as Exhibit "A" to Attachment 4. The purchaser should review the limited warranty carefully since there are procedures that must be followed by the purchaser after acquiring their Unit to maintain the validity of the warranty and to properly present claims under the warranty. The limited warranty is of limited duration. Warranty services may be provided by a third party not affiliated with the Declarant, and those services may require access to the Unit.

Seller will assign to the Association Seller's right title and interest in any and all assignable warranties received by Seller from contractors as they pertain to the Common Elements.

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**9. NO JUDGMENTS OR SUITS**

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Declarant has no actual knowledge of any unsatisfied judgments against the Property nor of any pending suits to which the Association is a party, or which are material to the land title and construction of the project.

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**10. COMMUNITY RULES; FEES FOR USE OF COMMON ELEMENTS**

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The bylaws, rules and policies for the Regime are included in the Community Manual, attached hereto as Attachment 2. The Association may, from time to time, adopt modifications or amendments to the bylaws, rules and policies, and may adopt additional rules and policies from time to time, but any modification or amendment must be approved by the Declarant during the Development Period. The Certificate of Formation of the Association is included in the Community Manual. The Association may, from time to time, charge Owners, Occupants, and/or guests for the use of certain General Common Elements and amenities within the Property. Examples of these fees include, but are not limited to, fees for special activities or the reservation of the General Common Elements and/or amenities.

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**11. INSURANCE**

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The Association will obtain insurance coverage required pursuant to Section 82.111 of the Texas Uniform Condominium Act. The insurance will cover the Units, as originally constructed by Declarant, and Common Elements established under the Declaration. The property insurance on the Units will exclude improvements or betterments installed by the purchaser after closing. In other words, if a purchaser installs upgrades or features after closing, those items are not covered. It is possible that additional lines of insurance will be obtained by the Association. In any event, the Declarant will cause

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the Association to obtain insurance for the Property in accordance with Section 82.111 of the Texas Uniform Condominium Act, and such insurance will be in place prior to the first closing of a Unit.

The Association will obtain commercial general liability insurance, including medical payments, which insurance will cover all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements. Each property and commercial liability insurance policy carried by the Association will provide that: (i) each Unit owner is an insured person under the policy with respect to liability arising out of the person's ownership of an undivided interest in the Common Elements or membership in the Association; (ii) the insurer waives its right to subrogation under the policy against each Unit owner; (iii) no action or omission of a Unit owner, unless within the scope of such owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and (iv) if, at the time of a loss under the policy, there is other insurance in the name of an owner covering the same property covered by the policies obtained by the Association, the Association's policy provides primary insurance.

The insurance obtained by the Association will not cover or provide protection for an owner's personal property (including vehicles) or liability coverage for accidents that occur within a Unit. Each owner should obtain a separate policy for personal property within the owner's Unit; any additions to the Unit installed or caused to be installed by the owner after closing, and for accidents that may occur in the owner's Unit.

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**12. BUDGET**

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The estimated and proposed budget for the first fiscal year of the Association is attached to this Condominium Information Statement as Attachment 3, and was prepared by the Manager. There were several assumptions made when preparing the budget, namely: (i) 100% occupancy of the Units; (ii) a 100% net collection rate; and (iii) no adjustment for inflation. In addition, the reserves shown on the budget are comprised of a portion of the Regular Assessments to be collected from the owners of Units and the working capital contribution and reserve payments to be remitted by each purchaser at closing. The budget attached to this Condominium Information Statement may go up or down based on many factors and are presently only estimates. The Declarant is not and will not fund reserves. Reserves will be accumulated over time through Assessments or fees paid by the owners of Units.

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**13. DECLARANT RIGHTS**

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Declarant has reserved rights to complete the project and market and sale Units. These rights are specifically set forth in the Declaration. As required by the Texas Uniform Condominium Act, the Developer has reserved these rights for a specified period of time known as the "**Development Period**". The Development Period under the Declaration is seven (7) years. What follows is a brief summary of those rights. For a complete description, please refer to the Declaration. In addition, see *Section 4* of this Condominium Information Statement which describes Declarant control of the Association.

- (i). Annexation. During the Development Period, Declarant may annex additional property into the Regime.
- (ii). Creation of Units. The Property presently contains twenty-four (24) Units. Declarant has reserved the right to create up to a maximum of seventy-four (74) Units.
- (iii). Architectural Control. During the Development Period, Declarant has the right to review and approve all improvements.

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- (iv). Transfer Fees. During the Development Period, Declarant will not pay transfer-related and resale certificate fees.
- (v). Statutory Development Rights. As permitted by the Texas Uniform Condominium Act, Declarant has reserved the right under the Declaration (during the Development Period): (a) to modify and/or create units, general common elements, and limited common elements; and (b) to subdivide units and convert units into common elements.
- (vi). Amendment. Declarant has reserved the right to amend the Declaration under certain circumstances. For example: (a) to exercise any of the rights described in item (v) above; (b) to meet the requirements, standards, or recommended guidelines of an underwriting lender to enable an institutional or governmental lender to make or purchase mortgage loans; (c) to correct any defects in the execution of the Declaration or the other related documents; and (d) to resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Declaration or the other related documents.
- (vii). Additional Rights. Declarant has reserved the following rights: (a) to complete all improvements anticipated to be constructed within the Property; (b) to exercise any development right as defined in Section 82.003(a)(12) of the Texas Uniform Condominium Act; (c) to make the Regime part of a larger condominium or planned community; (d) to maintain sales, management, and leasing offices, signs, and models within the Regime; and (e) to use easements through the common areas for the purpose of making improvements within the Regime or within real property that may be added to the Regime.
- (viii). Additional Easements and Rights. The Declarant has reserved additional rights including: (a) an easement and right to erect, construct, and maintain on and in the common elements and units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property; (b) the right to sell or lease any unit owned by Declarant; (c) the right of entry and access to all units to perform warranty-related work, if any, for the benefit of the unit being entered, other units, or common elements; (d) an easement and right to make structural changes and alterations on common elements and units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein; and (e) an easement over the Property to inspect the common elements and all improvements thereon and related thereto to evaluate the maintenance and condition of the improvements. Pursuant to *Section 3.12* of the Declaration, Declarant also reserved the right to designate a perpetual, nonexclusive easement over portions of the Common Elements for public access and/or use of certain facilities.

**14. ATTACHMENTS**

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The attachments include documents that will be recorded or filed. Because this Condominium Information Statement is issued before those documents have been recorded, unexecuted copies may be included as attachments. The following attachments are included with this Condominium Information Statement and are incorporated by reference:

- ATTACHMENT 1      Declaration
- ATTACHMENT 2      Community Manual

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

- ATTACHMENT 3      Budget  
ATTACHMENT 4      Limited Warranty

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**15.      DOCUMENTS TO BE SIGNED AT CLOSING**

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Except for the items listed below, at closing Declarant does not require purchasers to sign documents other than loan-related documents if the purchase is financed.

- Limited Warranty
- Acknowledgement of Receipt of Condominium Information Statement and any changes made thereto
- Acknowledgment of rules, policies and procedures applicable to the Unit or the Property

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**16.      DISCLOSURES**

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**THE DECLARATION CONTAINS IMPORTANT DISCLOSURES AND DISCLAIMERS THAT OWNER SHOULD CLOSELY REVIEW, INCLUDING THE FOLLOWING:**

- (i).      Dispute Resolution.      PURCHASER ACKNOWLEDGES AND AGREES THAT A "CLAIM", FOR THE PURPOSE OF THIS PARAGRAPH, INCLUDES: (1) CLAIMS RELATED TO THE RIGHTS AND/OR DUTIES OF THE DECLARANT, THE ASSOCIATION, OR AN OWNER UNDER THE CONDOMINIUM DOCUMENTS OR THE TEXAS UNIFORM CONDOMINIUM ACT; (2) CLAIMS RELATING TO THE ACTS OR OMISSIONS OF THE DECLARANT OR THE BOARD DURING ITS CONTROL AND ADMINISTRATION OF THE ASSOCIATION AND/OR THE REGIME, ANY CLAIM ASSERTED AGAINST THE ARCHITECTURAL REVIEWER, AND ANY CLAIMS AGAINST THE DECLARANT, THE BOARD OR A PERSON SERVING AS A BOARD MEMBER OR OFFICER OF THE ASSOCIATION, OR THE ARCHITECTURAL REVIEWER; (3) CLAIMS RELATING TO THE DESIGN OR CONSTRUCTION OF THE UNITS, COMMON ELEMENTS OR ANY IMPROVEMENT LOCATED WITHIN, SERVING, OR FORMING A PART OF THE REGIME; AND (4) CLAIMS RELATING TO ANY REPAIR OR ALTERATION OF THE UNITS, COMMON ELEMENTS, OR ANY IMPROVEMENT LOCATED WITHIN, SERVING OR FORMING A PART OF THE REGIME, INCLUDING ANY CLAIMS RELATED TO AN ALLEGED FAILURE TO PERFORM REPAIRS OR FOR A BREACH OF WARRANTY. ANY CLAIM MUST BE RESOLVED IN ACCORDANCE WITH THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE DECLARATION. THE DISPUTE RESOLUTION PROCEDURES IN THE DECLARATION REQUIRE BINDING ARBITRATION AND FURTHER REQUIRE THAT CERTAIN STEPS BE TAKEN AS A PRECONDITION TO THE INITIATION OF BINDING ARBITRATION.

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**17.      GENERAL INFORMATION**

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The attachments which follow this narrative portion provide a more detailed description of the Regime and the rights and obligations of the owner of a Unit. The purchaser should carefully consider the attachments, as well as this narrative portion of this Condominium Information Statement. If the purchaser does not understand any aspect of this Condominium Information Statement, the sales

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contract, and any other materials provided in connection with the sale of Units, the purchaser should consult with competent legal counsel.

DECLARANT RESERVES THE RIGHT TO AMEND, IN WRITING, THE TERMS OF THIS CONDOMINIUM INFORMATION STATEMENT. IF THE CHANGE MAY ADVERSELY AFFECT A PURCHASER UNDER CONTRACT WHO HAS RECEIVED A CONDOMINIUM INFORMATION STATEMENT BUT WHO HAS NOT YET CLOSED, DECLARANT SHALL FURNISH A COPY OF THE AMENDMENT TO THAT PURCHASER BEFORE CLOSING. THIS CONDOMINIUM INFORMATION STATEMENT MAY NOT BE CHANGED OR MODIFIED ORALLY.

Declarant has no actual knowledge of any false or misleading statement or any omission of material fact in any portion of this Condominium Information Statement, including the attachments attached hereto.

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

**ATTACHMENT 1**  
**DECLARATION**



AFTER RECORDING RETURN TO:

ROBERT D. BURTON, ESQ.  
WINSTEAD PC  
401 CONGRESS AVE., SUITE 2100  
AUSTIN, TEXAS 78701  
E-MAIL: RBURTON@WINSTEAD.COM



**DECLARATION OF CONDOMINIUM REGIME  
FOR TOWNHOMES AT GATTIS  
CONDOMINIUMS**

**(A Residential Condominium located in Williamson County, Texas)**

**Declarant:** GREEN ABODE DEVELOPERS, LLC, a Texas limited liability company

*Copyright © 2022. Winstead PC. All rights reserved. This declaration may be used only in connection with the condominium regime known as Townhomes at Gattis Condominiums in Williamson County, Texas and the operation of Townhomes at Gattis Condominium Community, Inc.*

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**DECLARATION OF CONDOMINIUM REGIME  
FOR  
TOWNHOMES AT GATTIS CONDOMINIUMS**

GREEN ABODE DEVELOPERS, LLC, a Texas limited liability company ("**Declarant**"), is the owner of that certain tract of land in Williamson County, Texas, as more particularly described on Exhibit "A" attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto (collectively, the "**Land**"). The Land is hereby submitted to the terms and provisions of the Texas Condominium Act, Chapter 82 of the Texas Property Code, for the purpose of creating the Townhomes at Gattis Condominiums.

NOW, THEREFORE, it is hereby declared that the Land will be held sold, conveyed, leased, occupied, used, insured, and encumbered with this Declaration, including the representations and reservations of Declarant, set forth on Appendix "A", attached hereto, which will run with the Land, and be binding upon all parties having right, title, or interest in or to such property, their heirs, successors, and assigns and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Unless otherwise defined in this Declaration, terms defined in Section 82.003 of the Act have the same meaning when used in this Declaration. The following words and phrases, whether or not capitalized, have specified meanings when used in the Documents, unless a different meaning is apparent from the context in which the word or phrase is used.

1.1 "**Act**" means Chapter 82 of the Texas Property Code, the Texas Uniform Condominium Act, as it may be amended from time to time.

1.2 "**Applicable Law**" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied, and pertaining to the subject matter of the Document provision. Statutes and ordinances specifically referenced in the Documents are "**Applicable Law**" on the date of the Document, and are not intended to apply to the Property if they cease to be applicable by operation of law, or if they are replaced or superseded by one or more other statutes or ordinances.

1.3 "**Architectural Reviewer**" means Declarant during the Development Period. After expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board.

1.4 "**Area of Common Responsibility**" means those portions of a Building or a Unit that are designated, from time to time, by the Declarant until expiration or termination of the Development Period, and thereafter by the Association, to be maintained, repaired, and replaced

by the Association, as a Common Expense, as reflected in the Designation of Area of Common Responsibility and Maintenance Chart attached to this Declaration as Attachment 1.

1.5 **"Assessment"** means any charge levied against a Unit or Owner by the Association, pursuant to the Documents, the Act, or Applicable Law, including but not limited to Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments as defined in *Article 6* of this Declaration.

1.6 **"Association"** means Townhomes at Gattis Condominium Community, Inc., a Texas nonprofit corporation, the Members of which shall be the Owners of Units within the Regime. The term "Association" shall have the same meaning as the term "property owners association" in Section 202.001(2) of the Texas Property Code. The failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association, which derives its authority from this Declaration, the Certificate, the Bylaws, the Act, and Applicable Law.

1.7 **"Board"** means the Board of Directors of the Association.

1.8 **"Building"** means the building(s) described on the Plat and Plans, now existing or hereafter placed on the Property.

1.9 **"Bylaws"** mean the bylaws of the Association, as they may be amended from time to time.

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

1.11 **"Common Element"** means all portions of the Property save and except the Units. All Common Elements are **"General Common Elements"** except if such Common Elements have been allocated as **"Limited Common Elements"** by this Declaration for the exclusive use of one or more but less than all of the Units.

1.12 **"Common Expense"** or **"Common Expenses"** means the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Regime, including but not limited to those expenses incurred for the maintenance, repair, replacement and operation of the Common Elements.

1.13 **"Community Manual"** means the community manual, if any, which may be initially adopted and Recorded by the Declarant as part of the initial project documentation for the Regime. The Community Manual may include the Bylaws and Rules and policies governing the Association as the Board determines to be in the best interest of the Association, in its sole and absolute discretion. The Community Manual may be amended, from time to time, by the Declarant during the Development Period, or a Majority of the Board; provided, however, that

during the Development Period, any amendment to the Community Manual must be approved in advance and in writing by the Declarant.

1.14 **"Declarant"** means GREEN ABODE DEVELOPERS, LLC, a Texas limited liability company. Notwithstanding any provision in this Declaration to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or non-exclusively, any of its privileges, exemptions, rights and duties under this Declaration to any Person. Declarant may also, by Recorded written instrument, permit any other Person to participate in whole, in part, exclusively or non-exclusively, in any of Declarant's privileges, exemptions, rights and duties under this Declaration.

1.15 **"Declarant Control Period"** means that period of time during which Declarant controls the operation and management of the Association, pursuant to Appendix "A" of this Declaration. The duration of the Declarant Control Period shall expire upon and shall not exceed the date that is the earlier to occur of (i) one hundred and twenty (120) days after title to seventy-five percent (75%) of the maximum Units that may be created hereunder have been conveyed to Owners other than Declarant; or (ii) seven (7) years after the date this Declaration is Recorded.

1.16 **"Declaration"** means this document, as it may be amended from time to time.

1.17 **"Development Period"** means the seven (7) year period beginning on the date this Declaration is Recorded, during which Declarant has certain rights as more particularly described on Appendix "A", attached hereto, including rights related to development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own any portion of the Property. Declarant may terminate the Development Period by Recording a notice of termination.

**During the Development Period, Appendix "A" has priority over the terms and provisions of this Declaration.**

1.18 **"Documents"** mean, singly or collectively as the case may be, this Declaration, the Plat and Plans, attached hereto as Attachment 2, the Certificate, Bylaws, the Community Manual, and the Rules of the Association, as each may be amended from time to time. An appendix, attachment, exhibit, schedule, or certification accompanying a Document is a part of that Document.

**The Documents are subject to amendment or modification from time to time. By acquiring a Unit in the Townhomes at Gattis Condominiums, you agree to comply with the terms and provisions of the Documents, as amended or modified.**

1.19 **"General Common Elements"** mean Common Elements which are not Limited Common Elements. General Common Elements refer to those portions of the Property that are designated as "GCE", "General Common Element", "General Common Area", "Common Area", or by the notation "General Common Elements", "GCE", "General Common Area", "Common Area", or "Common Areas" on Attachment 2, attached hereto.

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

1.21 **"Irrigation Maintenance Services"** means the repair and maintenance of irrigation systems which will include the following: (a) repair or replacement of broken, damaged or clogged sprinkler heads; (b) repair or replacement of cut surface mounted drip tubes or broken pipes below ground; (c) repair or replacement of master and zone level control valves; (d) repair or replacement of system controllers; and (e) repair or replacement of cut/damaged control wires. Irrigation Maintenance Services shall not include: (i) alterations, additions or modifications to the individual unit irrigation system (based on reconfigured landscaping or otherwise) or (ii) the costs of the electricity and water required to operate the irrigation and water retention system(s). Notwithstanding the forgoing, the Board will have the right to modify the Irrigation Maintenance Services provided hereunder from time to time

1.22 **"Landscape Services"** mean the following services to be provided to each Yard Area: (i) mowing and edging all turf areas at least twice per month during the months of May through September of each year, and on an as-needed basis during the months of October through April; (ii) maintenance and irrigation of yard turf areas; (iii) applying fertilizer to the turf areas twice a year; (iv) manually and mechanically controlling weeds as required to maintain a manicured appearance; and (v) controlling fire ants in the turf areas in the spring and fall. Notwithstanding the foregoing, the Declarant during the Development Period, and the Board thereafter, will have the right to modify the Landscape Services provided by the Association from time to time.

1.23 **"Limited Common Elements"**, if any, mean those portions of the Property reserved for the exclusive use of one or more Owners to the exclusion of other Owners. Limited Common Elements are designated as "LCE", "Limited Common Elements" or "Limited Common Areas" on Attachment 2, attached hereto and/or as provided in *Section 5.6* and *Section 5.7* of this Declaration.

1.24 **"Majority"** means more than half.

1.25 **"Member"** means a member of the Association, each Member being an Owner of a Unit, unless the context indicates that member means a member of the Board or a member of a committee of the Association.

1.26 **"Mortgagee"** means a holder, insurer, or guarantor of a purchase money mortgage secured by a Recorded senior or first deed of trust lien against a Unit.

1.27 **"Occupant"** means any Person, including any Owner, tenant or otherwise having a right to occupy or use all or any portion of a Unit for any period of time.

1.28 **"Owner"** means a holder of Recorded fee simple title to a Unit. Declarant is the initial Owner of all Units. Mortgagees who acquire title to a Unit through a deed in lieu of foreclosure or through judicial or non-judicial foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

1.29 **"Person"** means any individual or entity having the legal right to hold title to real property.

1.30 **"Plat and Plans"** means the plat and plans attached hereto as Attachment 2, as changed, modified, or amended in accordance with this Declaration.

1.31 **"Property"** means that certain tract of land in Williamson County, Texas, as more particularly described on Exhibit "A" attached hereto and incorporated herein, together with all Improvements thereon and all easements, rights, and appurtenances thereto, and includes every Unit and Common Element thereon.

1.32 **"Record, Recordation, Recorded and Recording"** means filing the referenced instrument or document in the Official Public Records of Williamson County, Texas.

1.33 **"Regime"** means the Property, Units, General Common Elements and Limited Common Elements that comprise the condominium regime established by this Declaration.

1.34 **"Rules"** means rules and regulations of the Association adopted in accordance with the Documents or the Act. The initial Rules may be adopted by Declarant (as part of the Community Manual, or otherwise) for the benefit of the Association.

1.35 **"Underwriting Lender"** means a national institutional mortgage lender, insurer, underwriter, guarantor, or purchaser on the secondary market, such as Federal Home Administration (FHA) Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), or the Veterans Administration, singularly or collectively. Use of the term "Underwriting Lender" in this Declaration, and the specific

instructions listed in this definition, may not be construed as a limitation on an Owner's financing options or as a representation that the Property is approved by any specific institution.

1.36 "Unit" means a physical portion of the Property designated by this Declaration for separate ownership, the boundaries of which are shown on the Plat and Plans attached hereto as Attachment 2, as further described in *Section 5.2* of this Declaration.

1.37 "Yard Area" means all yard space within a Unit, whether or not enclosed by a fence serving the Unit. In the event of a dispute concerning what constitutes the Yard Area of a Unit, the Board's determination of such area will be final, binding and conclusive.

## ARTICLE II PROPERTY SUBJECT TO DOCUMENTS

2.1 **Subject to Documents.** The Property is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant's representations and reservations as set forth on Appendix "A", attached hereto, which run with the Property, bind all Persons having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property.

2.2 **Adjacent Land Use.** Declarant makes no representation of any kind as to current or future uses, actual or permitted, of any land that is adjacent to or near the Property.

2.3 **Additional Property.** Additional real property may be annexed into the Regime and subjected to the Declaration and the jurisdiction of the Association with the approval of Owners holding at least sixty-seven percent (67%) of the total votes in the Association, or, during the Development Period, unilaterally by Declarant as permitted in Appendix "A". Annexation of additional property is accomplished by the Recording of a declaration of annexation, which will include a description of the additional real property. The declaration of annexation may include a description of the Units added to the Regime.

2.4 **Recorded Easements and Licenses.** In addition to the easements and restrictions contained in this Declaration, the Property is subject to all Recorded easements, licenses, leases, and encumbrances, including those described in the attached Exhibit "B", and including those described on the Plat and Plans, and any shown on a Recorded plat, each of which is incorporated herein by reference. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by such easements, licenses, leases, and encumbrances. Each Owner further agrees to maintain any easement that crosses such Owner's Unit and for which the Association does not have express responsibility.

2.5 **Common Elements.** The Common Elements of the Property consist of all of the Property, save and except the Units. The designation of Common Elements is determined by this

Declaration. The Declarant may install, construct, or authorize certain Improvements on Common Elements in connection with the development of the Property.

**ARTICLE III**  
**PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS**

**3.1 General.** In addition to other easements, rights and restrictions established by the Documents, the Property is subject to the easements, rights and restrictions contained in this Article.

**3.2 Owner's Easement of Enjoyment.** Every Owner is granted a right and easement of enjoyment over the General Common Elements and use of Improvements therein, subject to other limitations, rights and easements contained in the Documents. An Owner who does not occupy a Unit delegates this right of enjoyment to the Occupants of his or her Unit, and is not entitled to use the General Common Elements. In addition, every Owner is granted an easement over the General Common Elements, to the extent necessary, to provide access to an Owner's Unit and for utilities serving the Owner's Unit. The right of access for necessary ingress and egress to an Owner's Unit cannot be suspended by the Board for violations of the Documents or nonpayment of Assessments.

**3.3 Owner's Maintenance Easement.** Each Owner is hereby granted an easement over and across any adjoining Unit and Common Elements to the extent reasonably necessary to maintain or reconstruct such Owner's Unit, subject to the consent of the Board and the consent of the Owner of the adjoining Unit, or the consent of the Board in the case of Common Elements, and provided that the Owner's use of the easement granted hereunder does not damage or materially interfere with the use of the adjoining Unit or Common Element. Requests for entry into an adjoining Unit must be made to the Board and the Owner of such Unit in advance. The consent of the adjoining Unit Owner will not be unreasonably withheld; however, the adjoining Unit Owner may require that access to its Unit be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. Access to the Common Elements for the purpose of maintaining or reconstructing any Unit must be approved in advance and in writing by the Board. The Board may require that access to the Common Elements be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. The Board may require that the Owner abide by additional reasonable rules with respect to use and protection of Units and the Common Elements during any such maintenance or reconstruction. If an Owner damages an adjoining Unit or Common Element in exercising the easement granted hereunder, the Owner will be required to restore the Unit and/or Common Element to the condition which existed prior to any such damage, at such Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Owner is notified in writing of the damage by the Board or the Owner of the damaged Unit.

Prior to commencing any work upon a Unit which requires access to, over or through the Common Elements or other Units, the Person performing such work must deliver to the Board, in form satisfactory to the Board:

- (i) releases of the Board and the Association for all claims that such Person may assert in connection with such work;
- (ii) indemnities of the Board and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Elements or other Units;
- (iii) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board; and
- (iv) all other information and assurances which the Board may reasonably require.

**3.4 Owner's Ingress/Egress Easement.** Each Owner is hereby granted a perpetual easement over the Property, as may be reasonably required, for vehicular and pedestrian ingress to and egress from his or her Unit or the Limited Common Elements assigned thereto.

**3.5 Owner's Encroachment Easement.** Every Owner is granted an easement for the existence and continuance of any encroachment by his or her Unit on any adjoining Unit or Common Element now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Building, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long as the Improvement stands. The easement granted herein is not intended to permit the continuance of any Improvement installed by an Owner not otherwise approved in advance by the Architectural Reviewer.

**3.6 Easement of Cooperative Support.** Each Owner is granted an easement of cooperative support over each adjoining Unit and Limited Common Element assigned thereto (if any) as needed for the common benefit of the Property, or for the benefit of Units in a Building, or Units that share any aspect of the Property that requires cooperation. By accepting an interest in or title to a Unit, each Owner: (i) acknowledges the necessity for cooperation in a condominium; (ii) agrees to try to be responsive and civil in communications pertaining to the Property and to the Association; (iii) agrees to provide access to his or her Unit and Limited Common Elements when needed by the Association to fulfill its duties; and (iv) agrees to refrain from actions that interfere with the Association's maintenance and operation of the Property.

**3.7 Association's Access Easement.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, grants to the

Association an easement of access and entry over, across, under, and through the Property for the following purposes:

- (i) To perform inspections and/or maintenance to the General Common Elements and/or the Area of Common Responsibility that is permitted or required of the Association by the Documents or by Applicable Law.
- (ii) To perform maintenance that is permitted or required of the Owner by the Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance.
- (iii) To enforce the Documents.
- (iv) To exercise self-help remedies permitted by the Documents or by Applicable Law.
- (v) To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- (vi) To respond to emergencies.
- (vii) To perform all Irrigation Maintenance Services and Landscape Services.
- (viii) To perform any and all functions or duties of the Association as permitted or required by the Documents or by Applicable Law.

**3.8 Utility Easement.** Declarant, during the Development Period, and the Association thereafter, may grant permits, licenses, and easements over the Common Elements for utilities, and other purposes reasonably necessary for the proper operation of the Regime. Declarant, during the Development Period, and the Association thereafter, may grant easements over and across the Units and Common Elements to the extent necessary or required to provide utilities to Units; provided, however, that such easements will not unreasonably interfere with the use of any Unit for residential purposes. A company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, the exercise of this easement may not unreasonably interfere with the use of a Unit for residential purposes. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, master or cable television, and security.

**NOTICE**

**PLEASE READ CAREFULLY THE FOLLOWING PROVISIONS ENTITLED "SECURITY" AND "INJURY TO PERSON OR PROPERTY". THE PROVISIONS LIMIT THE RESPONSIBILITY OF DECLARANT AND THE ASSOCIATION FOR CERTAIN CONDITIONS AND ACTIVITIES.**

**3.9 Security.** The Association may, but is not obligated to, maintain or support certain activities within the Property designed, either directly or indirectly, to improve safety in or on the Property. Each Owner and Occupant acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of security within the Property. Each Owner and Occupant acknowledges and accepts that it is the sole responsibility of the Owner or Occupant to provide security for their own person and property, and each Owner and Occupant assumes all risks for loss or damage to same. Each Owner and Occupant further acknowledges that Declarant, the Association, and their respective directors, officers, committees, agents, and employees have made no representations or warranties, nor has the Owner or Occupant relied on any representation or warranty, express or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire, burglary, and/or intrusion systems recommended or installed, or any security measures undertaken within the Property. Each Owner and Occupant acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of any failure to provide adequate security or the ineffectiveness of security measures undertaken.

**3.10 Injury to Person or Property.** Neither the Association nor Declarant, or their respective directors, officers, committees, agents, and employees have a duty or obligation to any Owner, Occupant or their guests: (i) to supervise minor children or any other Person; (ii) to fence or otherwise enclose any Limited Common Element, General Common Element, or other Improvement; or (iii) to provide security or protection to any Owner, Occupant, or their guests, employees, contractors, and invitees from harm or loss. By accepting title to a Unit, each Owner agrees that the limitations set forth in this Section are reasonable and constitute the exercise of ordinary care by the Association and Declarant. Each Owner agrees to indemnify and hold harmless the Association and Declarant, and Declarant's agents from any claim of damages, to Person or property arising out of an accident or injury in or about the Regime to the extent and only to the extent caused by the acts or omissions of such Owner, his tenant, his guests, employees, contractors, or invitees to the extent such claim is not covered by insurance maintained by the Association at the time of such accident or injury.

**3.11 Easement to Inspect and Right to Correct.** For a period of ten (10) years after the expiration of the Development Period, Declarant reserves for itself and for Declarant's architect, engineer, other design professionals, builder, and general contractor the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, Improvement, or condition that may exist on any portion of the Property, including the Units, and a perpetual nonexclusive

easement of access throughout the Property to the extent reasonably necessary to exercise this right. The party exercising the easement reserved hereunder, will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a utility panel may be warranted by a change of circumstance, imprecise siting, or desire to comply more fully with Applicable Law. This Section may not be construed to create a duty for Declarant or the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant, and the Declarant's architect, engineer, other design professionals, builder, and general contractor an easement of access and entry over, across, under, and through the Property, including without limitation, all Common Elements and each Unit for the purposes contained in this Section.

**3.12 Assignment of Parking.** Declarant, during the Development Period, reserves the right, to designate and assign portions of the Common Elements as parking spaces for the exclusive use of any Owner. Each assignment of parking space(s) to a Unit will be memorialized by a written instrument, executed by Declarant and Recorded, which shall identify the parking space(s) and the Unit assigned thereto. The assignment shall be made a part of the corporate records of the Association, will be considered an agreement between the Association and such Owner with regard to use of the parking spaces so assigned, and may not be terminated or modified without the consent of Declarant during the Development Period, the Association, and the Owner of the Unit to which the parking space(s) was assigned. Parking spaces not specifically assigned by Declarant for the exclusive use of an Owner of a Unit will be under the exclusive control and administration of the Association after expiration of the Development Period.

#### ARTICLE IV DISCLOSURES

This Article discloses selective features of the Regime that may not be obvious to potential Owners and Occupants. Because features may change over time, no disclosure in this Article should be relied upon without independent confirmation.

**4.1 Service Contracts.** In connection with construction of the Unit, the Unit may have been wired or fitted for one or more services to be provided by vendors to the Owner on a contract basis, such as intrusion monitoring and cable television. In exchange for such installations, Declarant may have contracted on behalf of the Owner for a period of service to the Owner's Unit. In that event, whether or not an Owner chooses to use the service, the Owner may be required to pay the Unit's share of the contract for the contract period. The Association may serve as the conduit for the service fees and payments, which may be considered Regular Assessments or Individual Assessments. **However, neither the Declarant nor the Association is the service provider, and neither is responsible or liable for the availability or quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service.**

**4.2 Streets within the Property.** The streets located outside the Property are public streets and maintained by applicable governmental authorities. Streets within the Property are General Common Elements and are maintained and administered by the Association. The Association, acting through the Board has the express authority to adopt, amend, repeal, and enforce the rules, regulations and procedures for use of private streets, including but not limited to:

- (i) Identification of vehicles used by Owners and Occupants and their guests.
- (ii) Designation of parking areas and no-parking areas, and loading/unloading zones.
- (iii) Limitations or prohibitions on street or driveway parking.
- (iv) Removal or prohibition of vehicles that violate applicable Rules.
- (v) Fines for violations of applicable Rules.

**4.3 Adjacent Thoroughfares.** The Property is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

**4.4 Zoning.** No representations are made regarding the zoning of adjacent property. The zoning and use of adjacent property may change in the future.

**4.5 Outside Conditions.** Since in every neighborhood there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Property that an Owner or Occupant may find objectionable, and it shall be the sole responsibility of an Owner or Occupant to become acquainted with neighborhood conditions that could affect the Property and the Unit.

**4.6 Concrete.**

**4.6.1 Cracks.** Minor cracks in poured concrete, including foundations, sidewalks, driveways and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and movement of a Building.

**4.6.2 Exposed Floors.** This Section applies to Units with exposed concrete floors. This notice is given because some Owners are inexperienced with concrete flooring. In deciding whether, when, and how to fill cracks in exposed concrete floors, an Owner is hereby made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor

cracks more noticeable than if the cracks had been left in their natural state. In addition, an Owner is hereby made aware that any specification for polished concrete does not mean an Owner will be able to actually see his reflection in the floor.

**4.7 Construction Activities.** Declarant will be constructing portions of the Regime and engaging in other construction activities related to the construction of Units and Common Elements. Such construction activities may, from time to time, produce certain conditions on the Regime, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; (vii) temporary interruption of utilities; and/or (viii) other conditions that may threaten the security or safety of Persons on the Regime. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Regime resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

**4.8 Moisture.** The Unit may trap humidity created by general use and occupancy. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. If left unattended and not properly maintained by Owners and Occupants, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially, mildew and/or mold. **Mold and/or mildew can grow in any portion of the Property that is exposed to elevated levels of moisture.** (See Section 9.9 for certain duties of an Owner with respect to mold).

**4.9 Encroachments.** Improvements may have been constructed on adjoining lands that encroach onto the Property. Declarant gives no representations or warranties as to property rights, if any, created by any such encroachments.

**4.10 Budgets.** Any budget prepared by or on behalf of the Association is based on estimated expenses only without consideration for the effects of inflation. The estimated expenses reflected on a budget may increase or decrease significantly when the actual expenses become known.

**4.11 Light and Views.** The natural light available to and views from a Unit can change over time due to among other things, additional development and the removal or addition of landscaping. **NATURAL LIGHT AND VIEWS ARE NOT PROTECTED.**

**4.12 Schools.** No representations are being made regarding which schools may now or in the future serve the Unit.

**4.13 Sounds.** No representations are made that the Unit is or will be soundproof or that sound and/or vibrations may not be transmitted from one Unit to another or from the Common Elements (including, but not limited to, any amenity areas) to a Unit. Sound transmissions and/or

vibrations between Units and Common Elements are inherent in attached condominium construction and are not construction defects. The plumbing and concrete, tile, and hardwood surfaces and other uncovered surfaces within a Unit may transmit noise from one Unit to another.

**4.14 Suburban Environment.** The Property is located in a suburban environment. Land adjacent or near the Property may contain or be developed to contain residential and commercial uses. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking loudly, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in a suburban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in suburban areas and these things are part of the reality and vibrancy of suburban living. The Units are not constructed to be soundproof or free from vibrations. Sounds and vibrations can also be generated from sources located within a Unit, the Common Elements including heating and air conditioning equipment, pump rooms, other mechanical equipment, dogs barking and the playing of certain kinds of music.

**4.15 Unit Plans and Dimensions.** Any advertising materials, brochures, renderings, drawings, and the like, furnished by Declarant to Owner which purport to depict the Unit to be constructed or any portion thereof, are merely approximations and do not necessarily reflect the actual as-built conditions of the same. Room dimensions, Unit size and elevations may vary due to the nature of the construction process and site conditions. If the Owner is concerned about any representations regarding room dimensions, Unit size and elevations, the Owner should conduct its own investigation of such matters prior to contracting for the purchase of a Unit.

**4.16 Water Runoff.** The Property may be subject to erosion and/or flooding during unusually intense or prolonged periods of rain. In addition, water may pond on various portions of the Property having impervious surfaces, such as driveways, streets, patios, terraces, and balconies, as applicable.

**4.17 Unit Systems.** No representations are made that the systems in the Unit including, by way of example only, heating and air conditioning, and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer. In addition, the performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Unit in relation to the sun.

**4.18 Upgrades.** The cost of upgrades may not necessarily result in a commensurate increase in the value of the Unit.

**4.19 Dryer Vents.** Certain Units in the Building may require long vents for the dryer. Each Owner is responsible for determining whether such a vent is required for any dryer to be

located in the Owner's Unit. The failure to utilize the appropriate dryer vent may create a fire hazard for which the Owner shall be responsible

**4.20 Location of Utilities.** Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, fire hydrants or storm drain inlets or basins.

**4.21 Wood.** Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. Wood floors may require more maintenance than some man-made materials. Owners of Units with wood floors should educate themselves about wood floor care.

**4.22 Stone.** Veins and colors of any marble, slate or other stone in the Unit, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, granite, slate and other stone and it is the Owner's responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. Such substances, as part of their desirable noise attenuating properties, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

**4.23 Chemicals.** The Buildings and Units contain products that have water, powders, solids and industrial chemicals used in construction. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of molds, mildew, fungus or spores. Declarant is not responsible for any illness or allergic reactions that a person may experience as a result of mold, mildew, fungus or spores. It is the responsibility of the Owner and/or Occupant to keep the Unit clean, dry, well ventilated and free of contamination.

**4.24 Paint.** Due to the large quantity of paint used in the Buildings and Units, Owner should be aware that slight variations in paint shade may exist. Due to the properties within

today's paints, Owner should expect paint to yellow or fade with time. This is a normal occurrence and is neither a construction defect nor a warrantable item. Avoid washing or scrubbing painted walls. Lightly soiled areas may be cleaned using a sponge with water and lightly wiping over the soiled areas.

**4.25 Fixtures.** Certain materials used for fixtures in the Unit (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time. This is a normal occurrence and this is neither a construction defect nor a warrantable item.

**4.26 Marketing.** Declarant's use of a sales center and/or model Units or reference to other construction by Declarant is intended only to demonstrate the quality of possible finish details, the basic floor plans, and styles of Units available for purchase. The Unit may not conform to any model Unit in any respect, or contain some or all of the amenities featured, such as furnishings and appliances. Likewise, any model Unit is intended only to demonstrate the size and basic architectural features of the project. The project or an individual Unit, may not conform to the models displayed by Declarant. Declarant may have shown prospective purchasers model homes, floorplans, sketches, drawings, and scale models of Units or the project (collectively "Promotional Aids"). Owner understands and agrees that the Promotional Aids are conceptual, subject to change, for display purposes only, and may not be incorporated into the project or a Unit. Declarant retains the right to obtain and use photography of the Property (including any Unit) for publication and advertising purposes.

## ARTICLE V

### UNITS, LIMITED COMMON ELEMENTS & ALLOCATIONS

**5.1 Initial Submitted Units and Maximum Number of Units.** The Regime will initially consist of **twenty (20) Units**. During the Development Period, Declarant, as permitted in Appendix "A", has reserved the right to create a maximum of **seventy-four (74)** on the Property and additional property added to the Regime. To add Units to the Regime, Declarant during the Development Period may, from time to time, file an amendment to this Declaration creating such additional Units. To add additional Units to the Regime established by the Declaration, Declarant shall prepare, execute, and Record an amendment to this Declaration and the Plat and Plans which amendment will: (i) assign an identifying number to each new Unit; (ii) reallocate the Common Interest Allocation among all Units then existing within the Regime; (iii) describe any Limited Common Elements; if any, assigned to each new Unit; and (iv) with respect to new Units, include the information required by Section 82.055 and Section 82.059(b) of the Act. To add additional property to the Regime, Declarant will Record a declaration of annexation, which will include a description of the additional real property. The declaration of annexation may also include a description of the Units added to the Regime if the Declarant elects to create Units upon Recordation of the declaration of annexation OR Declarant may elect to create additional Units or Common Elements on the additional property subsequent to the recordation of the declaration

of annexation. No assurance is given as to the dispersion of new Units, total number of new Units, or size of such Units.

**5.2 Unit Boundaries.** The boundaries and identifying number of each Unit are shown on the Plat and Plans attached as Attachment 2. The boundaries of each Unit are further described as follows:

**5.2.1 Lower Boundary of the Unit:** The horizontal plane corresponding to the finished grade of the land within the Unit as described and defined on Attachment 2.

**5.2.2 Upper Boundary of the Unit:** The horizontal plane parallel to and fifty feet (50') above the lower boundary of the Unit.

**5.2.3 Lateral Boundaries of the Unit:** A plane located on each side of a Unit perpendicular to the lower and upper horizontal planes, from the lower boundary of the Unit to the upper boundary of the Unit as described and defined on Attachment 2. On interior walls, i.e., walls between two (2) Units, the Unit's lateral boundaries are the planes defined by the midpoints of the interior wall. The Unit on each side of an interior wall extends to the middle of the interior wall.

**5.3 No Relation to Living Areas.** The space contained within the Unit's vertical and horizontal boundaries is not related to the size of the Unit's living areas. Similarly, the Units are initially marketed on the basis of representational floorplans, each of which is marked with an estimated size taken from architectural drawings. Those marketing sizes may vary from the size of the actual space contained within the Unit's vertical and horizontal boundaries.

**5.4 Units Generally.** If the foregoing description of Unit boundaries is inconsistent with the Plat and Plans, then *Section 5.2* hereof will control. It is the express intent of the Declarant that the property described as being part of a Unit shall for all purposes herein be treated as and constitutes a lawfully described "Unit" as that term is defined in the Act. In the event that there is a final judicial determination by a court of competent jurisdiction that the boundaries of a Unit or any portion thereof are so indefinite and vague so as to not create a legally constituted "Unit" within the meaning of the Act, then that portion of the Unit that has not been adequately described shall be severed from the property deemed a part of the Unit (if the remainder of the Unit, excluding the severed portion thereof, constitutes a properly described "Unit" under the Act) and shall thereafter be deemed a Limited Common Element reserved to the exclusive use of said Unit, subject to the rights and obligations of other Owners with respect to said property.

**5.5 What a Unit Includes.** Each Unit includes the spaces and Improvements within the lower, upper, and lateral boundaries, including without limitation the exterior components of the Building, e.g., the roof and foundation, landscaping, driveways, sidewalks, fences, yards, utility lines and meters, and all other Improvements located within the Unit. In addition to the Building and the Improvements located therein, each Unit also includes Improvements, fixtures, and equipment serving the Unit exclusively, whether located inside, outside, or below the Unit,

whether or not attached to or contiguous with the Unit, including but not limited to any below-grade foundation, piers, retaining walls, fence, or other structural supports; plumbing, sewage and/or septic and utility lines, pipes, drains, and conduits; drainage facilities, and subterranean components of plant material, including roots of trees on the Unit; and any other below-grade item that serves or supports the Unit exclusively.

**5.6 Initial Designations of Limited Common Elements.** Portions of the Common Elements may be allocated as Limited Common Elements on the Plat and Plans, attached hereto as Attachment 2, by use of "LCE" and the identifying number of the Unit to which the Limited Common Element is appurtenant, or by use of a comparable method of designation.

**5.7 Subsequent Allocation of Limited Common Elements.** A Common Element not allocated by this Declaration as a Limited Common Element may be so allocated only in accordance with the Act or the provisions of this Declaration. Declarant has reserved the right as set forth in Appendix "A" of this Declaration, to create and assign Limited Common Elements within the Property.

**5.8 Common Interest Allocation.** The percentage of interest in the Common Elements (the "Common Interest Allocation") allocated to each Unit is set forth on Attachment 3, and is assigned in accordance with a ratio of one (1) to the total number of Units established by this Declaration. The same formula will be used in the event the Common Interest Allocation is reallocated as a result of any increase or decrease in the number of Units subject to this Declaration. In the event an amendment or notice of annexation to this Declaration is filed which reallocates the Common Interest Allocation as a result of any increase or decrease in the number of Units, the reallocation will be effective on the date such amendment or notice of annexation is Recorded.

**5.9 Common Expense Liabilities.** The percentage of liability for Common Expenses allocated to each Unit (the "Common Expense Liability") and levied pursuant to Article 6 is equivalent to the Common Interest Allocation assigned to the Unit in accordance with Section 5.8.

**5.10 Votes.** One (1) vote is allocated to each Unit.

## ARTICLE VI COVENANT FOR ASSESSMENTS

**6.1 Purpose of Assessments.** The Association will use Assessments for the general purposes of preserving and enhancing the Regime, and for the benefit of Owners and Occupants, including but not limited to maintenance of the Regime, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

**6.2 Personal Obligation.** An Owner is obligated to pay Assessments levied by the Board against the Owner or the Owner's Unit. Payments are made to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a dispute with the Association, another Owner, or any other Person regarding any matter to which the Documents pertain. No Owner may exempt himself from such Owner's Assessment liability by waiver of the use or enjoyment of the Common Elements or by abandonment of such Owner's Unit. An Owner's obligation for Assessments is not subject to offset by the Owner, nor is it contingent on the Association's performance or lack thereof. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Unit.

**6.3 Types of Assessments.** There are five (5) types of Assessments: Regular, Special, Utility, Individual, and Deficiency Assessments.

**6.4 Regular Assessments.**

**6.4.1 Purpose of Regular Assessments.** Regular assessments (the "Regular Assessments") are used for Common Expenses related to the recurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- (i) Maintenance, repair, and replacement, as necessary, of the General Common Elements, Limited Common Elements serving more than one (1) Unit, and Improvements, equipment, signage, and property owned by the Association.
- (ii) Maintenance examination and report, as described in *Section 9.5*.
- (iii) Utilities billed to the Association.
- (iv) Pest control and other services obtained by the Association.
- (v) Taxes on property owned by the Association and the Association's income taxes.
- (vi) Management, legal, accounting, auditing, and professional fees for services to the Association.
- (vii) Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- (viii) Insurance premiums and deductibles.
- (ix) Contributions to the reserves.

- (x) Irrigation Maintenance Services and Landscape Services.
- (xi) Administration, maintenance and repair of the Area of Common Responsibility, including but not limited to the costs of: (a) maintaining, repairing, and replacing, as necessary the Area of Common Responsibility; and (b) contributions to the reserve funds for capital improvements and replacement of the Area of Common Responsibility (to be repaired or replaced by the Association pursuant to Attachment 1 attached hereto).
- (xii) Any other expense which the Association is required by Applicable Law or the Documents to pay, or which, in the opinion of the Board, is necessary or proper for the operation and maintenance of the Regime or for enforcement of the Documents.

6.4.2 Annual Budget-Regular. The Board will prepare and approve an annual budget with the estimated expenses to be incurred by the Association for each fiscal year. The budget will take into account the estimated income and Common Expenses of the Association for the year, contributions to reserve funds, and a projection for uncollected receivables. The Board will make the budget or a summary of the budget available to each Owner, although failure to receive a budget or budget summary will not affect an Owner's liability for Assessments. The Board will provide copies of the budget to Owners who make written request and pay a reasonable copy charge.

6.4.3 Basis of Regular Assessments. Regular Assessments will be based on the annual budget, minus estimated income from sources other than Regular Assessments. Each Unit will be liable for the Unit's share of the annual budget based on the Common Expense Liability allocated to such Unit. If the Board does not approve an annual budget or fails to determine new Regular Assessments for any year, or delays in doing so, Owners will continue to pay the Regular Assessment as last determined.

6.4.4 Supplemental Increases. If, during the course of a year, the Board determines that Regular Assessments are insufficient to cover the estimated Common Expenses of the Association for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Supplemental increases will be apportioned among the Units in the same manner as Regular Assessments.

6.5 Special Assessments. The Board may levy one or more special assessments (the "Special Assessments") against all Units for the purpose of defraying, in whole or in part, Common Expenses not anticipated by the annual budget or reserve funds. Special Assessments may be used for the same purposes as Regular Assessments. Special Assessments do not require the approval of the Owners, except that Special Assessments for the acquisition of real property

must be approved by Owners representing at least a Majority of the votes in the Association. Special Assessments will be apportioned among the Units in the same manner as Regular Assessments.

**6.6 Utility Assessments.** This Section applies to utilities serving the Units and consumed by the Owner and/or Occupants that are billed to the Association by the utility provider, and which may or may not be sub-metered by or through the Association. The Board may levy a utility assessment (the "Utility Assessment") against each Unit. The Board may allocate the Association's utility charges among the Units by any conventional and reasonable method. The levy of a Utility Assessment may include a share of the utilities for the Common Elements, as well as administrative and processing fees, and an allocation of any other charges that are typically incurred in connection with utility or sub-metering services. The Board may, from time to time, change the method of utility allocation, provided the method of allocation is reasonable.

**6.7 Individual Assessments.** The Board may levy an individual assessment (the "Individual Assessment") against an Owner and the Owner's Unit. Individual Assessments may include, but are not limited to: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Unit into compliance with the Documents; (iii) fines for violations of the Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and copies of the Documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, Occupant, or their agents; (viii) Common Expenses that benefit fewer than all of the Units, which may be assessed according to benefit received as reasonably determined by the Board; (ix) fees or charges levied against the Association on a per-Unit basis; and (x) "pass through" expenses for services to Units provided through the Association and to be paid by each Unit according to benefit received as reasonably determined by the Board.

**6.8 Deficiency Assessments.** The Board may levy a deficiency assessment (the "Deficiency Assessment") against the Units for the purpose of defraying, in whole or in part, the cost of maintenance, repair, and replacement, as necessary, performed by the Association or its permittees if insurance proceeds or condemnation awards prove insufficient. Deficiency Assessments will be apportioned among the Units in the same manner as Regular Assessments.

**6.9 Working Capital Fund.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner, and transfers from one Owner to a subsequent Owner), a working capital fee in the amount of Two Hundred and No/100 Dollars (\$200.00) will be paid by the transferee of the Unit to the Association for the Association's working capital fund. Each working capital contribution will be collected from the transferee of a Unit upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers of a Unit will not be subject to the working capital contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by

the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; (iv) any grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a wholly-owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Contributions to the fund are not advance payments of Regular Assessments and are not refundable. Declarant may not use working capital contributions collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any working capital fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

**6.10 Reserve Fund Contribution.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner and transfers from one Owner to a subsequent Owner), a reserve fund contribution in the amount of Five Hundred and No/100 Dollars (\$500.00) will be paid by the transferee of the Unit to the Association for the Association's replacement reserve funds. Each reserve fund contribution will be collected from the transferee of a Unit upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers will not be subject to the reserve fund contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent; (iv) any grantee who is the domestic partner or former spouse of the grantor; (v) any grantee that is a wholly-owned entity of the grantor; and (vi) any grantee to whom a Unit is conveyed by a will or through the law of intestacy. Declarant may not use reserve fund contributions collected hereunder to pay the operational expenses of the Association until the Declarant Control Period terminates. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any reserve fund contribution attributable to a Unit (or all Units) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

**6.11 Due Date.** Regular Assessments are due annually, with monthly installments of the total annual Regular Assessments to be paid on the first calendar day of each month or on such other date or frequency as the Board may designate in its sole and absolute discretion, and are delinquent if not received by the Association on or before such date. Utility, Special, Individual, and Deficiency Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within ten (10) days after notice of the Utility, Special, Individual, or Deficiency Assessment is given.

**6.12 Reserve Funds.** The Association may maintain reserves at a level determined by the Board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including deductibles on insurance policies maintained by the Association. The Association may maintain replacement and repair reserves at a level that anticipates the

scheduled replacement or major repair of components of the General Common Elements and the Area of Common Responsibility.

**6.13 Declarant's Right to Inspect and Correct Accounts.** For a period of ten (10) years after termination or expiration of the Development Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association financial records and accounts established during the Declarant Control Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. By way of illustration but not limitation, Declarant may find it necessary to re-characterize an expense or payment to conform to Declarant's obligations under the Documents or Applicable Law. This Section may not be construed to create a duty for Declarant or a right for the Association, and may not be amended without Declarant's written and acknowledged consent. In support of this reservation, each Owner, by accepting an interest in or title to a Unit, hereby grants to Declarant a right of access to the Association's books and records that is independent of Declarant's rights during the Declarant Control Period and the Development Period.

**6.14 Association's Right to Borrow Money.** The Association is granted the right to borrow money, subject to the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Board is granted the right to encumber, mortgage, or pledge any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred.

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

**6.16 Audited Financial Statements.** The Association shall have an audited financial statement for the preceding full fiscal year of the Association prepared and made available to Owners upon written request.

## ARTICLE VII ASSESSMENT LIEN

**7.1 Assessment Lien.** Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and

Deficiency Assessments to the Association. Each Assessment is a charge on the Unit and is secured by a continuing lien on the Unit. Each Owner, and each prospective Owner, is placed on notice that title to such Owner's Unit may be subject to the continuing lien for Assessments attributable to a period prior to the date the Owner purchased its Unit. An express lien on each Unit is hereby granted and conveyed by Declarant to the Association to secure the payment of Regular Assessments, Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments.

**7.2 Superiority of Assessment Lien.** The Assessment lien is superior to all other liens and encumbrances on a Unit, except only for: (i) real property taxes and assessments levied by governmental and taxing authorities; (ii) a Recorded deed of trust lien securing a loan for construction or acquisition of the Unit; (iii) a deed of trust or vendor's lien Recorded before this Declaration; or (iv) a first or senior purchase money vendor's lien or deed of trust lien Recorded before the date on which the delinquent Assessment became due. The Assessment lien is superior to any Recorded assignment of the rights to insurance proceeds on the Unit unless the assignment is part of a superior deed of trust lien.

**7.3 Effect of Mortgage's Foreclosure.** Foreclosure of a superior lien extinguishes the Association's claim against the Unit for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for Assessments coming due from and after the date of the sale.

**7.4 Notice and Release.** The lien established hereby for Assessments is created by Recordation of this Declaration, which constitutes record notice and perfection of the lien. No other Recordation of a lien or notice of lien is required. However, in the exercise of its lien rights, the Association may, at its option, cause a notice of the lien to be Recorded. Each lien filed by the Association must be prepared and filed by an attorney licensed to practice law in the State of Texas. If the debt is cured after a notice has been Recorded, the Association will Record a release of the notice at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and Recording the notice before granting the release.

**7.5 Power of Sale.** By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of sale in connection with its Assessment lien. The Board may appoint, from time to time, any Person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. Any such appointment must be in writing and may be in the form of a resolution duly adopted by the Board.

**7.6 Foreclosure of Lien.** The Assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by Applicable Law. In any foreclosure, the Owner

will be required to pay all costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at a foreclosure sale initiated by it and to acquire, hold, lease, mortgage, and convey same.

## ARTICLE VIII EFFECT OF NONPAYMENT OF ASSESSMENTS

**8.1 Generally.** An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through the Board, is responsible for taking action to collect all delinquent Assessments. From time to time, the Association may delegate some or all of its collection procedures and remedies, as the Board, in its sole discretion, deems appropriate, to the Association's manager, attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other Person for its failure or inability to collect or attempt to collect an Assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association may have pursuant to the Documents or Applicable Law.

**8.2 Interest.** Delinquent Assessments are subject to interest from the due date until paid, at a rate to be determined by the Board from time to time, not to exceed the maximum permitted by Applicable Law. If the Board fails to establish a rate, the rate is ten percent (10%) per annum.

**8.3 Late Fees.** Delinquent Assessments are subject to reasonable late fees, at a rate to be determined by the Board from time to time.

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

**8.5 Suspension of Vote.** Subject to the below-described limitations, if an Owner's account has been delinquent for at least thirty (30) days, the Association may suspend the right to vote appurtenant to the Unit during the period of delinquency. Suspension does not constitute a waiver or discharge of the Owner's obligation to pay Assessments. When the Association suspends an Owner's right to vote, the suspended Owner may nevertheless participate as a Member of the Association for the following activities: (i) be counted towards a quorum; (ii) attend meetings of the Association; (iii) participate in discussions at Association meetings; (iv) be counted as a petitioner for a special meeting of the Association; and (v) vote to remove a Director and for the replacement of the removed Director. If the number of suspended Members exceeds twenty percent (20%) of the total Members (Co-Owners of a Unit constituting one Member), all Members are eligible to vote. These limitations are imposed to prevent a Board from disenfranchising a large segment of the membership and to preserve the membership's right to remove and replace Directors.

**8.6 Assignment of Rents.** Every Owner hereby grants to the Association a continuing assignment of rents to secure the payment of Assessments to the Association. If a Unit's account becomes delinquent during a period in which the Unit is leased, the Association may direct the tenant to deliver rent to the Association for application to the delinquent account, provided the Association gives the Owner notice of the delinquency, a reasonable opportunity to cure the debt, and notice of the Owner's right to a hearing before the Board. The Association must account for all monies received from a tenant and must remit to the Owner any rents received in excess of the past-due amount. A tenant's delivery of rent to the Association under the authority hereby granted is not a breach of the tenant's lease with the Owner and does not subject the tenant to penalties from the Owner.

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

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

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

**8.10 Application of Payments.** The Association may adopt and amend policies regarding the application of payments. After the Association notifies the Owner of a delinquency, any payment received by the Association may be applied in the following order: Individual Assessments, Deficiency Assessments, Special Assessments, Utility Assessments, and (lastly) Regular Assessments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the Owner attaches conditions or directions contrary to the Association's policy for applying payments. The policies of the Association may provide that endorsement and deposit of a payment does not constitute acceptance, and that acceptance occurs when payment is posted to the Owner's account.

## ARTICLE IX MAINTENANCE AND REPAIR OBLIGATIONS

**9.1 Overview.** Generally, the Association maintains the Common Elements, and the Owner maintains the Owner's Unit. If any Owner fails to maintain its Unit, the Association may perform the work at the Owner's expense. This Declaration assigns portions of the Units to the "**Area of Common Responsibility**", as defined and described below. The Area of Common Responsibility is maintained by the Association and not the Owner. As of the date this Declaration is Recorded, the initial designation of components of Units included within the Area

of Common Responsibility is attached hereto as Attachment 1. The respective maintenance obligations of the Association and each Owner are set forth in this Article and are summarized on Attachment 1; however, to the extent there is any conflict between the provisions of this Article and the summary set forth on Attachment 1, the provisions of this Article will control.

**9.2 Association Maintains.** Unless otherwise provided in this Declaration, the Association maintains, repairs and replaces, as a Common Expense, the portions of the Property listed below, regardless of whether the portions are on Units or Common Elements:

- (i) the General Common Elements and any Limited Common Element serving more than one Unit;
- (ii) the Area of Common Responsibility;
- (iii) any real and personal property owned by the Association but which is not a Common Element; and
- (iv) any area, item, easement or service the maintenance of which is assigned to the Association by the Documents.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that: (i) such maintenance responsibility is assigned to an Owner under this Declaration; (ii) such maintenance responsibility is assumed by an Owner and such assumption is approved by the Board; or (iii) such property is dedicated to any local, state or federal government or quasi-governmental entity; provided, however, that in connection with any such assumption as provided in (ii) or (iii), the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Elements by an Owner or Occupant that is the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and/or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair. If the Association assigns any portion of its maintenance responsibilities to an Owner as permitted by the Documents, the Association will perform any such assigned obligations if not timely performed by the Owner.

The Association shall not be liable for injury or damage to Person or property caused by the elements or by the Owner or Occupant of any Unit or any other Person or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Unit has put the Association on written notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow

within a reasonable time thereafter. The Association shall not be liable to any Owner or Occupant of any Unit for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Elements or any Unit. The Association shall not be liable to any Owner or Occupant, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Documents or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or from any action taken by the Association to comply with any law ordinance or with any order or directive of any municipal or other governmental authority.

**9.3 Area of Common Responsibility.** The Declarant until expiration or termination of the Development Period, and the Association thereafter, has the right but not the duty to designate or modify, from time to time, portions of the Buildings and Units as an Area of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association as a Common Expense. A designation applies to every Unit having the identified feature. The cost of maintaining the Area of Common Responsibility is added to the annual budget and assessed uniformly against all Units as a Regular Assessment, unless, after expiration of the Development Period, the Owners of at least a Majority of the Units decide to assess the costs as Individual Assessments.

**9.3.1 Easement.** The Association is hereby granted an easement over and across each Building and Unit to the extent reasonably necessary or convenient for the Association or its designee to maintain, repair and/or replace the Area of Common Responsibility. If the Association damages any Improvements located within a Building or Unit in exercising the easement granted hereunder, the Association will restore such Improvements to the condition which existed prior to any such damage, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements.

**9.3.2 Change in Designation.** Until expiration or termination of the Development Period, the Declarant may, from time to time, modify the Area of Common Responsibility, by Recording an amendment to the Area of Common Responsibility and Maintenance Chart attached hereto as Attachment 1. After expiration or termination of the Development Period, the Association may, from time to time, modify the Area of Common Responsibility, by Recording an amendment to the Area of Common Responsibility and Maintenance Chart attached hereto as Attachment 1; provided, however, that any modification to the Area of Common Responsibility must be approved by a Majority of the votes in the Association. During the Development Period, the Area of Common Responsibility may be modified or amended by the Declarant acting alone.

#### 9.4 Irrigation Maintenance Services and Landscape Services.

9.4.1 Generally. The Association will provide the Irrigation Maintenance Services to all unfenced Yard Areas and the Landscape Services to all Yard Areas. Accordingly, the Association is hereby granted an easement over and across each Unit to the extent reasonably necessary or convenient for the Association or its designated landscaping contractor to perform the Irrigation Maintenance Services and the Landscape Services. Access to each Yard Area is limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in conjunction with actual performance of Irrigation Maintenance Services and Landscape Services. If the Association damages any Improvements located within a Unit in exercising the easement granted hereunder, the Association will be required to restore such Improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements.

9.4.2 Dates. The Association or its designated landscape company may, from time to time, provide each Owner with a schedule of dates on which the Irrigation Maintenance Services and Landscape Services will be performed.

9.4.3 Irrigation. Irrigation is provided by a master irrigation controller, and the Association will schedule irrigation of the yard turf areas. Each Unit Owner will be required to pay the costs charged by the utility service provider for all water consumed by the water meter associated with the irrigation of the unfenced Yard Area within such Owner's Unit.

9.4.4 Cost. The cost of all Irrigation Maintenance Services and Landscape Services will be a Common Expense. Notwithstanding the forgoing, in the event that Irrigation Maintenance Services or Landscape Services are due to negligence or willful misconduct of an Owner, an Owner's tenant, or an Owner's pet, as determined by the Board in its sole discretion, the cost of such maintenance or repair may be levied as an Individual Assessment.

9.4.5 Alterations. Any alterations in the landscaping of any portion of a Yard Area must be approved in writing by Declarant pursuant to the Declaration and/or the Architectural Reviewer prior to the alterations being made. In the event the Association performs alterations, additions or modifications to the irrigation system (based on reconfigured landscaping or otherwise) serving an Owner's unit, the cost of the alterations, additions or modifications will be levied as an Individual Assessment unless otherwise approved as a Common Expense by the Board.

9.4.6 Owner or Occupant Repair. Subject to the maintenance responsibilities herein provided, any maintenance or repair performed by an Owner or Occupant that is

the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant, and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

9.4.7 THE ASSOCIATION SHALL NOT BE LIABLE FOR INJURY OR DAMAGE TO PERSON OR PROPERTY CAUSED BY THE ELEMENTS OR BY THE OWNER OR OCCUPANT OR ANY OTHER PERSON OR RESULTING FROM ANY UTILITY, WATER, RAIN, SNOW OR ICE WHICH MAY LEAK OR FLOW FROM ANY PIPE, DRAIN, CONDUIT, APPLIANCE OR EQUIPMENT WHICH THE ASSOCIATION IS RESPONSIBLE FOR MAINTAINING HEREUNDER. THE ASSOCIATION SHALL NOT BE LIABLE TO ANY OWNER OCCUPANT FOR LOSS OR DAMAGE, BY THEFT OR OTHERWISE, OF ANY PROPERTY, WHICH MAY BE STORED IN OR UPON THE YARD AREA OF ANY UNIT. THE ASSOCIATION SHALL NOT BE LIABLE TO ANY OWNER OR OCCUPANT, FOR ANY DAMAGE OR INJURY CAUSED IN WHOLE OR IN PART BY THE ASSOCIATION'S FAILURE TO DISCHARGE ITS RESPONSIBILITIES UNDER THIS SECTION 9.4. NO DIMINUTION OR ABATEMENT OF ASSESSMENTS SHALL BE CLAIMED OR ALLOWED BY REASON OF ANY ALLEGED FAILURE OF THE ASSOCIATION TO TAKE SOME ACTION OR PERFORM SOME FUNCTION REQUIRED TO BE TAKEN OR PERFORMED BY THE ASSOCIATION UNDER THIS DECLARATION OR FOR INCONVENIENCE OR DISCOMFORT ARISING FROM THE MAKING OF REPAIRS OR IMPROVEMENTS WHICH ARE THE RESPONSIBILITY OF THE ASSOCIATION OR FROM ANY ACTION TAKEN BY THE ASSOCIATION TO COMPLY WITH APPLICABLE LAW.

9.5 **Owner Responsibility.** Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property:

- (i) To maintain, repair, and replace the Owner's Unit and any and all Limited Common Elements exclusively serving the Owner's Unit, except for the Area of Common Responsibility or components expressly assigned to the Association by this Declaration.
- (ii) The routine cleaning of any balcony, carport, and/or patio of the Owner's Unit, if any, keeping same in a neat, clean, odorless, orderly, and attractive condition.
- (iii) To maintain, repair, and replace all portions of the Property for which the Owner is responsible under this Declaration or by agreement with the Association.
- (iv) To not do any work or to fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the

soundness and safety of the Property, reduce the value thereof, or impair any easement or real property right thereto.

- (v) To be responsible for such Owner's own willful or negligent acts and those of the Owner or the Occupant's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement of Common Elements, the property of another Owner, or any component of the Property for which the Association has maintenance or insurance responsibility.
- (vi) To maintain the Yard Area, except to the extent maintained by the Association pursuant to *Section 9.4* of the Declaration.

**9.6 Disputes.** If a dispute arises regarding the allocation of maintenance responsibilities by the Documents, the dispute will be resolved by the Board. Unit maintenance responsibilities that are allocated to the Association are intended to be interpreted narrowly to limit and confine the scope of Association responsibility. It is the intent of this Article that all components and areas not expressly delegated to the Association are the responsibility of the individual Owners unless otherwise approved by the Board.

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

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

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

**9.7.3 Maintenance Costs.** The Owners of adjoining Units share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair,

reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair, the other Owner may pay the entire cost while reserving a right to reimbursement. The right of an Owner to contribution from another Owner under this Section is appurtenant to such Owner's Unit and passes to such Owner's successors in title. Any Owner who advances funds for repair may: (i) request reimbursement from the Association, which may reimburse such costs and seek reimbursement from the nonpaying owner by levying an Individual Assessment against the Unit and Owner; or (ii) Record a lien for the costs advanced.

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

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

9.9 **Mold.** In the era in which this Declaration is written, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. This Section addresses that environment. For more information about mold and mold prevention, an Owner should consult a reliable source, such as the U.S. Environmental Protection Agency.

9.9.1 **Owner's Duties.** To reduce the risks associated with concentrations of mold, Owners should be proactive in preventing circumstances conducive to mold, identifying mold, and eliminating mold. Towards that end, each Owner is responsible for:

- (i) regularly inspecting the entire Unit for evidence of water leaks or penetrations or other conditions which may lead to mold growth;
- (ii) repairing promptly any water leaks, breaks, or malfunctions of any kind in the Unit that may cause damage to another Unit or Common Element;
- (iii) regularly inspecting the entire Unit for visible surface mold and promptly removing same using appropriate procedures; and

- (iv) reporting promptly to the Association any water leak, penetration, break, or malfunction in any portion of the Unit or any adjacent Common Elements for which the Association may have maintenance responsibility.

9.9.2 Insurance. Many insurance policies do not cover damages related to mold. An Owner who wants insurance coverage with respect to mold and mold-related damages is advised to separately purchase such insurance coverage.

9.10 Warranty Claims. If the Owner is the beneficiary of a warranty against defects of the Common Elements, the Owner irrevocably appoints the Association, acting through the Board, as his attorney-in-fact to file, negotiate, receive, administer, and distribute the proceeds of any claim against the warranty that pertains to Common Elements.

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

## ARTICLE X ARCHITECTURAL COVENANTS AND CONTROL

10.1 Purpose. The Architectural Reviewer has the right to regulate every aspect of proposed or existing Improvements on the Property, including replacements or modifications of original construction or installation. During the Development Period, the primary purpose of this Article is to reserve and preserve Declarant's right of architectural control. Notwithstanding anything to the contrary stated herein, Improvements constructed on the Property and all architectural modifications made thereto that are made by the Declarant or its designee shall not be subject to approval pursuant to this Article.

10.2 Architectural Reviewer. Until expiration or termination of the Development Period, the Architectural Reviewer shall mean Declarant or its designee. Upon expiration of the Development Period, the rights of the Architectural Reviewer will automatically be transferred to the Board or a committee appointed by the Board.

### 10.3 Architectural Control by Declarant.

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

10.3.2 Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the Improvements within the Property do not impair Declarant's ability to market Units in the Regime. Accordingly, each Owner agrees that during the Development Period, no Improvements will be started or progressed without the prior written approval of the Architectural Reviewer, which approval may be granted or withheld at the Architectural Reviewer's sole discretion. In reviewing and acting on an application for approval, the Architectural Reviewer may act solely in its self-interest and owes no duty to any other Person or any organization.

10.3.3 Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its rights as Architectural Reviewer to the Board or a committee appointed by the Board comprised of Persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral right of Declarant to: (a) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) veto any decision which Declarant, in its sole discretion, determines to be inappropriate or inadvisable for any reason.

10.4 Architectural Control by Association. Upon Declarant's delegation, in writing, of all or a portion of its reserved rights as Architectural Reviewer to the Board, or upon the expiration or termination of the Development Period, the Association will assume jurisdiction over architectural control and will have the powers of the Architectural Reviewer hereunder and the Board, or a committee appointed by the Board, is the Architectural Reviewer and shall exercise all architectural control over the Property.

10.5 Limits on Liability. Neither the Declarant, nor the Board, nor their directors, officers, committee members, employees or agents will have any liability for decisions made as Architectural Reviewer in good faith, and which are not arbitrary or capricious. Neither the Declarant, nor the Board, or their directors, officers, committee members, employees or agents are responsible for: (i) errors in or omissions from the plans and specifications submitted to the

Architectural Reviewer; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws. Approval of a modification or Improvement may not be deemed to constitute a waiver of the right to withhold approval of similar proposals, plans or specifications that are subsequently submitted.

**10.6 Prohibition of Construction, Alteration and Improvement.** Without the Architectural Reviewer's prior written approval, no Person may commence or continue any construction, alteration, addition, Improvement, installation, modification, redecoration, or reconstruction of or to the Property, or do anything that affects the appearance, use, or structural integrity of the Property, including, but not limited to, installation of any fences. Notwithstanding the foregoing, nonstructural modifications to Unit interiors such as paint do not require approval of the Architectural Reviewer.

**YOU CANNOT CHANGE THE EXTERIOR OF ANY IMPROVEMENTS WITHIN YOUR UNIT UNLESS YOU HAVE THE SIGNED CONSENT OF THE ARCHITECTURAL REVIEWER.**

**10.7 No Deemed or Verbal Approval.** Approval by the Architectural Reviewer may not be deemed, construed, or implied from an action, a lack of action, or a verbal statement by the Declarant, Declarant's representative or designee or the Association, an Association director or officer, a member or chair of the Declarant or Board-appointed architectural control committee, the Association's manager, or any other representative of the Association. To be valid, approval of the Architectural Reviewer must be: (i) in writing; (ii) on a form or letterhead issued by the Architectural Reviewer; (iii) signed and dated by a duly authorized representative of the Architectural Reviewer, designated for that purpose; (iv) specific to a Unit; and (v) accompanied by detailed plans and specifications showing the proposed change. If the Architectural Reviewer fails to respond in writing – negatively, affirmatively, or requesting information – within sixty (60) days after the Architectural Reviewer's actual receipt of the Owner's application, the application is deemed denied. Under no circumstance may approval of the Architectural Reviewer be deemed, implied or presumed. If the Architectural Reviewer approves a change, the Owner or the Architectural Reviewer may require that the architectural approval be Recorded, with the cost of Recordation borne by the Owner. Architectural Reviewer approval of an architectural change automatically terminates if work on the approved Improvement has not started by the commencement date stated in the Architectural Reviewer's approval and thereafter diligently prosecuted to completion, or, if no commencement date is stated, within ninety (90) days after the date of Architectural Reviewer approval.

**10.8 Application.** To request Architectural Reviewer approval, an Owner must make written application and submit plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. The application must clearly identify any requirement of this Declaration for which a variance is sought. If the application is for work

that requires a building permit from a municipality or other regulatory authority, the Owner must obtain such permit and provide a copy to the Architectural Reviewer in conjunction with the application. The Architectural Reviewer will retain the plans and specifications, together with the application, for the Association's files. The Architectural Reviewer has the right, but not the duty, to evaluate every aspect of construction and property use that may alter or adversely affect the general value of appearance of the Property.

**10.9 Owner's Duties.** If the Architectural Reviewer approves an Owner's application, the Owner may proceed with the Improvement, provided:

- (i) The Owner complies with *Section 3.3*.
- (ii) The Owner must adhere strictly to the plans and specifications which accompanied the application.
- (iii) The Owner must initiate, diligently prosecute, and complete the Improvement in a timely manner.
- (iv) If the approved application is for work that requires a building permit from a municipality or other regulatory authority, the Owner must obtain the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that such plans and specifications comply with a municipality or other regulatory authority's requirements. Alternatively, approval by a municipality or other regulatory authority does not ensure Architectural Reviewer approval.

## ARTICLE XI USE RESTRICTIONS

**11.1 Variance.** The use of the Regime is subject to the restrictions contained in this Article, and subject to the Rules. The Declarant may grant a variance or waiver of a restriction or Rule during the Development Period. The Board, with the Declarant's written consent during the Development Period, may grant a variance or waiver of a restriction or Rule on a case-by-case basis, and may limit or condition its grant. To be effective, a variance must be in writing and executed by the Declarant and/or a Majority of the Board, as applicable. The grant of a variance shall not constitute a waiver or estoppel of the right to deny a variance in other circumstances.

**11.2 Association's Right to Promulgate Rules and Amend Community Manual.** The Association, acting through the Board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property. The Board is further granted the right to amend, repeal, and enforce the Community Manual, setting forth therein such policies governing the Association as the Board determines. During the Development Period, any

modification, amendment, or repeal to the Community Manual or the Rules, and each new policy or Rule, must be approved in advance and in writing by the Declarant.

**11.3 Rules.** In addition to the restrictions contained in this Article, each Unit is owned and occupied subject to the right of the Board to establish Rules, and penalties for infractions thereof, governing:

- (i) Use of Common Elements.
- (ii) Hazardous, illegal, or annoying materials or activities on the Property.
- (iii) The use of Property-wide services provided through the Association.
- (iv) The consumption of utilities billed to the Association.
- (v) The use, maintenance, and appearance of anything visible from the street, Common Elements, or other Units.
- (vi) The occupancy and leasing of Units.
- (vii) Animals.
- (viii) Vehicles.
- (ix) Disposition of trash and control of vermin, termites, and pests.
- (x) Anything that interferes with maintenance of the Property, operation of the Association, administration of the Documents, or the quality of life for Occupants.

**11.4 Declarant Privileges.** In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Occupants, as provided in Appendix "A" of this Declaration. Declarant's exercise of a Development Period right that appears to violate a Rule or a Use Restriction of this Article does not constitute waiver or abandonment of the restriction by the Association.

**11.5 Drainage.** No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

**11.6 Driveways.** Sidewalks, driveways, and other passageways may not be used for any purpose that interferes with their ongoing use as routes of vehicular or pedestrian access.

**11.7 Garages.** Garages may not be enclosed or used for any purpose that would prohibit the parking of operable vehicles therein, without the prior written authorization of the Architectural Reviewer.

**11.8 Landscaping.** No person may perform landscaping, planting, or gardening anywhere upon the Property without the prior written authorization of the Architectural Reviewer.

**11.9 Noise and Odor.** An Occupant must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy Occupants of neighboring Units. The Rules may limit, discourage, or prohibit noise-producing activities and items in the Units and on the Common Elements.

**11.10 Signs.** No sign of any kind, including signs advertising Units for sale, for rent or for lease, may be erected, placed, or permitted to remain on the Property or to be visible from windows in the Units unless approved in advance by the Architectural Reviewer. As used in this *Section 11.10*, "sign" includes, without limitation, lettering, images, symbols, pictures, shapes, lights, banners, and any other representation or medium that conveys a message. The Architectural Reviewer may, but is not required to, authorize a sign, and such authorization may specify the location, nature, dimensions, number, and time period of a sign. This prohibition against signs also applies to any object visible from a street or driveway which the Architectural Reviewer or Board deems to be unsightly or inappropriate. The Association may effect the immediate removal of any sign or object that violates this *Section 11.10* or which the Architectural Reviewer or Board deems inconsistent with Property standards without liability for trespass or any other liability connected with the removal. As provided in Appendix "A", Declarant has reserved the right to maintain signs and other items on the Property for the purpose of promoting, identifying and marketing the Property and off-site developments of Declarant or its assigns.

**11.11 Structural Integrity.** No person may directly or indirectly impair the structural soundness or integrity of a Building or other Unit, nor do any work or modification that will impair an easement or real property right.

**11.12 Antennas.** Except as expressly provided below, no exterior radio, television or communications antenna or aerial or satellite dish or disc, nor any solar energy system (collectively, an "Antenna/Dish"), shall be erected, maintained, or placed on a Unit without the prior written approval of the Architectural Reviewer.

**11.12.1 Dishes Over One Meter Prohibited.** Unless otherwise approved by the Architectural Reviewer, an Antenna/Dish which is over one meter in diameter is prohibited within the Regime.

**11.12.2 Notification.** An Owner or Occupant who wishes to install an Antenna/Dish one meter or less in diameter (a "Permitted Antenna") must submit a

written notice to the Architectural Reviewer or its designee, which notice must include the Owner or Occupant's installation plans for the satellite dish.

11.12.3 One Dish Limitation. Unless otherwise approved by the Architectural Reviewer, only one Permitted Antenna per Unit is permitted. In the event an acceptable quality signal for video programming or wireless communications cannot be received from one satellite dish, the Owner must provide written notification to the Architectural Reviewer or its designee. Upon notification, the Owner will be permitted to install an additional Permitted Antenna if a single Permitted Antenna is not sufficient for the reception of an acceptable quality signal and the use of an additional Permitted Antenna results in the reception of an acceptable quality signal.

11.12.4 Installation Locations – Generally. A Permitted Antenna or the use of a Permitted Antenna may not interfere with satellite or broadcast reception to other Units or the Common Elements, or otherwise be a nuisance to Occupants of other Units or to the Association. A Permitted Antenna exists at the sole risk of the Owner and/or Occupant of the Unit. The Association does not insure the Permitted Antenna and is not liable to the Owner or any other person for any loss or damage to the Permitted Antenna from any cause. The Owner will defend and indemnify the Association, its directors, officers, and Members, individually and collectively, against losses due to any and all claims for damages or lawsuits, by anyone, arising from his Permitted Antenna. The Architectural Reviewer may determine what constitutes a nuisance to the Association. The Architectural Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of a Permitted Antenna.

11.12.5 Preferred Installation Locations. A Permitted Antenna may be installed in a location within the Unit from which an acceptable quality signal can be obtained and where least visible from the street and the Regime, other than the Unit. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Architectural Reviewer are as follows:

- (i) Attached to the back of the residence constructed within the Unit, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Units and the street; then
- (ii) attached to the side of the residence constructed within the Unit, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Units and the street.

11.12.6 Cable. The draping of cable wires on the exteriors of buildings or the installation of additional conduits are prohibited without the Architectural Reviewer's prior written consent.

11.12.7 Prohibited Act. Any installation pertaining to an Antenna/Dish is prohibited without the prior written consent of the Architectural Reviewer.

**11.13 Solar Energy Device and Energy Efficiency Roofing.** A "Solar Energy Device" means a system of or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. Approval by the Architectural Reviewer is required prior to installing a Solar Energy Device.

The Architectural Reviewer is not responsible for: (a) errors in or omissions in the application submitted to the Architectural Reviewer for approval; (b) supervising the installation or construction to confirm compliance with an approved application; or (c) the compliance of an approved application with governmental codes and ordinances, state and federal laws.

11.13.1 Approval Application. To obtain approval of a Solar Energy Device, the Owner shall provide the Architectural Reviewer with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "Solar Application"). A Solar Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Solar Application.

11.13.2 Approval Process. The decision of the Architectural Reviewer will be made in accordance with *Article 10*. The Architectural Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 11.13.3* below **UNLESS** the Architectural Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 11.13.3*, will create a condition that substantially interferes with the use and enjoyment of the Property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The Architectural Reviewer's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Units immediately adjacent to the Owner/applicant's Unit provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this Section when considering any such request.

Each Owner is advised that if the Solar Application is approved by the Architectural Reviewer, installation of the Solar Energy Device must: (i) strictly comply with the Solar

Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Solar Energy Device to be installed in accordance with the approved Solar Application, the Architectural Reviewer may require the Owner to: (i) modify the Solar Application to accurately reflect the Solar Energy Device installed on the Unit; or (ii) remove the Solar Energy Device and reinstall the device in accordance with the approved Solar Application. Failure to install a Solar Energy Device in accordance with the approved Solar Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of this Section and may subject the Owner to fines and penalties. Any requirement imposed by the Architectural Reviewer to resubmit a Solar Application or remove and relocate a Solar Energy Device in accordance with the approved Solar Application shall be at the Owner's sole cost and expense.

11.13.3 Approval Conditions. Unless otherwise approved in advance and in writing by the Architectural Reviewer, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located within the Owner's Unit, entirely within a fenced area within the Owner's Unit, or entirely within a fenced patio located within the Owner's Unit. If the Solar Energy Device will be located on the roof of the residence located within the Owner's Unit, the Architectural Reviewer may designate the location for placement unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) above the energy production of the Solar Energy Device if installed in the location designated by the Architectural Reviewer. If the Owner desires to contest the alternate location proposed by the Architectural Reviewer, the Owner should submit information to the Architectural Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be located in the fenced area of or the patio located within the Owner's Unit, if any, no portion of the Solar Energy Device may extend above the fence line.

(ii) If the Solar Energy Device is mounted on the roof of the principal residence located within the Owner's Unit, then: (A) the Solar Energy Device may not extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Energy Device must be parallel to the roofline; (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

(iii) Notwithstanding anything in this *Section 11.13*, in the event the roof is included within an Area of Common Responsibility in accordance with the

terms and provisions of *Article 9* hereof for maintenance by the Association and an Owner installs a Solar Energy Device in accordance with this *Section 11.13*, the Association: (i) may assign the responsibility for maintenance of the Owner's roof, or any portion thereof, to the Owner, in the Association's sole discretion, and the Association will be relieved of any of its maintenance responsibilities with respect to such portion of the Owner's roof; and (ii) will not be responsible for any installation, maintenance, repair, replacement or damage of the Solar Energy Device, which shall be the sole obligation of the Owner.

11.13.4 Energy Efficient Roofing. For the purposes of this *Section 11.13.4* "Energy Efficient Roofing" means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities. The Architectural Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the community; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth in *Article 10*. Notwithstanding the foregoing provision, in the event the roof is included within an Area of Common Responsibility in accordance with the terms and provisions of *Article 9* hereof for maintenance by the Association and an Owner installs Energy Efficient Roofing in accordance with this *Section 11.13.4*, the Association: (i) may assign the responsibility for maintenance of the Owner's roof, or any portion thereof, to the Owner, in the Association's sole discretion, and the Association will be relieved of any of its maintenance responsibilities with respect to the Owner's roof; and (ii) will not be responsible for any installation, maintenance, repair, replacement or damage of the Energy Efficient Roofing, which shall be the sole obligation of the Owner.

11.14 Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "Rainwater Harvesting System") may be installed with the advance written approval of the Architectural Reviewer.

11.14.1 Application. To obtain Architectural Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the Architectural Reviewer with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "Rain System Application"). A Rain System Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Rain System Application.

11.14.2 Approval Process. The decision of the Architectural Reviewer will be made in accordance with *Article 10* of the Declaration. Any proposal to install a Rainwater Harvesting System on Common Elements must be approved in advance and in writing by the Architectural Reviewer, and the Architectural Reviewer need not adhere to this policy when considering any such request.

11.14.3 Approval Conditions. Unless otherwise approved in advance and in writing by the Architectural Reviewer, each Rain System Application and Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

(i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed within the Owner's Unit, as reasonably determined by the Architectural Reviewer.

(ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.

(iii) The Rainwater Harvesting System is in no event located between the front of the residence constructed within the Owner's Unit and any adjoining or adjacent street.

(iv) There is sufficient area within the Owner's Unit to install the Rainwater Harvesting System, as reasonably determined by the Architectural Reviewer.

(v) If the Rainwater Harvesting System will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, the Architectural Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 11.14.4* for additional guidance.

11.14.4 Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, the Architectural Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, Common Element, or another Owner's Unit. When reviewing a Rain System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Unit, or would otherwise be visible from a street, Common Element, or another Owner's Unit, any additional regulations imposed by the Architectural Reviewer to regulate the size, type, shielding of, and materials used in the construction of the

Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the Architectural Reviewer.

**11.15 Flags.** An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, or an official or replica flag of any branch of the United States Military ("**Permitted Flag**") and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence located within the Owner's Unit near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**") located within an Owner's Unit. Only one (1) Permitted Flagpole is allowed per residence located within the Owner's Unit. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Architectural Reviewer.

Approval by the Architectural Reviewer is required prior to installing vertical freestanding flagpoles installed on or within the Yard Area of any Unit ("**Freestanding Flagpole**"). The Architectural Reviewer is not responsible for: (i) errors in or omissions in the application submitted to the Architectural Reviewer for approval; (ii) supervising installation or construction to confirm compliance with an approved application; or (iii) the compliance of an approved application with governmental codes and ordinances, state and federal laws.

**11.15.1 Approval Application.** To obtain Architectural Reviewer approval of any Freestanding Flagpole, the Owner shall provide a request to the Architectural Reviewer in accordance with *Article 10*, including the following information: (i) the location of the flagpole to be installed on the Unit; (ii) the type of flagpole to be installed; (iii) the dimensions of the flagpole; and (iv) the proposed materials of the flagpole (the "**Flagpole Application**"). A Flagpole Application may only be submitted by an Owner UNLESS the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Flagpole Application.

**11.15.2 Approval Process.** The decision of the Architectural Reviewer will be made in accordance with *Article 10*. Any proposal to install a Freestanding Flagpole on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 11.15* when considering any such request.

Each Owner is advised that if the Flagpole Application is approved by the Architectural Reviewer, installation of the Freestanding Flagpole must: (i) strictly comply with the Flagpole Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Freestanding Flagpole to be installed in accordance with the approved Flagpole Application, the Architectural Reviewer may require the Owner to: (a) modify the Flagpole Application to accurately reflect the Freestanding Flagpole installed on the Unit; or (b) remove the Freestanding Flagpole and reinstall the flagpole in accordance with the approved Flagpole Application. Failure to install a Freestanding Flagpole in accordance with the approved Flagpole Application or an Owner's failure to comply with the post-approval

requirements constitutes a violation of this Section and may subject the Owner to fines and penalties. Any requirement imposed by the Architectural Reviewer to resubmit a Flagpole Application or remove and relocate a Freestanding Flagpole in accordance with the approved Flagpole Application shall be at the Owner's sole cost and expense.

11.15.3 Installation, Display and Approval Conditions. Unless otherwise approved in advance and in writing by the Architectural Reviewer, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

- (i) No more than one (1) Freestanding Flagpole OR no more than one (1) Permitted Flagpole is permitted per residence located within the Owner's Unit, on which only Permitted Flags may be displayed;
- (ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;
- (iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');
- (iv) With the exception of flags displayed on Common Elements and any Unit which is being used for marketing purposes by a builder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;
- (v) The display of a flag, or the location and construction of the flagpole must comply with Applicable Law;
- (vi) Any flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;
- (vii) A flag or a flagpole must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpole must be repaired, replaced or removed;
- (viii) Any flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring property; and
- (ix) Any external halyard of a flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the flagpole.

**11.16 Xeriscaping.** Drought-resistant landscaping or water-conserving turf known as xeriscaping (“Xeriscaping”) may be installed on a Unit. Approval by the Architectural Reviewer is required prior to installing Xeriscaping:

11.16.1 Application. To obtain Architectural Reviewer approval of Xeriscaping, the Owner shall provide a request to the Architectural Reviewer in accordance with *Article 10*, including the following information: (i) the proposed site location of the Xeriscaping on the Owner’s Unit; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered with gravel, rocks and cacti (the “Xeriscaping Application”). A Xeriscaping Application may only be submitted by an Owner unless the Owner’s tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application.

11.16.2 Approval Process. The decision of the Architectural Reviewer will be made in accordance with *Article 10*. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association, property owned in common by members of the Association, or property maintained by the Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

11.16.3 Approval Conditions. Each Owner is advised that if the Xeriscaping Application is approved by the Architectural Reviewer, installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the Architectural Reviewer may require the Owner to: (i) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (ii) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner’s failure to comply with the post-approval requirements constitutes a violation of this policy and may subject the Owner to fines and penalties. Any requirement imposed by the Architectural Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner’s sole cost and expense. Each Owner is further advised that if the Xeriscaping Application is approved by the Architectural Reviewer, such Owner, at the Owner’s sole cost and expense, shall be responsible for the maintenance and upkeep of the Xeriscaping which standards for such maintenance and upkeep shall be reasonably determined by the Architectural Reviewer.

11.16.4 **Aesthetically Compatibility.** Unless otherwise approved in advance and in writing by the Architectural Reviewer, each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must be aesthetically compatible with other landscaping in the Regime as reasonably determined by the Architectural Reviewer. For purposes of this Xeriscaping policy, "aesthetically compatible" shall mean overall and long-term aesthetic compatibility within the Regime. For example, an Owner's Unit plan may be denied if the Architectural Reviewer determines that: a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall Regime; and/or b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent Owner, resulting in a reduction of aesthetic appeal of the adjacent Owner's Unit.

11.17 **Window Treatments.** The color and condition of all window panes, window screens, and window treatments must conform to the Building standard as established from time to time by the Board. All window treatments within the Unit that are visible from the street or another Unit must be maintained in good condition and must not detract from the appearance of the Property. The Board may require an Owner to change or remove a window treatment, window film, window screen, or window decoration that the Board determines to be inappropriate, unattractive, or inconsistent with the Property's uniform window standard. The Board may prohibit the use of certain colors or materials for window treatments.

11.18 **Emergency Access.** Owners must allow representatives of the Association and other emergency personnel access to their Units in case of emergencies. In the case of any emergency originating in, or threatening, any Unit, regardless of whether the Owner is present at the time of such emergency, the Board, the manager or any other person authorized by the Board or Manager shall have the right to enter into such Unit for the purpose of remedying or abating the cause of such emergency and such right of entry shall be immediate.

No vehicle may be parked in a manner that obstructs or otherwise blocks ingress and egress to any part of the Property by an emergency vehicle or by emergency personnel, as determined by the Board in its sole discretion.

11.19 **No Piercing of Walls.** In addition to and without limiting the provisions set forth in *Article 10* of this Declaration, an Owner or other Person authorized by such Owner shall not pierce any of the Unit walls with any type of nail, screw, drill bit or other similar item in excess of  $\frac{3}{4}$  inch in length without first obtaining the consent of the Architectural Reviewer as set forth in *Article 10*.

11.20 **Balconies and Patios.** No linens, cloths, clothing, towels, bathing suits or swimwear, curtains, rugs, mops or laundry of any kind, bicycles or other articles, shall be stored, shaken or hung from or on any of the windows, doors, decks or balconies, or other portions of the Regime. Certain types of furniture, lamps, and container gardens are allowed on balconies and patios if approved in advance by the Board, such approval to be made in the Board's sole

and absolute discretion. The Board will have the authority to require an Owner or Occupant to remove any article from a window, door, balcony, or patio, if in the sole and exclusive discretion of the Board, the article is unsightly, offensive, or constitutes an annoyance.

**11.21 Wireless Internet Systems.** A wireless Internet communication network ("WiFi System") may be installed or otherwise used in a Unit provided precautions are taken to insure against interfering with, disturbing, or intercepting computer, communications, or other permitted electronic signals, networks, or systems installed in other portions of the Regime. The Board may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installation of the system that proper precautions are being taken. Notwithstanding the foregoing, compliance with requirements relating to the installation of WiFi Systems is not a guarantee that any WiFi System installed or otherwise used in a Unit will not interfere with, disturb, or intercept other signals, networks, or systems within the Regime. The Association may require that any WiFi System found to cause such problems be terminated. **The Association, Declarant, and their respective current and former partners, members, directors, officers agents employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of the proper operation or use of any WiFi Systems in the Regime, nor shall the Association, Declarant, and their respective current and former partners, members, directors, officers agents employees, affiliates, and committee members be held liable for any loss or damage relating to the use or operation of WiFi Systems within the Regime.**

## ARTICLE XII UNIT LEASING

**12.1 Lease Conditions.** The leasing of Units is subject to the following conditions: (i) no Unit may be rented for transient or hotel purposes or for a period less than one hundred and eighty (180) days, but in no event may a Unit be leased for less than thirty (30) days; (ii) unless otherwise permitted by the Rules, not less than an entire Unit may be leased; (iii) all leases must be in writing and must be made subject to the Documents; (iv) an Owner is responsible for providing the Owner's tenant with copies of the Documents and notifying the tenant of changes thereto; and (v) each tenant is subject to and must comply with all provisions of the Documents and Applicable Law.

**12.2 Provisions Incorporated By Reference into Lease.** Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

**12.2.1 Compliance with Documents.** The tenant shall comply with all provisions of the Documents and shall control the conduct of all other Occupants and guests of the leased Unit, as applicable, in order to ensure such compliance. The Owner shall cause all

Occupants of the Owner's Unit to comply with the Documents and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the tenant or Occupant violates the Documents or a Rule for which a fine is imposed, notice of the violation shall be given to the Owner and the tenant, and such fine may be assessed against the Owner or the tenant. Unpaid fines shall constitute a lien against the Unit.

12.2.2 Assignment of Rents. If the Owner fails to pay any Assessment or any other charge against the Unit for a period of more than thirty (30) days after it is due and payable, then the Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency, and, upon request by the Board, tenant shall pay directly to the Association all unpaid Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by tenant. The tenant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to the Owner.

12.2.3 Violation Constitutes Default. Failure by the tenant or the tenant's guests to comply with the Documents or Applicable Law is deemed to be a default under the lease. When the Association notifies an Owner of such violation, the Owner will promptly obtain compliance or exercise his rights as a landlord for tenant's breach of lease. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Association has the power and right to pursue the remedies of a landlord under the lease or Applicable Law for the default, including eviction of the tenant.

12.2.4 Association as Attorney-in-Fact. Notwithstanding the absence of an express provision in the lease agreement for enforcement of the Documents by the Association, each Owner appoints the Association as the Owner's attorney-in-fact, with full authority to act in the Owner's place in all respects, for the purpose of enforcing the Documents against the Owner's tenants, including but not limited to the authority to institute forcible detainer proceedings, provided the Association gives the Owner at least 10 days' notice, by certified mail, of its intent to so enforce the Documents.

12.2.5 Association Not Liable for Damages. The Owner of a leased Unit is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Documents against the Owner's tenant. The Association is not liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Association's enforcement of the Documents against the Owner's tenant.

**ARTICLE XIII  
ASSOCIATION OPERATIONS**

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

**13.2 The Association.** The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a condominium association and a nonprofit corporation organized under Applicable Law, but expressly subject to any limitations on such powers set forth in the Documents. The Association comes into existence on issuance of its corporate charter. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

**13.3 Name.** A name is not the defining feature of the Association. Although the initial name of the Association is Townhomes at Gattis Condominium Community, Inc., the Association may operate under any name that is approved by the Board and: (i) filed with the Williamson County Clerk as an assumed name, or (ii) filed with the Secretary of State of Texas as the name of the filing entity. Another legal entity with the same name as the Association, or with a name based on the name of the Property, is not the Association, which derives its authority from this Declaration. The name "Townhomes at Gattis Condominiums" is not a trade name.

**13.4 Duration.** The Association was formed on the date the Certificate was filed with the Secretary of State of Texas. The Association will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

**13.5 Governance.** The Association will be governed by a Board of Directors elected by the Members. Unless the Bylaws or Certificate provide otherwise, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. The Association will be administered in accordance with the Documents and Applicable Law. Unless the Documents provide otherwise, any action requiring approval of the Members may be approved in writing by Owners representing at least a Majority of the total number of votes in the Association, or at a meeting by Owners' representing at least a Majority of the total number of votes in the Association.

**13.6 Merger.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by the Owners holding at least two-thirds (2/3) of the votes allocated to Units. On the merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property,

together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

**13.7 Membership.** Each Owner is a Member of the Association, ownership of a Unit being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Unit. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Unit is owned by more than one Person, each co-owner is a Member of the Association and may exercise the membership rights appurtenant to the Unit.

**13.8 Manager.** The Board may delegate the performance of certain functions to one or more managers or managing agents of the Association. To assist the Board in determining whether to delegate a function, a Guide to Association's Major Management & Governance Functions is attached to this Declaration as Attachment 4. The Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Guide, however, may not be construed to create legal duties for the Association and its officers, directors, members, employees, and agents that are not justified by the needs of the Association. Rather, the Guide is intended as a tool or an initial checklist for the Board to use periodically when considering a delegation of its functions. As a list of functions that owners associations commonly delegate to a manager, the Guide should not be considered as a complete list of the Board's duties, responsibilities, or functions. Notwithstanding any delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

**13.9 Books and Records.** The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to the requirements of Applicable Law.

**13.10 Indemnification.** The Association indemnifies every officer, director, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with any threatened or pending action, suit, or proceeding to which the Leader is a party or respondent by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. As a Common Expense, the Association may maintain general liability and directors' and officers' liability insurance to fund this obligation.

**13.11 Obligations of Owners.** Without limiting the obligations of Owners under the Documents, each Owner has the following obligations:

13.11.1 Information. Within thirty (30) days after acquiring an interest in a Unit, within thirty (30) days after the Owner has notice of a change in any information required by this Subsection, and on request by the Association from time to time, an Owner will provide the Association with the following information: (i) a copy of the Recorded deed by which Owner has acquired title to the Unit; (ii) the Owner's address and phone number; (iii) any Mortgagee's name, address, and loan number; (iv) the name and phone number of any Occupant other than the Owner; and (v) the name, address, and phone number of Owner's managing agent, if any.

13.11.2 Pay Assessments. Each Owner will pay Assessments properly levied by the Association against the Owner or such Owner's Unit and will pay Regular Assessments without demand by the Association.

13.11.3 Compliance with Documents. Each Owner will comply with the Documents as amended from time to time.

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

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

13.12 Unit Resales. This Section applies to every sale or conveyance of a Unit or an interest in a Unit by an Owner other than Declarant:

13.12.1 Resale Certificate. An Owner intending to sell his or her Unit will notify the Association and will request a condominium resale certificate from the Association.

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

13.12.3 Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a Unit, including but not limited to, fees for resale certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against Regular or Special Assessments. Transfer-related fees may be charged by the Association or by the

Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the Board or the manager to levy transfer-related fees.

13.12.4 Exclusions. The requirements of this Section do not apply to the following transfers: (i) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's Assessment lien; (ii) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (iii) transfer to, from, or by the Association; (iv) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent; (v) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (vi) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or (vii) a disposition by a government or a governmental agency. The requirements of this Section do not apply to the initial conveyance of a Unit from the Declarant to a third-party.

#### ARTICLE XIV ENFORCING THE DOCUMENTS

14.1 Notice and Hearing. Before levying a fine for violation of the Documents (other than nonpayment of Assessments), or before levying an Individual Assessment for property damage, the Association will give the Owner written notice of the levy and an opportunity to be heard, to the extent required by Applicable Law. The Association's written notice must contain a description of the violation or property damage; the amount of the proposed fine or damage charge; a statement that not later than the thirtieth (30<sup>th</sup>) day after the date of the notice, the Owner may request a hearing before the Board to contest the fine or charge; and a stated date by which the Owner may cure the violation to avoid the fine – unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months. The Association may also give a copy of the notice to the Occupant. Pending the hearing, the Association may continue to exercise other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine or damage charge. The Owner may attend the hearing in person, or may be represented by another Person or by a written communication. The Board may adopt additional or alternative procedures and requirements for notices and hearings, provided they are consistent with the requirements of Applicable Law.

14.2 Remedies. The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by Applicable Law, the Association has the following rights to enforce the Documents:

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

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

14.2.3 **Suspension.** The Association may suspend the right of Owners and Occupants to use General Common Elements (provided that the rights of ingress and egress and utility services are not impaired) for any period during which the Owner or Occupant, or the Owner or Occupant's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the Owner's obligations under the Documents.

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

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

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

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

**14.5 Recovery of Costs.** The costs of curing or abating a violation are the expense of the Owner or other Person responsible for the violation. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the non-prevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

**14.6 Release.** Subject to the Association's obligations under this Declaration, except as otherwise provided by the Documents, each Owner hereby releases, acquits and forever discharges the Association, and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns and agrees to hold such Persons harmless of and from any and all claims, damages, liabilities, costs and/or expenses (including reasonable attorneys' fees) relating to the construction of, repair or restoration of, or the sale to the Owners of the Units, or the Common Elements. This release shall release and forever discharge the Association and its affiliates, parents, members, subsidiaries, officers, directors, agents, employees, predecessors, successors, contractors, consultants, insurers, sureties and assigns, from all claims and causes of action, whether statutory or under the common law, known or unknown, now accrued, or that arise in the future.

**14.7 Right of Action by Association.** The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for: (i) a Construction Claim, as defined in Section 20.1.4 below, in the name of or on behalf of any Unit Owner (whether one or more); or (ii) a Unit Construction Claim, as defined in Section 20.1.6 below. The foregoing sentence is expressly intended to remove from the power of the Association the right, under Section 82.102 of the Act, to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on behalf of two (2) or more Unit Owners on matters affecting the Regime. This Section 14.7 may not be amended or modified without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument.

## ARTICLE XV INSURANCE

**15.1 General Provisions.** The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors, or insurers that finance the purchase or improvement of Units. Because the insurance requirements of mortgage underwriters are subject to change, as are State-promulgated insurance regulations and policies, this Article tries to balance the need for certain minimum insurance requirements with the desire

to adapt to a periodically changing insurance environment. The Board will make every reasonable effort to comply with the requirements of this Article.

15.1.1 Unavailability. The Association, and its directors, officers, and managers, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at demonstrably unreasonable cost.

15.1.2 No Coverage. Even if the Association and the Owner have adequate amounts of recommended and required insurance coverage, the Property may experience a loss that is not covered by insurance. In such event, the Association is responsible for restoring the Common Elements as a Common Expense, and the Owner is responsible for restoring the Owner's Unit at such Owner's sole expense. This provision does not apply to the deductible portion of an insurance policy.

15.1.3 Requirements. The cost of insurance coverage and bonds maintained by the Association is a Common Expense. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. The Association's policies should contain the standard mortgage clause naming either the Mortgagee or its servicer followed by "its successors and assigns." The loss payee clause should show the Association as trustee for each Owner and Mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies will not be prejudiced by the act or omission of any Owner or Occupant who is not under the Association's control.

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

15.1.5 Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. The Board will give to Mortgagees at least ten (10) days prior notice of cancellation, termination, expiration, or material modification.

15.1.6 Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the

face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or an Underwriting Lender. In the event of an insured loss, the deductible is treated as a Common Expense of the Association in the same manner as the insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or Occupant or their invitee, then the Board may levy an Individual Assessment against the Owner and the Owner's Unit for the amount of the deductible that is attributable to the act or omission, provided the Owner is given notice and an opportunity to be heard in accordance with Section 14.1 of this Declaration.

**15.2 Property Insurance.** The Association will obtain property insurance in accordance with Section 82.111(a) of the Act. The insurance must be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. All hazard and flood insurance policies which include any Units must also have the standard mortgagee clause.

**15.2.1 Common Property Insured.** The Association will insure: (i) General Common Elements; (ii) Limited Common Elements; and (iii) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

**15.2.2 Units Insured by Association.** In addition to insuring the Common Elements against casualty loss, the Association will maintain property insurance on the Units as originally constructed. The Association may insure betterments and Improvements installed by current or previous Owners, but will have no obligation to insure such items. In insuring Units, the Association may be guided by types of policies customarily available for similar types of properties.

**15.2.3 Endorsements.** To the extent reasonably available, the Association will obtain endorsements to its property insurance policy if required by an Underwriting Lender.

**15.3 Liability Insurance.** The Association will maintain a commercial general liability insurance policy over the Common Elements – expressly excluding the liability of each Owner and Occupant within his or her Unit – for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements. The amount of coverage should be at least that required by an Underwriting Lender, to the extent reasonably available. The purpose of this requirement is, in part, to assure mortgage companies that the Association maintains at least minimum levels of insurance coverage. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

**15.4 Worker's Compensation.** The Association may maintain worker's compensation insurance if and to the extent necessary to meet the requirements of Applicable Law or if the Board so chooses.

**15.5 Fidelity Coverage.** The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, in the Association's custody while the policy is in force; or (ii) an amount equal to three (3) months of Regular Assessments on all Units. A management agent that handles Association funds should be covered by a separate fidelity insurance policy with the same coverages. If the Property has more than twenty (20) Units, the Association must maintain fidelity coverage to the extent reasonably available.

**15.6 Directors' and Officers' Liability.** The Association may maintain directors' and officers' liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

**15.7 Other Policies.** The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.

**15.8 Owner's Responsibility for Insurance.**

**15.8.1 Insurance by Owners.** The Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an Individual Assessment.

**15.8.2 HO-6 Policy.** Notwithstanding any provision in this Declaration to the contrary, if required by any Underwriting Lender, each Owner of a Unit will be required to procure insurance covering the interior of the Unit, including replacement of interior improvements and betterment coverage to insure improvements the Owner may make to the Unit, commonly referred to as HO-6 insurance.

**15.8.3 Owners' Responsibilities.** The Owner will give the Board written notification of any and all structural changes, additions, betterments, or Improvements to the Owner's Unit, and any other information the Board may require to maintain adequate levels of insurance coverage. Each Owner will comply with reasonable requests by the Board for periodic inspection of the Unit for purposes of insurance appraisal. Each

Owner, at such Owner's expense, will maintain any insurance coverages required by the Association pursuant to this Article.

15.8.4 Association Does Not Insure. The Association does not insure an Owner or Occupant's personal property. THE ASSOCIATION STRONGLY RECOMMENDS THAT EACH OWNER AND OCCUPANT PURCHASE AND MAINTAIN INSURANCE ON PERSONAL BELONGINGS.

## ARTICLE XVI RECONSTRUCTION OR REPAIR AFTER LOSS

16.1 Subject to Act. The Association's response to damage or destruction of the Property will be governed by Section 82.111(i) of the Act. The following provisions apply to the extent the Act is silent.

16.2 Restoration Funds. For purposes of this Article, "Restoration Funds" include insurance proceeds, condemnation awards, Deficiency Assessments, Individual Assessments, and other funds received on account of or arising out of injury or damage to the Property. All funds paid to the Association for purposes of repair or restoration will be deposited in a financial institution in which accounts are insured by a federal agency. Withdrawal of Restoration Funds requires the signatures of at least two (2) Association directors or that of an agent duly authorized by the Board.

16.2.1 Sufficient Proceeds. If Restoration Funds obtained from insurance proceeds or condemnation awards are sufficient to repair or restore the damaged or destroyed Property, the Association, as trustee for the Owners, will promptly apply the funds to the repair or restoration.

16.2.2 Insufficient Proceeds. If Restoration Funds are not sufficient to pay the estimated or actual costs of restoration as determined by the Board, the Board may levy a Deficiency Assessment against the Owners to fund the difference.

16.2.3 Surplus Funds. If the Association has a surplus of Restoration Funds after payment of all costs of repair and restoration, the surplus will be applied as follows: If Deficiency Assessments were a source of Restoration Funds, the surplus will be paid to Owners in proportion to their contributions resulting from the Deficiency Assessment levied against them; provided that no Owner may receive a sum greater than that actually contributed by him, and further provided that any Delinquent Assessments owed by the Owner to the Association will first be deducted from the surplus. Any surplus remaining after the disbursement described in the foregoing paragraph will be common funds of the Association to be used as directed by the Board in the Board's sole and absolute discretion.

### 16.3 Costs and Plans.

16.3.1 Cost Estimates. Promptly after the loss, the Board will obtain estimates of the cost of restoring the damaged Property. Costs may include premiums for bonds and fees for the services of professionals, as the Board deems necessary, to assist in estimating and supervising the repair.

16.3.2 Plans and Specifications. Unless otherwise approved by the Board, Common Elements will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Unless otherwise approved by the Board, Units will be repaired and restored substantially in accordance with original construction plans and specifications, unless the Association insures betterments and Improvements made by Owners, in which case the Units will be repaired and restored substantially as they existed immediately prior to the damage or destruction. Alternate plans and specifications for repair and restoration of either Common Elements or Units must be approved by the Board and by certain Mortgagees if so required by the Mortgagee Protection article of this Declaration.

### 16.4 Owner's Duty to Repair.

16.4.1 Uninsured Loss. Within sixty (60) days after the date of damage, the Owner will begin repair or reconstruction of any portion of his or her Unit not covered by the Association's blanket insurance policy, subject to the right of the Association to supervise, approve, or disapprove repair or restoration during the course thereof.

16.4.2 Insured Loss. If the loss to a Unit is covered by the Association's insurance policy, the Owner will begin repair or restoration of damage on receipt of the insurance proceeds or any portion thereof from the Association, subject to the rights of the Association to conduct, supervise, approve, or disapprove the repair or restoration during the course thereof.

16.4.3 Failure to Repair. If an Owner fails to repair or restore damage as required by this Section, the Association may effect the necessary repairs and levy an Individual Assessment against the Owner and Unit for the cost thereof, after giving an Owner of the Unit reasonable notice of the Association's intent to do so.

16.5 Owner's Liability for Insurance Deductible. If repair or restoration of Common Elements or Units is required as a result of an insured loss, the Board may levy an Individual Assessment, in the amount of the insurance deductible, against the Owner or Owners who would be responsible for the cost of the repair or reconstruction in the absence of insurance.

**ARTICLE XVII  
TERMINATION AND CONDEMNATION**

**17.1 Association as Trustee.** Each Owner hereby irrevocably appoints the Association, acting through the Board, as trustee to deal with the Property in the event of damage, destruction, obsolescence, condemnation, or termination of all or any part of the Property. As trustee, the Association will have full and complete authority, right, and power to do all things reasonable and necessary to effect the provisions of this Declaration and the Act, including, without limitation, the right to receive, administer, and distribute funds, awards, and insurance proceeds; to effect the sale of the Property as permitted by this Declaration or by the Act; and to make, execute, and deliver any contract, deed, or other instrument with respect to the interest of an Owner.

**17.2 Termination.** Termination of the terms of this Declaration and the Regime will be governed by Section 82.068 of the Act and *Section 18.4* below.

**17.3 Condemnation.** The Association's response to condemnation of any part of the Property will be governed by Section 82.007 of the Act. On behalf of Owners, but without their consent, the Board may execute and Record an amendment of this Declaration to reallocate the Common Interest Allocations following condemnation and to describe the altered parameters of the Property. If the Association replaces or restores Common Elements taken by condemnation by obtaining other land or constructing additional Improvements, the Board may, to the extent permitted by Applicable Law, execute and Record an amendment without the prior consent of Owners to describe the altered parameters of the Property and any corresponding change of facilities or Improvements.

**ARTICLE XVIII  
MORTGAGEE PROTECTION**

**18.1 Introduction.** This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article controls. A provision of the Documents requiring the approval of a specified percentage of Mortgagees will be based on the number of Units subject to mortgages held by Mortgagees. For example, "51 percent of Mortgagees" means Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Mortgagees.

**18.2 Notice of Mortgagee.** As provided in this *Article 18*, the Association is required to provide each Mortgagee with written notice upon the occurrence of certain actions as described in *Section 18.8*, or to obtain the approval of Mortgagees in the event of certain amendments to this Declaration as described in *Section 18.9* or the termination of this Declaration as described in *Section 18.4*. To enable the Association to provide the notices and obtain such approval, each Owner must provide to the Association the complete name and address of such Owner's Mortgagee, including the loan number and such additional information concerning the Owner's

Mortgagee as the Association may reasonably require. In the event an Owner fails to provide the Association with the information required by this *Section 18.2* after the expiration of thirty (30) days after the Association's written request, the Owner's failure to provide such information will be considered a violation of the terms and provisions of this Declaration.

**18.3 Amendment.** This Article establishes certain standards for the benefit of Underwriting Lenders, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the Board, without approval of Owners or Mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender.

**18.4 Termination.** Termination of the terms of this Declaration and the condominium status of the Regime will be governed by Section 82.068 of the Act, subject to the following provisions. In the event of condemnation of the entire Regime, an amendment to terminate may be executed by the Board without a vote of Owners or Mortgagees. Any election to terminate this Declaration and the condominium status of the Regime under circumstances other than condemnation of the entire Regime shall require the consent of: (i) Owners representing at least eighty percent (80%) of the total votes in the Association; (ii) Declarant during the Development Period; and (iii) sixty-seven percent (67%) of Mortgagees.

**18.5 Implied Approval.** The approval of a Mortgagee is implied when the Mortgagee fails to respond within sixty (60) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

**18.6 Other Mortgagee Rights.**

**18.6.1 Inspection of Books.** The Association will maintain current copies of the Documents and the Association's books, records, and financial statements. Mortgagees may inspect the Documents and records, by appointment, during normal business hours.

**18.6.2 Financial Statements.** A Mortgagee may have an audited statement prepared at its own expense.

**18.6.3 Attendance at Meetings.** A representative of a Mortgagee may attend and address any meeting which an Owner may attend.

**18.6.4 Right of First Refusal.** The Association does not have a right of first refusal and may not compel a selling Owner to convey the Owner's Unit to the Association. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

18.6.5 **Management Contract.** If professional management of the Association is required by this Article, the contract for professional management may not require more than ninety (90) days' notice to terminate the contract, nor payment of a termination penalty.

18.6.6 **Audit.** A majority of Mortgagees shall be entitled to demand an audit of the Association's financial records.

18.7 **Insurance Policies.** If an Underwriting Lender that holds a mortgage on a Unit or desires to finance a Unit has requirements for insurance of condominiums, the Association must try to obtain and maintain the required coverage, to the extent reasonably available, and must try to comply with any notifications or processes required by the Underwriting Lender. Because underwriting requirements are subject to change, they are not recited here.

18.8 **Notice of Actions.** The Association will send timely written notice to Mortgagees of the following actions:

- (i) Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit and any eminent domain proceeding affecting the General Common Elements which would result in a loss of more than ten percent (10%) of the estimated operational and reserve expenses as reflected on the then-current annual budget of the Association.
- (ii) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of the mortgaged Unit.
- (iii) A lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- (iv) Any proposed action that requires the consent of a specified percentage of Mortgagees.
- (v) Any proposed amendment of a material nature, as provided in this Article.
- (vi) Any proposed termination of the condominium status of the property or dissolution of the Association at least thirty (30) days prior to the proposed termination or dissolution, as applicable.

18.9 **Material Amendments.** Except as provided herein, Material Amendments (as defined below) to the Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association, and by at least fifty-one percent (51%) of Mortgagees. **THIS APPROVAL REQUIREMENT DOES NOT APPLY TO AMENDMENTS**

**FILED BY THE DECLARANT AS PERMITTED IN APPENDIX "A" ATTACHED HERETO.** A change to any of the provisions governing the following would be considered material, including, adding, deleting or modifying any of the provisions regarding the following (hereafter a "Material Amendment"):

- (i) Voting rights.
- (ii) Any method of imposing or determining any charges to be levied against individual Unit Owners.
- (iii) Assessment liens or the priority of Assessment liens.
- (iv) Reserves for maintenance, repair, and replacement of Common Elements.
- (v) Responsibility or obligations for maintenance.
- (vi) Reallocation of rights to use the General Common Elements or Limited Common Elements; except that when Limited Common Elements are reallocated by Declarant pursuant to any rights reserved by Declarant pursuant to Appendix "A", or by agreement between Owners (only those Owners and only the Mortgagees holding mortgages against those Units need approve the action).
- (vii) Addition, annexation, or withdrawal of land to or from the Property.
- (viii) Reduction of insurance requirements.
- (ix) Restrictions affecting leasing or sale of a Unit.
- (x) Restoration or repair of the Property, in a manner other than that specified in the Declaration, after any damage or partial condemnation.
- (xi) Any provision that expressly benefits mortgagees.
- (xii) Imposition of a new scheme of regulation or enforcement of exterior maintenance standards, architectural design or exterior appearance of Units other than those specified in the Declaration.

The Association will send written notice for meetings to approve a Material Amendment or an Extraordinary Action (as defined below) at least twenty-five (25) days in advance to all Members. The notice must state the purpose of the meeting and contain a summary of any Material Amendments or Extraordinary Actions.

**ARTICLE XIX  
AMENDMENTS**

**19.1 Consents Required.** As permitted by the Act or by this Declaration, certain amendments to this Declaration may be executed by Declarant acting alone, or by certain Owners acting alone, or by the Board acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits Declarant; (ii) rights, privileges, easements, protections, or defenses of Declarant; or (iii) rights of the Owners or the Association in relationship to Declarant, without the written consent of Declarant attached to and Recorded with such amendment. Notice of any amendment to the Declaration which must be approved by Owners, including but not limited to the amendment requirement attributable to *Article 20* as set forth in *Section 20.1*, shall be delivered to each Member in accordance with the Bylaws. All Material Amendments made to the Declaration, Bylaws or Certificate and all Extraordinary Actions taken during the Declarant Control Period must be approved by the Secretary of Veterans Affairs or its authorized agent prior to recording such document in the Official Public Records of Williamson County, Texas if Veterans Affairs has guaranteed any loans secured by Units in the Regime. In the event the Regime is submitted and approved by the Secretary of Veterans Affairs, all amendments made to the Declaration, Bylaws or Certificate during the Development Period must be approved by the Secretary of Veterans Affairs or its authorized agent prior to Recording, except for amendments adding additional Units to the Regime pursuant to *Section 5.1* of the Declaration.

In addition, a change to any provision in the Declaration governing the following items (each an "Extraordinary Action") must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association:

- (i) Merging or consolidating the Association (other than with another nonprofit entity formed for purposes similar to the Association).
- (ii) Determining not to require professional management if that management is required by the Declaration or the Association.
- (iii) The addition of land to the Declaration, not previously described as additional land, which would increase the overall land area of the project by more than ten percent (10%).
- (iv) Abandoning, partitioning, encumbering, mortgaging, conveying selling or otherwise transferring or relocating the boundaries of Common Elements with the exception of: (a) granting easements over and across the Common Elements otherwise permitted by this Declaration or the Act; (b) dedicating all or any portion of a

Common Element to the extent required by any governing authority or regulatory authority; (c) adjustments to the boundary line of Common Elements if made in accordance with the provisions of this Declaration; or (d) transferring Common Elements pursuant to a merger or consolidation with another entity.

- (v) Using insurance proceeds for purposes other than construction or repair of the insured improvements.
- (vi) Any capital expenditure, other than for the maintenance, operation, repair or replacement of any than existing Improvement, if the capital expenditure exceeds more than twenty percent (20%) of the annual operating budget during any period of twelve (12) consecutive months.

**19.2 Amendments Generally.** For amendments requiring the consent of Mortgagees, the Association will send each Mortgagee a detailed description, if not the exact wording, of any proposed amendment. Notwithstanding any provisions in this Declaration to the contrary, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) provision of this Declaration that benefits the Declarant; (ii) rights, privileges, easements, protections, or defenses of the Declarant; or (iii) rights of the Owners or the Association in relationship to the Declarant, without the written consent of the Declarant attached to and Recorded with such amendment. In addition, no amendment to this Declaration shall modify, alter, abridge or delete any: (i) permissible use of a Unit absent the consent of the Owner(s) of the Unit affected by the change in permissible use; or (ii) any license, easement or other contractual rights contained in this Declaration, including, without limitation, any easement, right and license benefiting or in favor of the Declarant.

**19.3 Effective.** To be effective, an amendment must be in the form of a written instrument: (i) referencing the name of the Regime, the name of the Association, and the Recording data of this Declaration and any amendments hereto; (ii) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Mortgagees; provided, however, this Section will not apply for amendments prosecuted by Declarant pursuant to any rights reserved by Declarant under this Declaration; and (iii) Recorded.

**19.4 Declarant Rights.** Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Appendix "A". An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. No amendment may affect Declarant's rights under this Declaration or the Act without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument. Because Appendix "A" of this Declaration is destined to become obsolete, beginning seven (7) years after the date this Declaration is first Recorded, the Board may

restate, rerecord, or publish this Declaration without Appendix "A". The automatic expiration and subsequent deletion of Appendix "A" does not constitute an amendment of this Declaration. This Section may not be amended without Declarant's written and acknowledged consent.

## ARTICLE XX DISPUTE RESOLUTION

*This Article 20 is intended to encourage the resolution of disputes involving the Property. A dispute regarding the Units, Common Elements, and/or Improvements can create significant financial exposure for the Association and its Members, interfere with the resale and refinancing of Units, prevent or jeopardize approval of the Units by Underwriting Lenders, and increase strife and tension among the Owners, the Board and the Association's management. Since disputes may have a direct effect on each Owner's use and enjoyment of their Unit and the Common Elements, this Article 20 requires Owner transparency and participation in certain circumstances. Transparency means that the Owners are informed in advance about a dispute, the proposed arrangement between the Association and a law firm or attorney who will represent the Association in the dispute, the proposed arrangement between the Association and any inspection company who will prepare the Common Element Report (as defined below) or perform any other investigation or inspection of the Common Elements and/or Improvements related to the dispute, and that each Owner will have an opportunity to participate in the decision-making process prior to initiating the dispute resolution process.*

*For the avoidance of doubt, nothing in this Article 20 is intended to limit the Association's right or obligation to obtain inspection services related to the maintenance, repair and physical condition of the Regime pursuant to Section 9.5 of this Declaration provided that such inspection services are not commissioned by the Association in conjunction with a Unit Construction Claim or a Common Element Construction Claim.*

**20.1 Introduction and Definitions.** The Association, the Owners, Declarant, all Persons subject to this Declaration, and each person not otherwise subject to this Declaration who agrees to submit to this Article 20 by written instrument delivered to the Claimant, as defined hereinbelow, which may include, but is not limited to, a general contractor, sub-contractor, design professional, or other person who participated in the design or construction of Units, Common Elements or any Improvement within, serving, or forming a part of the Regime (individually a "Party" and collectively, the "Parties"), agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article 20 applies to all Claims as hereafter defined. This Article 20 may only be amended with the prior written approval of the Declarant, the Association (acting through a Majority of the Board), and Owners holding one hundred percent (100%) of the votes in the Association. As used in this Article 20 only, the following words, when capitalized, have the following specified meanings:

20.1.1 "Claim" means:

(i) Claims relating to the rights and/or duties of Declarant or the Association under the Documents or the Act;

(ii) Claims relating to the acts or omissions of the Declarant or the Board during its control and administration of the Association and/or Regime, any claim asserted against the Architectural Reviewer, and any claims asserted against the Declarant, the Board or a Person serving as a Board member or officer of the Association, or the Architectural Reviewer;

(iii) Claims relating to the design or construction of the Units, Common Elements or any Improvement located within, serving, or forming a part of the Regime; and

(iv) Claims relating to any repair or alteration of the Units, Common Elements, or any Improvement located within, serving, or forming a part of the Regime, including any Claims related to an alleged failure to perform repairs or for a breach of warranty.

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

20.1.3 "Common Element Construction Claim" means a Claim relating to: (i) the design or construction of the Common Elements or any Improvement located thereon; or (ii) any repair or alteration of the Common Elements, or any Improvement located thereon, including any Claims related to an alleged failure to perform repairs or for a breach of warranty.

20.1.4 "Construction Claim" means a Claim defined in Section 20.1.1(iii) or Section 20.1.1(iv).

20.1.5 "Respondent" means any Party against which a Claim has been asserted by a Claimant.

20.1.6 "Unit Construction Claim" means a Claim relating to: (i) the design or construction of a Unit (whether one or more) or any Improvement located thereon; or (ii) any repair or alteration of a Unit (whether one or more), or any Improvement located thereon, including any Claims related to an alleged failure to perform repairs or for a breach of warranty.

**20.2 Mandatory Procedures: All Claims.** Claimant may not initiate any proceeding before any judge, jury, arbitrator or any other judicial or administrative tribunal seeking redress of resolution of its Claim until Claimant has complied with the mandatory procedures of this Article 20. As provided in Section 20.9 below, a Claim must be resolved by binding arbitration.

**20.3 Mandatory Procedures: Construction Claims.** Failure of a Claimant to comply with the procedures of this *Article 20* for a Construction Claim may result in significant expenses incurred by the Respondent to respond to a Construction Claim that would not have been otherwise incurred had the Claimant followed the procedures and dispute resolution process set forth herein, including attorney fees, court costs and other administrative expenses (the “**Response Costs**”). Notwithstanding any provision contained herein to the contrary, failure by a Claimant to comply with any of the procedural or dispute resolution requirements for a Construction Claim set forth in this *Article 20* shall constitute a material breach of this Declaration and any warranty agreement, entitling the Respondent to recover, from the Claimant, all actual and reasonable Response Costs incurred by Respondent. Moreover, strict compliance with the procedural and dispute resolution requirements of this *Article 20* shall be a condition precedent to any recovery for a Construction Claim.

**20.4 Common Element Construction Claim by the Association.** In accordance with *Section 14.7* of this Declaration, the Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation, arbitration or other proceedings for: (i) a Construction Claim in the name of or on behalf of any Unit Owner (whether one or more); or (ii) a Unit Construction Claim. Additionally, no Unit Owner shall have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. Each Unit Owner, by accepting an interest in or title to a Unit, hereby grants to the Association the exclusive right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. In the event the Association asserts a Common Element Construction Claim, as a precondition to providing the Notice defined in *Section 20.6*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Common Element Construction Claim, the Association must:

**20.4.1 Obtain Owner Approval of Law Firm, Attorney and Inspection Company.**

*The requirements related to Owner approval set forth in this Section 20.4.1 are intended to ensure that the Association and the Owners approve and are fully informed of the financial arrangements between the Association and a law firm and/or attorney engaged by the Association to prosecute a Common Element Construction Claim, and any financial arrangements between the Association and the Inspection Company (defined below) or a law firm and/or attorney and the Inspection Company. The agreement between the Association, the law firm or attorney, and/or the Inspection Company may include requirements that the Association pay costs, fees, and expenses to the law firm, attorney or the Inspection Company which will be paid through Assessments levied against Owners. The financial agreement between the Association, the law firm or attorney, and/or the Inspection Company may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Association, the law firm or attorney, and/or the Inspection Company is terminated, the Association elects not to engage the law firm or attorney or*

*Inspection Company to prosecute or assist with the Common Element Construction Claim, or if the Association agrees to settle the Common Element Construction Claim. In addition, the financial arrangement between the Association, the law firm or attorney, and/or the Inspection Company may include additional costs, expenses, and interest charges. These financial obligations can be significant. The Board may not engage or execute an agreement with a law firm or attorney to investigate or prosecute a Common Element Construction Claim, or engage or execute an agreement between the Association and a law firm or attorney, for the purpose of preparing a Common Element Report or performing any other investigation or inspection of the Common Elements related to a Common Element Construction Claim unless the law firm or attorney and the financial arrangements between the Association and the law firm or attorney are approved by the Owners in accordance with this Section 20.4.1. In addition, the Board may not execute an agreement with an Inspection Company to prepare the Common Element Report or perform any other investigation or inspection of the Common Elements related to a Common Element Construction Claim, unless the Inspection Company and the financial arrangements between the Association and the Inspection Company are approved by the Owners in accordance with this Section 20.4.1. For the purpose of the Owner approval required by this Section 20.4.1, an engagement, agreement or arrangement between a law firm or attorney and an Inspection Company, if such engagement, agreement or arrangement could result in any financial obligations to the Association, irrespective of whether the Association and law firm or attorney have entered into an engagement or other agreement to prosecute a Common Element Construction Claim, must also be approved by the Owners in accordance with this Section 20.4.1. An engagement or agreement described in this paragraph is referred to herein as a "Claim Agreement".*

Unless otherwise approved by Members holding sixty-seven percent (67%) of the votes in the Association, the Association, acting through its Board, shall in no event have the authority to enter into a Claim Agreement if the Claim Agreement includes any provision or requirement that would obligate the Association to pay any costs, expenses, fees, or other charges to the law firm or attorney and/or the Inspection Company, including but not limited to, costs, expenses, fees, or other charges payable by the Association: (i) if the Association terminates the Claim Agreement or engages another firm or third-party to assist with the Common Element Construction Claim; (ii) if the Association elects not to enter into a Claim Agreement; (iii) if the Association agrees to settle the Common Element Construction Claim for a cash payment or in exchange for repairs or remediation performed by the Respondent or any other third-party; (iv) if the Association agrees to pay interest on any costs or expenses incurred by the law firm or attorney or the Inspection Company; and/or (v) for consultants, expert witnesses, and/or general contractors hired by the law firm or attorney or the Inspection Company. For avoidance of doubt, it is intended that Members holding sixty-seven percent (67%) of the votes in the Association must approve the law firm and attorney who will prosecute a Common Element Construction Claim and the Inspection Company who will prepare the Common Element Report or perform any other investigation or inspection of the Common

Elements related to a Common Element Construction Claim, and each Claim Agreement. All Claim Agreements must be in writing. The Board shall not have the authority to pay any costs, expenses, fees, or other charges to a law firm, attorney or the Inspection Company unless the Claim Agreement is in writing and approved by the Owners in accordance with this Section 20.4.1.

The approval of the Members required under this *Section 20.4.1* must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of Member meeting will be provided pursuant to the Bylaws but the notice must also include: (a) the name of the law firm and attorney and/or the Inspection Company; (b) a copy of each Claim Agreement; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Association under any Claim Agreement; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Association under any Claim Agreement; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Association if the conditions for payment under the Claim Agreement occur, which estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the law firm, attorney and/or the Inspection Company will use to evaluate the Common Element Construction Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Building, Systems, Common Elements, Units, or Improvements). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Units or the Common Elements will be affected by such testing, and if the destructive testing occurs the means or method the Association will use to repair the Building, Systems, Common Elements, Units, or Improvements affected by such testing, the estimated costs thereof, and an estimate of Assessments that may be levied against the Owners for such repairs. The notice required by this paragraph must be prepared and signed by a person other than the law firm or attorney who is a party to the proposed Claim Agreement being approved by the Members. In the event Members holding sixty-seven percent (67%) of the votes in the Association approve the law firm and/or attorney who will prosecute the Common Element Construction Claim, and the Inspection Company who will prepare the Common Element Report or perform any other investigation or inspection of the Common Elements related to a Common Element Construction Claim, and the Claim Agreement(s), the Board shall have the authority to engage the law firm and/or attorney, and the Inspection Company, and enter into the Claim Agreement approved by the Members.

#### **20.4.2 Provide Notice of the Investigation or Inspection.**

As provided in *Section 20.4.3* below, a Common Element Report is required which is a written inspection report issued by the Inspection Company. Before conducting an investigation or inspection that is required to be memorialized by the Common Element Report, the Association must have provided at least ten (10) days prior written notice of

the date on which the investigation or inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common Element Report, the specific Common Elements to be investigated or inspected, and the date and time the investigation or inspection will occur. Each Respondent may attend the investigation or inspection, personally or through an agent.

#### 20.4.3 Obtain a Common Element Report.

*The requirements related to the Common Element Report set forth in this Section 20.4.3 are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Element Report and recommendations are not affected by influences that may compromise the professional judgment of the party preparing the Common Element Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Element Report is compromised.*

Obtain a written independent third-party report for the Common Elements (the "Common Element Report") from a professional engineer licensed by the Texas Board of Professional Engineers with an office located in Williamson County, Texas (the "Inspection Company"). The Common Element Report must include: (i) a description with photographs of the Common Elements subject to the Common Element Construction Claim; (ii) a description of the present physical condition of the Common Elements subject to the Common Element Construction Claim; (iii) a detailed description of any modifications, maintenance, or repairs to the Common Elements performed by the Association or a third-party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation and/or repair of the Common Elements subject to the Common Element Construction Claim. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Common Element Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Williamson County, Texas, and each such contractor providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Common Element Report must be obtained by the Association. The Common Element Report will not satisfy the requirements of this Section 20.4.3 and is not an "independent" report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Association or proposes to represent the Association; (b) the costs and expenses for preparation of the Common Element Report are not required to be

paid directly by the Association to the Inspection Company at the time the Common Element Report is finalized and delivered to the Association; or (c) the law firm or attorney that presently represents the Association or proposes to represent the Association has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Association's agreement with the law firm or attorney) the Association for the costs and expenses for preparation of the Common Element Report. For avoidance of doubt, an "independent" report means that the Association has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Association will directly pay for the report at the time the Common Element Report is finalized and delivered to the Association.

20.4.4 Provide a Copy of Common Element Report to all Respondents and Owners. Upon completion of the Common Element Report, and in any event no later than three (3) days after the Association has been provided a copy of the Common Element Report, the Association will provide a full and complete copy of the Common Element Report to each Respondent and to each Owner. The Association shall maintain a written record of each Respondent and Owner who was provided a copy of the Common Element Report which will include the date the report was provided. The Common Element Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

20.4.5 Provide a Right to Cure Defects and/or Deficiencies Noted on Common Element Report. Commencing on the date the Common Element Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Common Element Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Element Report; and (iii) correct any condition identified in the Common Element Report. As provided in *Section 3.11* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Element Report.

20.4.6 Hold Owner Meeting and Obtain Approval. In addition to obtaining approval from Members for the terms of any Claim Agreement, the Association must obtain approval from Members holding sixty-seven percent (67%) of the votes in the Association to provide the Notice described in *Section 20.6*, initiate the mandatory dispute resolution procedures set forth in this *Article 20*, or take any other action to prosecute a Common Element Construction Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Common Element Construction Claim, the relief sought, the

anticipated duration of prosecuting the Common Element Construction Claim, and the likelihood of success; (ii) a copy of the Common Element Report; (iii) a copy of any Claim Agreement between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the Common Element Construction Claim; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Association directly or for which the Association may be liable as a result of prosecuting the Common Element Construction Claim; (v) a summary of the steps previously taken by the Association to resolve the Common Element Construction Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Common Element Construction Claim may affect the market value, marketability, or refinancing of a Unit while the Common Element Construction Claim is prosecuted; and (vii) a description of the manner in which the Association proposes to fund the cost of prosecuting the Common Element Construction Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Association in the Common Element Construction Claim; (b) a member of the law firm of the attorney who represents or will represent the Association in the Common Element Construction Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Association in the Common Element Construction Claim. In the event Members approve providing the Notice described in *Section 20.6*, or taking any other action to prosecute a Common Element Construction Claim, the Members holding a Majority of the votes in the Association, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Common Element Construction Claim.

**20.5 Unit Construction Claim by Owners.** Class action proceedings are prohibited, and no Unit Owner shall be entitled to prosecute, participate, initiate, or join any litigation, arbitration or other proceedings as a class member or class representative in any such proceedings under this Declaration. In the event an Owner asserts a Unit Construction Claim, as a precondition to providing the Notice defined in *Section 20.6*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Unit Construction Claim, the Owner must.

**20.5.1 Provide Notice of the Investigation or Inspection.**

As provided in *Section 20.5.2* below, a Unit Report is required which is a written inspection report issued by the Inspection Company. Before conducting an investigation or inspection that is required to be memorialized by the Unit Report, the Owner must have provided at least ten (10) days prior written notice of the date on which the investigation or inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Unit Report, the Unit and areas of the Unit to be investigated or inspected, and the date and time the investigation or inspection will occur.

Each Respondent may attend the investigation or inspection, personally or through an agent.

#### 20.5.2 Obtain a Unit Report.

*The requirements related to the Unit Report set forth in this Section 20.5.2 are intended to provide assurance to the Claimant and Respondent that the substance and conclusions of the Unit Report and recommendations are not affected by influences that may compromise the professional judgment of the party preparing the Unit Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Unit Report is compromised.*

Obtain a written independent third-party report for the Unit (the "Unit Report") from an Inspection Company. The Unit Report must include: (i) a description with photographs of the Unit and portions of the Unit subject to the Unit Construction Claim; (ii) a description of the present physical condition of the Unit; (iii) a detailed description of any modifications, maintenance, or repairs to the Unit performed by the Owner or a third-party, including any Respondent; (iv) specific and detailed recommendations regarding remediation and/or repair of the Unit. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Unit Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Williamson County, Texas, and each such contractor providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Unit Report must be obtained by the Owner. The Unit Report will not satisfy the requirements of this Section 20.5.2 and is not an "independent" report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Owner or proposes to represent the Owner; (b) the costs and expenses for preparation of the Unit Report are not directly paid by the Owner to the Inspection Company no later than the date the Unit Report is finalized and delivered to the Owner; or (c) the law firm or attorney that presently represents the Owner or proposes to represent the Owner has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Owner's agreement with the law firm or attorney) the Owner for the costs and expenses for preparation of the Unit Report. For avoidance of doubt, an "independent" report means that the Owner has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the

preparation of engineering reports and that the Owner will directly pay for the report no later than the date the Unit Report is finalized and delivered to the Owner.

20.5.3 Provide a Copy of Unit Report to all Respondents. Upon completion of the Unit Report, and in any event no later than three (3) days after the Owner has been provided a copy of the Unit Report, the Owner will provide a full and complete copy of the Unit Report to each Respondent. The Owner shall maintain a written record of each Respondent who was provided a copy of the Unit Report which will include the date the report was provided. The Unit Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

20.5.4 Right to Cure Defects and/or Deficiencies Noted on Unit Report. Commencing on the date the Unit Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Unit Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Unit Report; and (iii) correct any condition identified in the Unit Report. As provided in *Section 3.11* above, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Unit Report.

20.5.5 Common Element Construction Claim. Pursuant to *Section 20.4* above, a Unit Owner does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim. In the event that a court of competent jurisdiction or arbitrator determines that a Unit Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim, such Unit Owner shall be required, since a Common Element Construction Claim could affect all Owners, as a precondition to providing the Notice defined in *Section 20.6*, initiating the mandatory dispute resolution procedures set forth in this *Article 20*, or taking any other action to prosecute a Common Element Construction Claim, to comply with the requirements imposed by the Association in accordance with *Section 20.4.2* (Provide Notice of Inspection), *Section 20.4.3* (Obtain a Common Element Report), *Section 20.4.4* (Provide a Copy of Common Element Report to all Respondents and Owners), *Section 20.4.5* (Provide Right to Cure Defects and/or Deficiencies Noted on Common Element Report), *Section 20.4.6* (Owner Meeting and Approval), and *Section 20.6* (Notice).

20.6 Notice. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (*i.e.*, the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants

Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this *Section 20.6*. For Construction Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 20.7* below, is equivalent to the sixty (60) day period under *Section 27.004* of the Texas Property Code. If a Construction Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 20.7*, to comply with the terms and provisions of *Section 27.004* during such sixty (60) day period. *Section 20.7* does not modify or extend the time period set forth in *Section 27.004* of the Texas Property Code. Failure to comply with the time periods or actions specified in *Section 27.004* could affect a Construction Claim. The one hundred and twenty (120) day period for mediation set forth in *Section 20.8* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 20.8* is required without regard to the monetary amount of the Claim.

If the Claimant is the Association and for a Common Element Construction Claim, the Notice will also include: (a) a true and correct copy of the Common Element Report, and any and all other reports, studies, analyses, and recommendations obtained by the Association related to the Common Elements; (b) a copy of any Claim Agreement; (c) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved the law firm and attorney and the written agreement between the Association and the law firm and/or attorney in accordance with *Section 20.4.1*; (d) a true and correct copy of the special meeting notice provided to Members in accordance with *Section 20.4.6* above; and (e) reasonable and credible evidence confirming that Members holding sixty-seven percent (67%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and the Claim is a Unit Construction Claim, the Notice will also include a true and correct copy of the Unit Report.

**20.7 Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for the purposes of inspecting the Property.

**20.8 Mediation.** If the parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Respondent will submit the Claim to mediation in

accordance with this *Section 20.8*. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with *Section 20.9*.

**20.9 Binding Arbitration - Claims.** All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 20.9*.

**20.9.1 Governing Rules.** If a Claim has not been resolved by mediation in accordance with *Section 20.8*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 20.9* and the American Arbitration Association (the "AAA") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "AAA Rules"). In the event of any inconsistency between the AAA Rules and this *Section 20.9*, this *Section 20.9* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows: (i) one (1) arbitrator shall be selected by the Respondent, in its sole and absolute discretion; (ii) one (1) arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and (iii) one (1) arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

**20.9.2 Exceptions to Arbitration; Preservation of Remedies.** No provision of, nor the exercise of any rights under, this *Section 20.9* will limit the right of Claimant or Respondent, and Claimant and Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party, to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

20.9.3 Statute of Limitations. All statutes of limitations that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 20.9*.

20.9.4 Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with the Applicable Law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 20.9* and subject to *Section 20.10*; **provided, however, attorney's fees and costs may not be awarded by the arbitrator to either Claimant or Respondent.** In addition, for a Construction Claim, or any portion of a Construction Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, **except that the arbitrator may not award attorney's fees and/or costs to either Claimant or Respondent.** In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on: (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of Applicable Law; or (iv) a cause of action or remedy not expressly provided under Applicable Law. **In no event may an arbitrator award speculative, special, exemplary, treble or punitive damages for any Claim.**

20.9.5 Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in Williamson County, Texas. Unless otherwise provided by this *Section 20.9*, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

20.10 Allocation of Costs. Notwithstanding any provision in this Declaration to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

**20.11 General Provisions.** A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

**20.12 Period of Limitation.**

**20.12.1 For Actions by an Owner or Occupant of a Unit.** The exclusive period of limitation for any of the Parties to bring any Claim shall be the earliest of: (i) for a Construction Claim, two (2) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Construction Claim; (ii) for Claims other than Construction Claims, four (4) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In the event that a court of competent jurisdiction determines that a Unit Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings for a Common Element Construction Claim, the exclusive period of limitation for such Common Element Construction Claim, shall be the earliest of: (a) two (2) years and one (1) day from the date that the Owner or the Association discovered or reasonably should have discovered evidence of the Common Element Construction Claim; or (b) the applicable statute of limitations for the Common Element Construction Claim. In no event shall this *Section 20.12.1* be interpreted to extend any period of limitations.

**20.12.2 For Actions by the Association.** The exclusive period of limitation for the Association to bring any Claim shall be the earliest of: (i) for a Common Element Construction Claim, two (2) years and one (1) day from the date that the Association or its manager, board members, officers, or agents discovered or reasonably should have discovered evidence of the Common Element Construction Claim; (ii) for Claims other than a Common Element Construction Claim, four (4) years and one (1) day from the date that the Association or its manager, board members, officers, or agents discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In no event shall this *Section 20.12.2* be interpreted to extend any period of limitations.

**20.13 Funding the Resolution of Claims.** The Association must levy a Special Assessment to fund estimated costs to resolve a Construction Claim pursuant to this *Article 20*. The Association may not use its annual operating income or reserve funds to fund the costs to resolve a Construction Claim unless the Association has previously established and funded a dispute resolution fund.

**ARTICLE XXI  
GENERAL PROVISIONS**

**21.1 Notices.** Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either by electronic mail, personally or by mail. Such notice shall be deemed delivered at the time of personal or electronic delivery, and if delivery is made by mail, it shall be deemed to have been delivered on the third 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.

**21.2 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 Regime and of promoting and effectuating the fundamental concepts of the Regime set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

**21.3 Duration.** Unless terminated or amended by Owners or the Declarant as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by Applicable Law.

**21.4 Captions.** In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

**21.5 Construction.** The provisions of this Declaration 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. 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. 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. Throughout this Declaration there appears text enclosed by a box. These boxed notices are used to aid in the reader's comprehension of certain provisions of this Declaration and are not to be construed as defining or modifying the text. In the event of a conflict between the text enclosed by a box and any provision of this Declaration, the provision of the Declaration will control.

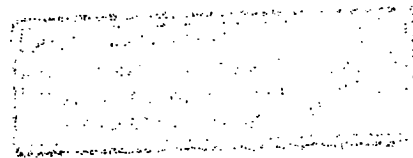
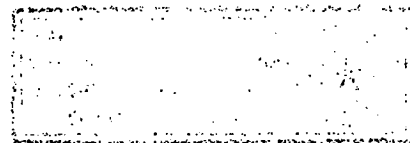
**21.6 Appendix/ Attachments.** The following appendixes, attachments and exhibits are attached to this Declaration and are incorporated herein by reference:

Exhibit "A"	Property
Exhibit "B"	Encumbrances

Attachment 1	Designation of Area of Common Responsibility and Maintenance Chart
Attachment 2	Plat and Plans
Attachment 3	Common Interest Allocations
Attachment 4	Guide to Association's Major Management and Governance Functions
Appendix "A"	Declarant Representations and Reservations

*[SIGNATURE PAGE FOLLOWS]*

Unofficial Document

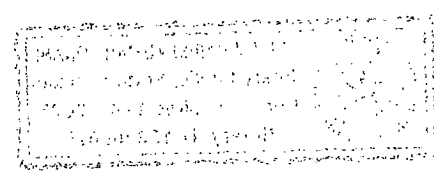
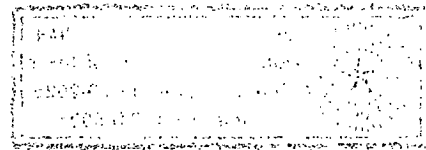




- Attachment 1 Designation of Area of Common Responsibility and Maintenance Chart
- Attachment 2 Plat and Plans
- Attachment 3 Common Interest Allocations
- Attachment 4 Guide to Association's Major Management and Governance Functions
- Appendix "A" Declarant Representations and Reservations

[SIGNATURE PAGE FOLLOWS]

Unofficial Document





**EXHIBIT "A"**

**PROPERTY**

Lot 1 Block A, Townhomes at Gattis, a subdivision in the City of Round Rock, Williamson County, Texas, according to the plat recorded as Document No. 2020025805, Official Public Records of Williamson County, Texas.

Unofficial Document

**EXHIBIT "A"**

**PROPERTY**

Lot 1 Block A, Townhomes at Gattis, a subdivision in the City of Round Rock, Williamson County, Texas, according to the plat recorded as Document No. 2020025805, Official Public Records of Williamson County, Texas.

Unofficial Document

EXHIBIT "A" – PROPERTY DESCRIPTION – Page 1

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

**EXHIBIT "B"****ENCUMBRANCES**

1. Restrictive covenants recorded in/under Document No. 2020025805, Official Public Records of Williamson County, Texas.
2. Variable Width Right of Way as shown on plat recorded in/under Document Number 2020025805 of the Official Public Records, Williamson County, Texas.
3. Any and all easements, building lines, restrictions, covenants or conditions as shown on the plat recorded in Document Number 2020025805, of the Official Public Records of Williamson County, Texas.
4. Storm Sewer Easement, as shown on recorded Plat in/under Document Number 2020025805 of the Official Public Records, Williamson County, Texas.
5. Drainage and Storm Sewer Easement as shown on the plat recorded in Document Number 2020025805, of the Official Public Records of Williamson County, Texas.
6. Easement granted to Texas Power & Light Company and Southwestern Bell Telephone Company as recorded in Volume 642, Page 526, of the Deed Records of Travis County, Texas.
7. Easement and Right of Way granted to Texas Power & Light Company as recorded in Volume 736, Page 19, of the Deed Records of Travis County, Texas.
8. Roadway Deed to the City of Round Rock, Texas, as described in Volume 2004, Page 49, of the Official Records of Williamson County, Texas.
9. Easement, Right of Way and/or Agreement granted to Oncor Electric Delivery Company, LLC, by instrument recorded in/under Document Number 2021168311 of the Official Public Records, Williamson County, Texas.
10. Public utility and sidewalk easement abutting and along the street side property line, as endorsed on Plat in/under Document Number 2020025805 of the Official Public Records of Williamson County, Texas.
11. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records.

**ATTACHMENT 1****Area of Common Responsibility and Maintenance Chart**

"All aspects" includes maintenance, repair, and replacement, as needed.

<b>COMPONENT OF PROPERTY</b>	<b>ASSOCIATION RESPONSIBILITY</b>	<b>OWNER RESPONSIBILITY</b>
Fences, screening walls, and retaining walls around perimeter of property installed by Declarant or the Association.	All aspects	None.
Exterior lighting not appurtenant to Unit.	All aspects.	None.
Sidewalks.	All aspects.	None.
Exterior street addresses or Unit numbers.	None.	All aspects.
Cluster mailboxes	All aspects.	None.
Landscape Services in Yard Area.	(a) mowing and edging once per week May through September and as-needed October through April; (b) removing all organic debris from turf areas and flower beds; (c) removing small dead branches and trimming bushes up to a max height of 6'; (d) applying fertilizer weed killer to the turf area at least once per year; (e) controlling weeds as required to maintain a reasonably manicured appearance; and (f) controlling fire ants in the turf areas	All other aspects.

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
Irrigation Maintenance Services – unfenced Yard Area.	(a) repair or replacement of broken, damaged or clogged sprinkler heads; (b) repair or replacement of cut surface mounted drip tubes or broken pipes below ground; (c) repair or replacement of master and zone level control valves; (d) repair or replacement of system controllers; and (e) repair or replacement of cut/damaged control wires.	All other aspects, including irrigation of fenced Yard Area.
Landscaping and Irrigation – Common Elements.	All aspects.	None.
Roofs and roof facilities.	Replacement of the roof when the Board determines, in its sole and absolute discretion, that the roof needs to be replaced in its entirety. The Association will have no obligation to replace shingles, flashing, or other roof components unless associated with roof replacement as determined by the Board in its sole and absolute discretion.	All other aspects. Any maintenance or replacement of the roof by an Owner must be approved in advance by the Board.
Exterior painting.	Exterior painting as determined necessary or required by the Board. Such exterior painting may be limited to re-painting on single occurrences when the Board determines the exterior paint needs to be replaced due to the useful life of the painted surfaces, as determined by the Board in its sole and absolute	Periodic touch-ups and maintenance of the exterior paint. Touch-ups or maintenance of exterior painting performed by the Owner must be approved in advance by the Board.

COMPONENT OF PROPERTY	ASSOCIATION RESPONSIBILITY	OWNER RESPONSIBILITY
	discretion. The Association will have no obligation to provide periodic touch-ups or maintenance of the exterior paint.	
Exterior Unit components, including glass and appurtenant hardware.	None.	All aspects.
Windows, doors, garage doors.	None.	All aspects.
Unit Foundation.	None.	All aspects.
Unit interior, including improvements, fixtures, partition walls and floors within Unit.	None.	All aspects.
Sheetrock within Unit & treatments on walls.	None.	All aspects.
Water, wastewater, electrical lines & systems (including irrigation).	All aspects of common lines & systems serving more than 1 Unit, none for those serving an individual Unit.	All aspects of lines, pipes, fixtures, and appliances serving only that Owner's Unit.
HVAC System.	None.	All aspects.
Intrusion alarms smoke/heat detectors, monitoring equipment.	None.	All aspects.
Driveways.	None.	All aspects.

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

NOTE 2: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner. The cost associated with such maintenance, repair or replacement will be at the Owner's expense, which will be levied as an Individual Assessment against the Owner and the Owner's Unit.

NOTE 3: Set forth above is a summary of the maintenance obligations imposed upon the Association and the Owners generally as described more fully in this Declaration. Please note that the information set forth in this Attachment 1 is a summary only and is not intended to modify any of the provisions of this Declaration. Accordingly, in the event of a conflict between the summary set forth in this Attachment 1 and any provision set forth in the Declaration above, the provision set forth in the Declaration above will control.

**ATTACHMENT 2****CONDOMINIUM PLAT AND PLANS**

The plat and plans, attached hereto as Attachment 2 contains the information required by the Texas Uniform Condominium Act.

Printed Name: Jewel Chadd  
RPLS or License No. 5754

**BOUNDARIES OF UNIT**

The legal boundaries of each Unit are established by the Declarant and the plat and plans attached hereto. However, each Owner acknowledges that the Unit may be measured and depicted in a manner which differs from the legal boundaries of a Unit. For example, the Unit may be measured or depicted differently for tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. No single measurement is definitive for all purposes. Measurements may be of the area under roof, or the air conditioned space, or the area within the Unit's legal boundaries. The Unit's partition wall cavities and/or its perimeter wall cavities may or may not be included. The Unit's garage area, attic area, and/or patio space may or may not be included.

*SEE SHEET 1 FOR ORIGINAL CERTIFICATION*

Attachment 2

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

**LEGEND OF ABBREVIATIONS**

- P.R.W.C.T. Plat Records of Williamson County, Texas
- O.P.R.W.C.T. Official Public Records of Williamson County, Texas
- D.R.W.C.T. Deed Records of Williamson County, Texas
- INST.# Instrument Number
- Vol./Pg. Volume/Page
- ESMT Easement
- SQFT Square Feet
- \*GCE General Common Elements subject to Development Rights

**SHEET INDEX:**

1. Cover page / Condominium notes
2. General notes / Line Table
3. Overall Boundary
4. Regime

**SURVEYOR'S NOTES:**

1. Bearings are based on Grid North, Texas Coordinate System of 1983, Central Zone.
2. Existing improvements are not shown.

**LEGAL DESCRIPTION:**

Being all of Lot 1, Block A, TOWNHOMES AT GATTIS, an addition in the City of Round Rock, Williamson County, Texas, according to the plat recorded under Instrument Number 2020025805, Plat Records, Williamson County, Texas.

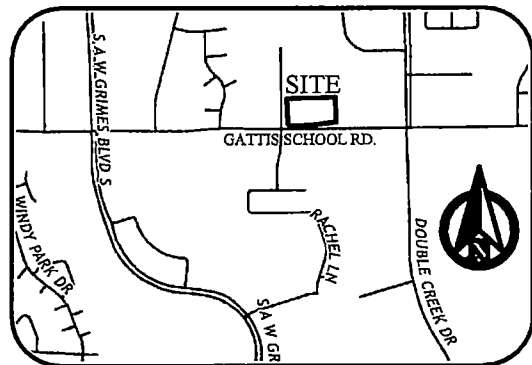
This plat contains the information required by Section 82.059 of the Texas Uniform Condominium Act.

Jewel Chadd  
 Registered Professional  
 Land Surveyor No. 5754  
 jewel@jphls.com  
 February 2, 2022



**VICINITY MAP**

NOT TO SCALE



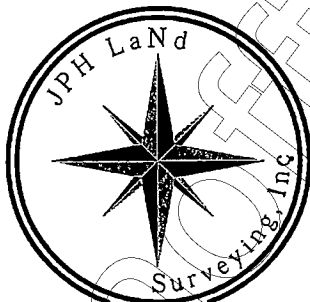
**CONDOMINIUM PLAT FOR  
 TOWNHOMES AT GATTIS  
 CONDOMINIUMS**

BEING ALL OF  
**LOT 1, BLOCK 2**  
**TOWNHOMES AT GATTIS**  
 CITY OF ROUND ROCK  
 WILLIAMSON COUNTY, TEXAS

JPH Job No.  
 2018.200.028 2306 Gattis School Rd, Round Rock,  
 Williamson Co., TX - Condo Plat.dwg  
 © 2020 JPH Land Surveying, Inc. - All Rights Reserved  
 785 Lonesome Dove Trail, Hurst, Texas 76054  
 Telephone (817) 431-4971 www.jphlandsurveying.com  
 TBPLS Firm #10019500 #10194073 #10193867  
 DFW | Austin | Abilene

**GENERAL NOTES:**

1. Terms used, but not defined herein shall have the meaning subscribed to such terms in that certain Declaration of Condominium Regime for Townhomes at Gattis Condominiums (the "Declaration").
2. All improvements and land reflected on the plat are designated as General Common Elements subject to Development Rights, save and except portions of the regime designated as Limited Common Elements or Units: (i) in the Declaration; or (ii) on the Plat and Plans.
3. Units are subject to the rights and restrictions contained in the Declaration.
4. Each Unit, Building, Limited Common Element and General Common Element are Subject to Development Rights and other rights reserved by the Declarant in the Declaration. Pursuant to such provisions, among other things, Declarant has reserved the right to (i) complete or make improvements indicated on the Plat and Plans; (ii) exercise any development right permitted by the Act and the Declaration, including the right(s) to: (a) add real property to the Regime and Declaration; (b) create Units, General Common Elements, and Limited Common Elements; (c) subdivide Units or convert Units into General Common Elements and Limited Common Elements; and (d) to withdraw Property from the Declaration; (iii) make the Property part of a larger condominium or planned community; (iv) use Units owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and the sale and leasing of Units; (v) use easements through the Common Elements for the purpose of making improvements within the Regime; and (vi) appoint or remove any Declarant-appointed officer or director of the Association during the Declarant Control Period (as defined in the Declaration). For purposes of promoting, identifying, and marketing the property, Declarant has reserved an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners. Declarant has also reserved an easement and right to maintain, relocate, replace, or remove the items listed in the foregoing sentence from time to time. Declarant has reserved an easement and right of ingress and egress in and through the Common Elements (as defined in the Declaration) and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the property, and for discharging Declarant's obligations under the Act and the Declaration.
5. The upper and lower boundaries of each Unit are as described in the Declaration.



JPH Job No.

2018.200.028 2306 Gattis School Rd, Round Rock,  
Williamson Co., TX - Condo Plat.dwg

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785 Lonesome Dove Trail, Hurst, Texas 76054

Telephone (817) 431-4971 www.jphlandsurveying.com

TBPLS Firm #10019500 #10194073 #10193867

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## CONDOMINIUM PLAT FOR TOWNHOMES AT GATTIS CONDOMINIUMS

BEING ALL OF

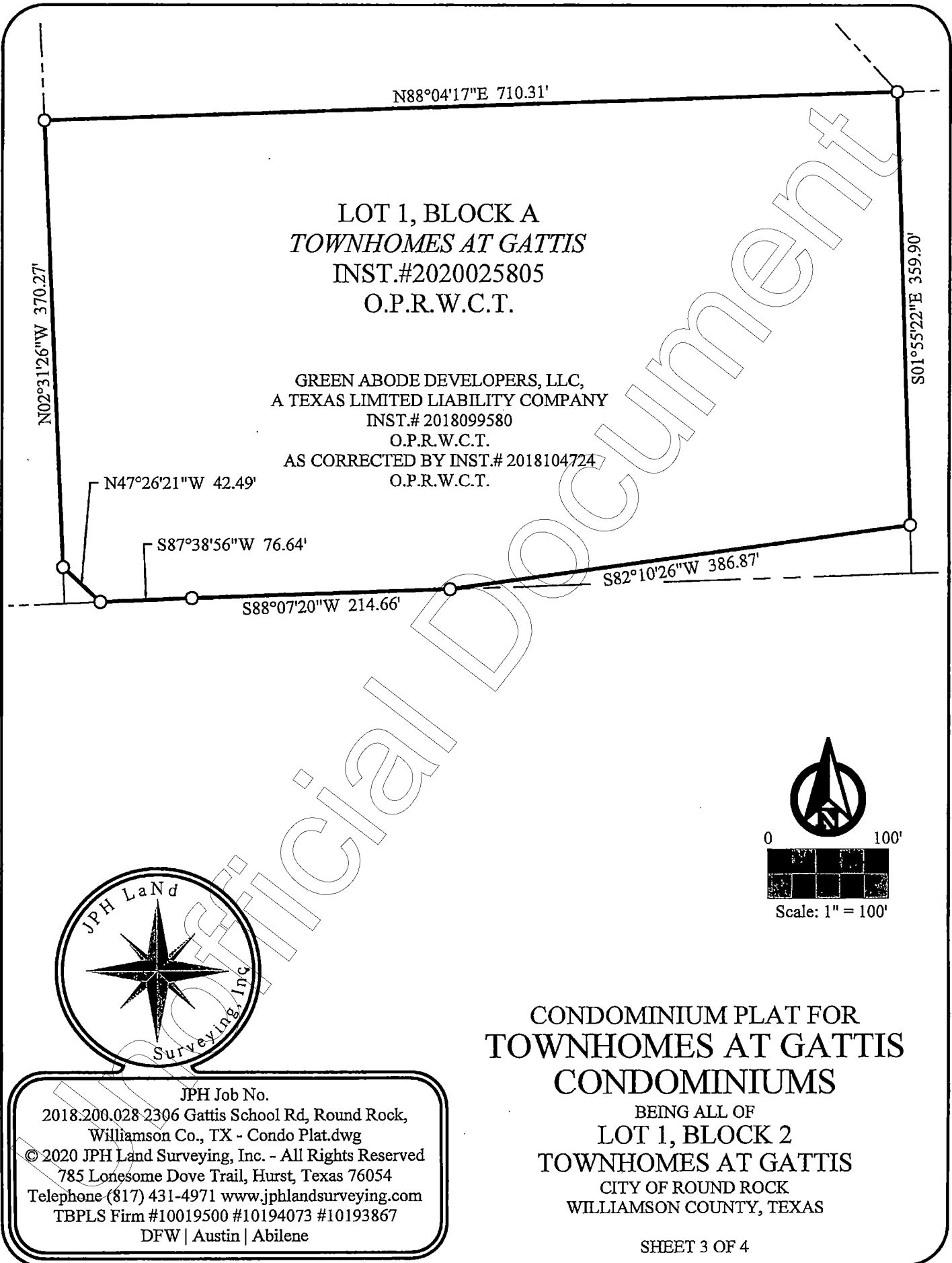
LOT 1, BLOCK 2

TOWNHOMES AT GATTIS

CITY OF ROUND ROCK

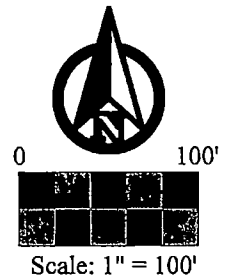
WILLIAMSON COUNTY, TEXAS

SHEET 2 OF 4



LOT 1, BLOCK A  
 TOWNHOMES AT GATTIS  
 INST.#2020025805  
 O.P.R.W.C.T.

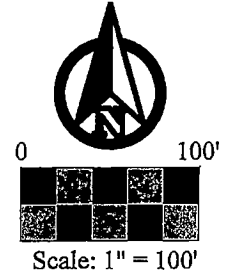
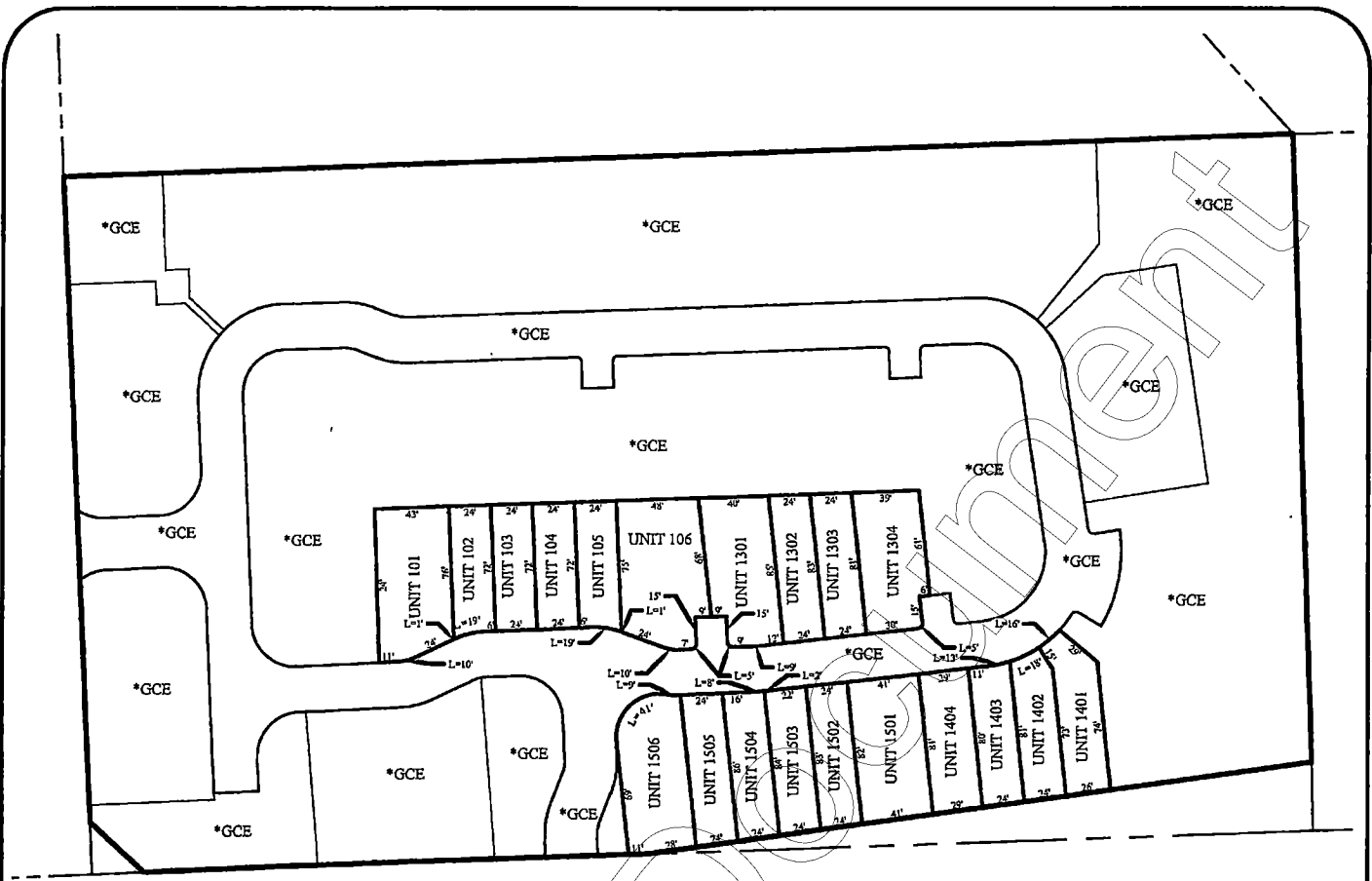
GREEN ABODE DEVELOPERS, LLC,  
 A TEXAS LIMITED LIABILITY COMPANY  
 INST.# 2018099580  
 O.P.R.W.C.T.  
 AS CORRECTED BY INST.# 2018104724  
 O.P.R.W.C.T.



JPH Job No.  
 2018.200.028-2306 Gattis School Rd, Round Rock,  
 Williamson Co., TX - Condo Plat.dwg  
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 785 Lonesome Dove Trail, Hurst, Texas 76054  
 Telephone (817) 431-4971 www.jphlandsurveying.com  
 TBPLS Firm #10019500 #10194073 #10193867  
 DFW | Austin | Abilene

CONDOMINIUM PLAT FOR  
 TOWNHOMES AT GATTIS  
 CONDOMINIUMS

BEING ALL OF  
 LOT 1, BLOCK 2  
 TOWNHOMES AT GATTIS  
 CITY OF ROUND ROCK  
 WILLIAMSON COUNTY, TEXAS



JPH Job No.  
 2018.200.028 2306 Gattis School Rd, Round Rock,  
 Williamson Co., TX - Condo Plat.dwg  
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**CONDOMINIUM PLAT FOR  
 TOWNHOMES AT GATTIS  
 CONDOMINIUMS**  
 BEING ALL OF  
**LOT 1, BLOCK 2**  
**TOWNHOMES AT GATTIS**  
 CITY OF ROUND ROCK  
 WILLIAMSON COUNTY, TEXAS

**ATTACHMENT 3**

**COMMON INTEREST ALLOCATIONS**

The Common Interest Allocation and percentage of liability for Common Expenses for each Unit is 1/20. Each Unit is allocated one (1) vote.

**THE COMMON INTEREST ALLOCATION ASSIGNED TO A PARTICULAR UNIT WILL DECREASE IF ADDITIONAL UNITS ARE CREATED AND ADDED TO THE REGIME BY THE DECLARANT.**

Unofficial Document

Attachment 3

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

**ATTACHMENT 4**

**GUIDE TO ASSOCIATION'S MAJOR MANAGEMENT & GOVERNANCE FUNCTIONS**

This Guide lists several of the major management and governance functions of a typical residential development with a mandatory owners association. The Association's Board of Directors may, from time to time, use this Guide to consider what functions, if any, to delegate to one or more managers, managing agents, employees, or volunteers. Because laws and practices change over time, the Association and/or the Board should not use this Guide without taking account of applicable changes in law and practices.

<p><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p><b><u>FINANCIAL MANAGEMENT</u></b></p> <p>To adopt annual budget and levy assessments, per Declaration.</p> <p>Prepare annual operating budget, periodic operating statements, and year-end statement.</p> <p>Identify components of the property the Association is required to maintain. Estimate remaining useful life of each component. Estimate costs and schedule of major repairs and replacements, and develop replacement reserve schedule. Annually update same.</p> <p>Collect assessments and maintain Association accounts.</p> <p>Pay Association's expenses and taxes.</p> <p>Obtain annual audit and income tax filing.</p> <p>Maintain fidelity bond on whomever handles Association funds.</p> <p>Report annually to members on financial status of Association.</p>		

<p align="center"><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p align="center"><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p align="center"><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p><b><u>PHYSICAL MANAGEMENT</u></b></p> <p>Inspect, maintain, repair, and replace, as needed, all components of the property for which the Association has maintenance responsibility.</p> <p>Contract for services, as needed to operate or maintain the property.</p> <p>Prepare specifications and call for bids for major projects.</p> <p>Coordinate and supervise work on the property, as warranted.</p>		
<p><b><u>ADMINISTRATIVE MANAGEMENT</u></b></p> <p>Receive and respond to correspondence from owners, and assist in resolving owners' problems related to the Association.</p> <p>Conduct hearings with owners to resolve disputes or to enforce the governing documents.</p> <p>Obtain and supervise personnel and/or contracts needed to fulfill Association's functions.</p> <p>Schedule Association meetings and give owners timely notice of same.</p> <p>Schedule board meetings and give directors timely notice of same.</p> <p>Enforce the Documents.</p> <p>Maintain insurance and bonds as required by the Documents or Applicable Law, or as customary for</p>		

Attachment 4

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

<p align="center"><b>MAJOR MANAGEMENT &amp; GOVERNANCE FUNCTIONS</b></p>	<p align="center"><b>PERFORMED BY ASSOCIATION OFFICERS OR DIRECTORS</b></p>	<p align="center"><b>DELEGATED TO ASSOCIATION EMPLOYEE OR AGENT</b></p>
<p>similar types of property in the same geographic area.</p> <p>Maintain Association books, records, and files.</p> <p>Maintain Association's corporate charter and registered agent &amp; address.</p>		
<p><b><u>OVERALL FUNCTIONS</u></b></p> <p>Promote harmonious relationships within the community.</p> <p>Protect and enhance property values in the community.</p> <p>Encourage compliance with Documents and Applicable Law.</p> <p>Act as liaison between the community of owners and governmental, taxing, or regulatory bodies.</p> <p>Protect the Association and the property from loss and damage by lawsuit or otherwise.</p>		

Attachment 4

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

APPENDIX "A"

**DECLARANT RESERVATIONS AND REPRESENTATIONS**

**A.1. General Provisions.**

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

A.1.2. General Reservation and Construction. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other Owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of a conflict between this Appendix "A" and any other Document, this Appendix "A" controls. This Appendix may not be amended without the prior written consent of Declarant. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

A.1.3. Purpose of Development and Declarant Control Periods. This Appendix gives Declarant certain rights during the Development Period and Declarant Control Period to ensure a complete and orderly sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees. The "Development Period", as specifically defined in the *Section 1.17* of the Declaration, means the seven (7) year period beginning on the date this Declaration is Recorded, unless such period is earlier terminated by Declarant's Recordation of a notice of termination. The "Declarant Control Period" is defined in *Section 1.15* of the Declaration. Declarant may not use its control of the Association and the Property for an advantage over the Owners by way of retention of any residual rights or interests in the Association or through the creation of any contractual agreements which the Association may not terminate without cause with ninety (90) days' written notice.

**A.2. Declarant Control Period Reservations.** For the benefit and protection of Owners and Mortgagees, and for the purpose of ensuring a complete and orderly build-out and sellout of the Property, Declarant will retain control of the Association, subject to the following:

A.2.1. Officers and Directors. During Declarant Control Period, the Board may consist of three (3) persons. Declarant may appoint, remove, and replace any

officer or director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader," subject to the following limitations: (i) within one hundred and twenty (120) days after fifty percent (50%) of the maximum number of Units that may be created have been conveyed to Owners other than Declarant, at least one-third of the Board must be elected by Owners other than Declarant; and (ii) within one hundred and twenty (120) days after seventy-five percent (75%) of the total number of Units that may be created have been conveyed to Owners other than Declarant, all Board members must be elected by all Owners, including the Declarant. Notwithstanding the foregoing, the Declarant Control Period shall expire no later than seven (7) years after the Declaration is Recorded.

- A.2.2. Obligation for Assessments. For each Unit owned by Declarant, Declarant is liable for Special Assessments, Utility Assessments, Individual Assessments, and Deficiency Assessments in the same manner as any Owner. Regarding Regular Assessments, during the Declarant Control Period only, Declarant at Declarant's option may support the Association's budget by either of the following methods: (i) Declarant will pay Regular Assessments on each Declarant owned Unit in the same manner as any Owner; or (ii) Declarant will assume responsibility for the difference between the Association's actual operational expenses as they are paid and the Regular Assessments received from Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. On the earlier to occur of three (3) years after the first conveyance of a Unit by the Declarant or termination of the Declarant Control Period, Declarant must begin paying Assessments on each Declarant owned Unit according to the Unit's allocated Interest for Assessments.
- A.2.3. Obligation for Reserves. During the Declarant Control Period, neither the Association nor Declarant may use the Association working capital or reserve funds to pay operational expenses of the Association.
- A.2.4. Common Elements. At or prior to termination of the Declarant Control Period, if title or ownership to any Common Element is capable of being transferred, Declarant will convey title or ownership to the Association. At the time of conveyance, the Common Element will be free of encumbrance except for the property taxes, if any, accruing for the year of conveyance. Declarant's conveyance of title or ownership is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.
- A.3. Development Period Rights. Declarant has the following rights during the Development Period:

- A.3.1. Annexation. The Property is subject to expansion by phasing for up to seven (7) years from the date this Declaration is Recorded. During the Development Period, Declarant may annex additional property into the Regime, and subject such property to this Declaration and the jurisdiction of the Association by Recording an amendment or supplement of this Declaration, executed by Declarant, in the Official Public Records of Williamson County, Texas.
- A.3.2. Creation of Units. When created, the Property contains twenty (20) Units; however, Declarant reserves the right to create up to and including seventy-four (74) Units upon full buildout of all phases of the project which may include land added by the Declarant in accordance with Section 2.3 of the Declaration. Declarant's right to create Units is for a term of years and does not require that Declarant own a Unit in the Property at the time or times Declarant exercises its right of creation. The instrument creating additional units must include a revised schedule of allocated interests.
- A.3.3. Changes in Development Plan. During the Development Period, Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Modifications may include, without limitation, the subdivision or combination of Units, changes in the sizes, styles, configurations, materials, and appearances of Units, and Common Elements.
- A.3.4. Transfer Fees. During the Development Period, Declarant will not pay transfer-related and resale certificate fees.
- A.3.5. Website & Property Name. During the Development Period, Declarant has the unilateral right to approve or disapprove uses of any website purporting to serve the Property or the Association, all information available on or through the Property website, if any, and all uses of the property name by the Association.
- A.3.6. Fines and Penalties. During the Development Period, neither Declarant nor Units owned by Declarant are liable to the Association for late fees, fines, administrative charges, or any other charge that may be considered a penalty.
- A.3.7. Statutory Development Rights. As permitted by the Act, Declarant reserves the following Development Rights which may be exercised during the Development Period: (i) to add real property to the Property; (ii) to create, combine and modify Units, General Common Elements, and Limited Common Elements within the Property; (iii) to subdivide Units or convert Units into Common Elements; and (iv) to withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved"

or "Subject to Development Rights," provided that no Unit in the portion to be withdrawn has been conveyed to an Owner other than Declarant.

A.3.8. Development Rights Reserved. Regarding portions of the real property shown on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights," if any, Declarant makes no assurances as to whether Declarant will exercise its Development Rights, the order in which portions will be developed, or whether all portions will be developed. The exercise of Development Rights as to some portions will not obligate Declarant to exercise them as to other portions.

A.3.9. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other Owners or any mortgagee, for the following limited purposes:

- i. To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.
- ii. To correct any defects in the execution of this Declaration or the other Documents.
- iii. To add real property to the Property, in the exercise of statutory Development Rights.
- iv. To create Units, General Common Elements, and Limited Common Elements within the Property, in the exercise of statutory Development Rights.
- v. To subdivide, combine, or reconfigure Units or convert Units into Common Elements, in the exercise of statutory Development Rights.
- vi. To withdraw from the Property any portion of the real property marked on the Plat and Plans as "Development Rights Reserved" or "Subject to Development Rights" in the exercise of statutory Development Rights.
- vii. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- viii. To change the name or entity of Declarant.
- ix. For any other purpose, provided the amendment has no material adverse effect on any right of any owner.

**A.4. Special Declarant Rights.** As permitted by the Act, Declarant reserves the following described Special Declarant Rights, to the maximum extent permitted by Applicable Law, which may be exercised, where applicable, anywhere within the Property during the Development Period:

- A.4.1. The right to complete or make Improvements indicated on the Plat and Plans.
- A.4.2. The right to exercise any Development Right permitted by the Act and this Declaration.
- A.4.3. The right to make the Property part of a larger condominium or planned community.
- A.4.4. The right to use Units owned or leased by Declarant or Common Elements as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property.
- A.4.5. For purposes of promoting, identifying, and marketing the Property, Declarant reserves an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and Occupants. Declarant reserves an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events – such as open houses, MLS tours, and broker parties – at the Property to promote the sale of Units.
- A.4.6. Declarant has an easement and right of ingress and egress in and through the Common Elements and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under the Act and this Declaration.
- A.4.7. The right to appoint or remove any Declarant-appointed officer or director of the Association during Declarant Control Period consistent with the Act.

**A.5. Additional Easements and Rights.** Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, for the duration of the Development Period:

- A.5.1. An easement and right to erect, construct, and maintain on and in the Common Elements and Units owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, and marketing of the Property.

- A.5.2. The right to sell or lease any Unit owned by Declarant. Units owned by Declarant are not subject to leasing or occupancy restrictions or prohibitions contained in the Documents.
- A.5.3. The right of entry and access to all Units to perform warranty-related work, if any, for the benefit of the Unit being entered, adjoining Units, or Common Elements. Requests for entry must be made in advance for a time reasonably convenient for the Owner who may not unreasonably withhold consent.
- A.5.4. An easement and right to make structural changes and alterations on Common Elements and Units used by Declarant as models and offices, as may be necessary to adapt them to the uses permitted herein. Declarant, at Declarant's sole expense, will restore altered Common Elements and Units to conform to the architectural standards of the Property. The restoration will be done no later than one hundred and twenty (120) days after termination of the Development Period.
- A.5.5. An easement over the entire Property, including the Units, to inspect the Common Elements and all Improvements thereon and related thereto to evaluate the maintenance and condition of the Common Elements.
- A.5.6. The right to provide a reasonable means of access and parking for prospective Unit purchasers in connection with the active marketing of Units by Declarant.
- A.6. **Common Elements.** Because the Common Elements are owned by the Owners, collectively and in undivided interest, the Common Elements are not capable of being separately conveyed. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of the ownership of the Common Elements. Because ownership of the Common Elements is not conveyed by Declarant to the Association, there is no basis for the popular misconception that Owners may "accept" or "refuse" the Common Elements.

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS 2022029926

COND Fee: \$478.00  
03/09/2022 10:41 AM OSALINAS



*Nancy E. Rister*  
Nancy E. Rister, County Clerk  
Williamson County, Texas

Trovis Smith  
Call for Pickup  
915-478-3699

APPENDIX "A" - Page 6

DECLARATION OF CONDOMINIUM REGIME  
TOWNHOMES AT GATTIS CONDOMINIUMS

**AFTER RECORDING RETURN TO:**  
ROBERT D. BURTON, ESQ.  
WINSTEAD, PC  
401 CONGRESS AVE., SUITE 2100  
AUSTIN, TEXAS 78701

ORIGINAL FILED BUT NOT COMPARED



**JUL 06 2022**

*Nancy E. Pater*  
County Clerk Williamson Co., TX

# FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM REGIME FOR TOWNHOMES AT GATTIS CONDOMINIUMS

(A Residential Condominium Project located in Williamson County, Texas)

[ADDING UNITS 201, 202, 203, AND 204]

**Declarant:** GREEN ABODE DEVELOPERS, LLC, a Texas limited liability company

Cross Reference to Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded as Document No. 2022029926, in the Official Public Records of Williamson County, Texas.

**FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM REGIME**  
**TOWNHOMES AT GATTIS CONDOMINIUMS**

This First Amendment to Declaration of Condominium Regime for Townhomes at Gattis Condominiums (the "**Amendment**") is made by **GREEN ABODE DEVELOPERS, LLC**, a Texas limited liability company ("**Declarant**"), and is as follows:

**RECITALS**

A. Townhomes at Gattis Condominiums, a residential condominium project located in Williamson County, Texas (the "**Regime**"), was established pursuant to that certain Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded as Document No. 2022029926, in the Official Public Records of Williamson County, Texas (the "**Declaration**").

B. Pursuant to *Provisions A.3.7(ii) and A.3.9(iv) of Appendix "A"* to the Declaration, during the Development Period, Declarant may amend the Declaration unilaterally and without the consent of other Owners or any Mortgagee to create Units, General Common Elements and Limited Common Elements within the Property in the exercise of statutory Development Rights.

C. The "Development Period" as such term is defined in the Declaration, is a seven (7) year period commencing on the date the Declaration was recorded in the Official Public Records of Williamson County, Texas. The Declaration was recorded in the Official Public Records of Williamson County, Texas, on March 9, 2022. The Development Period is still in effect.

D. This Amendment is promulgated for the purposes of creating four (4) additional Units within the Regime. The total number of Units within the Regime after giving effect to this Amendment is equal to twenty-four (24), and the total number of additional Units which Declarant has reserved the right to create by amendment is equal to seventy-four (74).

**NOW THEREFORE**, the Declaration is hereby amended as follows:

1. **Creation of Units.** In accordance with the rights reserved by the Declarant pursuant to *Section 5.1* of the Declaration and *Provisions A.3.7(ii) and A.3.9(iv) of Appendix "A"* to the Declaration, Declarant hereby creates four (4) Units, which are designated as: Unit Nos. 201, 202, 203, and 204 (collectively, the "**New Units**").

2. **Supplement to Plat and Plans.** Attachment 1 to the Declaration, the Plat and Plans, is hereby supplemented with the Plat and Plans attached hereto as Exhibit A (the "**Phase 2 Plat and Plans**"). The Phase 2 Plat and Plans: (i) assign an identifying number to all New Units; (ii) describe the portion of the limited common elements, if any, created or assigned to all New Units; and (iii) include the information required by Section 82.059 of the Texas Uniform Condominium Act.

3. **Common Interest Allocation.** The Declaration (and Attachment 3 thereto) are hereby amended to provide that the Common Interest Allocation and percentage of liability for Common Expenses for each Unit is 1/24. Each Unit is allocated one (1) vote. **THE COMMON INTEREST ALLOCATION ASSIGNED TO A PARTICULAR UNIT WILL DECREASE AS ADDITIONAL UNITS ARE CREATED AND ADDED TO THE REGIME BY THE DECLARANT.**

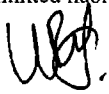
4. **Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

*[SIGNATURE PAGE FOLLOWS]*

EXECUTED to be effective as of the date this Amendment has been recorded in the Official Public Records of Williamson County, Texas.

**DECLARANT:**

**GREEN ABODE DEVELOPERS, LLC,**  
a Texas limited liability company

By:   
Printed Name: Varun Monpara Alias Patel  
Title: Owner-Manager

THE STATE OF TEXAS           §  
  §  
COUNTY OF WILLIAMSON   §

This instrument was acknowledged before me on this 21<sup>st</sup> day of JUNE, 2022, by Varun Monpara Alias Patel, Owner-Manager of Green Abode Developers, LLC, a Texas limited liability company, on behalf of said limited liability company.

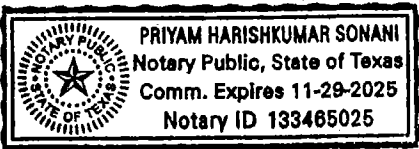
  
Notary Public, State of Texas

[SEAL]

**ATTACHMENT 1**

**PHASE 2 PLAT AND PLANS**

[SEE ATTACHED]



**ATTACHMENT 1**

**PHASE 2 PLAT AND PLANS**

*[SEE ATTACHED]*

**LEGEND OF ABBREVIATIONS**

- P.R.W.C.T. Plat Records of Williamson County, Texas
- O.P.R.W.C.T. Official Public Records of Williamson County, Texas
- D.R.W.C.T. Deed Records of Williamson County, Texas
- C.R.W.C.T. Condominium Records of Williamson County, Texas
- INST.# Instrument Number
- Vol./Pg. Volume/Page
- ESMT Easement
- SQFT Square Feet
- \*GCE General Common Elements subject to Development Rights

**SHEET INDEX:**

- 1. Cover page / Condominium notes
- 2. General notes / Line Table
- 3. Overall Boundary
- 4. Regime

**SURVEYOR'S NOTES:**

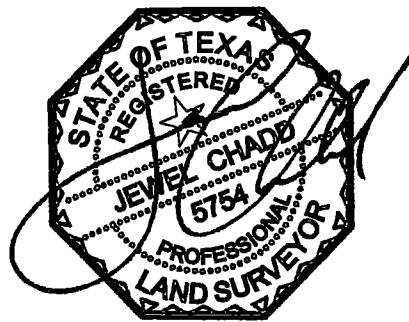
- 1. Bearings are based on Grid North, Texas Coordinate System of 1983, Central Zone.
- 2. Existing improvements are not shown.

**LEGAL DESCRIPTION:**

Being situated in Lot 1, Block A, TOWNHOMES AT GATTIS, an addition in the City of Round Rock, Williamson County, Texas, according to the plat recorded under Instrument Number 2020025805, Plat Records, Williamson County, Texas.

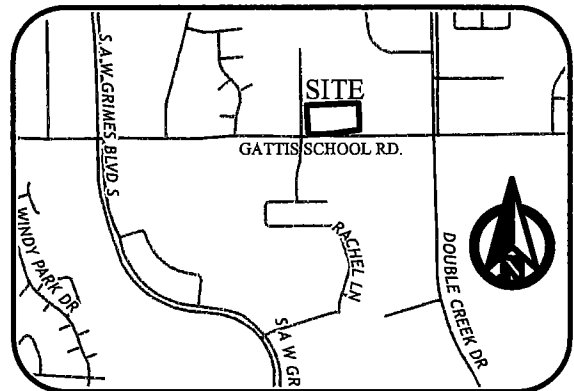
This plat contains the information required by Section 82.059 of the Texas Uniform Condominium Act.

Jewel Chadd  
 Registered Professional  
 Land Surveyor No. 5754  
 jewel@jphls.com  
 June 16, 2022



**VICINITY MAP**

NOT TO SCALE



**CONDOMINIUM PLAT FOR  
 TOWNHOMES AT GATTIS  
 CONDOMINIUMS  
 UNITS 201, 202, 203 & 204**

SITUATED IN  
**LOT 1, BLOCK A  
 TOWNHOMES AT GATTIS  
 CITY OF ROUND ROCK  
 WILLIAMSON COUNTY, TEXAS**

JPH Job No.  
 2018.200.028 2306 Gattis School Rd, Round Rock,  
 Williamson Co., TX - Condo Plat.dwg  
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 785 Lonesome Dove Trail, Hurst, Texas 76054  
 Telephone (817) 431-4971 www.jphlandsurveying.com  
 TBPELS Firm #10019500  
 DFW | Central Texas | West Texas | Houston

**GENERAL NOTES:**

1. Terms used, but not defined herein shall have the meaning subscribed to such terms in that certain Declaration of Condominium Regime for Townhomes at Gattis Condominiums (the "Declaration").
2. All improvements and land reflected on the plat are designated as General Common Elements subject to Development Rights, save and except portions of the regime designated as Limited Common Elements or Units: (i) in the Declaration; or (ii) on the Plat and Plans.
3. Units are subject to the rights and restrictions contained in the Declaration.
4. Each Unit, Building, Limited Common Element and General Common Element are Subject to Development Rights and other rights reserved by the Declarant in the Declaration. Pursuant to such provisions, among other things, Declarant has reserved the right to (i) complete or make improvements indicated on the Plat and Plans; (ii) exercise any development right permitted by the Act and the Declaration, including the right(s) to: (a) add real property to the Regime and Declaration; (b) create Units, General Common Elements, and Limited Common Elements; (c) subdivide Units or convert Units into General Common Elements and Limited Common Elements; and (d) to withdraw Property from the Declaration; (iii) make the Property part of a larger condominium or planned community; (iv) use Units owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and the sale and leasing of Units; (v) use easements through the Common Elements for the purpose of making improvements within the Regime; and (vi) appoint or remove any Declarant-appointed officer or director of the Association during the Declarant Control Period (as defined in the Declaration). For purposes of promoting, identifying, and marketing the property, Declarant has reserved an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners. Declarant has also reserved an easement and right to maintain, relocate, replace, or remove the items listed in the foregoing sentence from time to time. Declarant has reserved an easement and right of ingress and egress in and through the Common Elements (as defined in the Declaration) and Units owned or leased by Declarant for purposes of constructing, maintaining, managing, and marketing the property, and for discharging Declarant's obligations under the Act and the Declaration.
5. The upper and lower boundaries of each Unit are as described in the Declaration.



**CONDOMINIUM PLAT FOR  
TOWNHOMES AT GATTIS  
CONDOMINIUMS  
UNITS 201, 202, 203 & 204**

**SITUATED IN  
LOT 1, BLOCK A  
TOWNHOMES AT GATTIS  
CITY OF ROUND ROCK  
WILLIAMSON COUNTY, TEXAS**

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TBPELS Firm #10019500  
DFW | Central Texas | West Texas | Houston

N88°04'17"E 710.31'

LOT 1, BLOCK A  
TOWNHOMES AT GATTIS  
INST.#2020025805  
O.P.R.W.C.T.

GREEN ABODE DEVELOPERS, LLC,  
A TEXAS LIMITED LIABILITY COMPANY  
INST.# 2018099580  
O.P.R.W.C.T.  
AS CORRECTED BY INST.# 2018104724  
O.P.R.W.C.T.

N02°31'26"W 370.27'

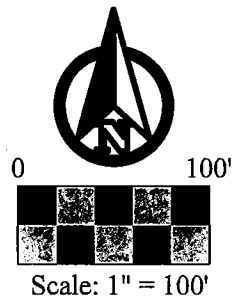
S01°55'22"E 359.90'

N47°26'21"W 42.49'

S87°38'56"W 76.64'

S88°07'20"W 214.66'

S82°10'26"W 386.87'



CONDOMINIUM PLAT FOR  
TOWNHOMES AT GATTIS  
CONDOMINIUMS  
UNITS 201, 202, 203 & 204

SITUATED IN  
LOT 1, BLOCK A  
TOWNHOMES AT GATTIS  
CITY OF ROUND ROCK  
WILLIAMSON COUNTY, TEXAS

JPH Job No.  
2018.200.028 2306 Gattis School Rd, Round Rock,  
Williamson Co., TX - Condo Plat.dwg  
© 2022 JPH Land Surveying, Inc. - All Rights Reserved  
785 Lonesome Dove Trail, Hurst, Texas 76054  
Telephone (817) 431-4971 www.jphlandsurveying.com  
TBPELS Firm #10019500  
DFW | Central Texas | West Texas | Houston





**Nancy E. Rister**  
**Williamson County Clerk**  
405 Martin Luther King Street  
Georgetown, Texas 78626  
(512) 943-1515

**Receipt: 2022-54403**

<b>Product</b>	<b>Name</b>	<b>Extended</b>
COND	CONDOMINIUM	\$58.00
	# Pages	10
	External Document#	2022081310
	Document Info:	WINSTEAD PC
<b>Total</b>		<b>\$58.00</b>
Tender (Legal Ease)		\$58.00
Paid By	WINSTEAD PC	
Credit Card #	7198808797	

Thank You for Your Business

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

ATTACHMENT 2  
COMMUNITY MANUAL

**AFTER RECORDING RETURN TO:**



**ROBERT D. BURTON, ESQ.  
WINSTEAD PC  
401 CONGRESS AVE., SUITE 2100  
AUSTIN, TEXAS 78701  
EMAIL: RBURTON@WINSTEAD.COM**

# **TOWNHOMES AT GATTIS CONDOMINIUMS**

## **CONDOMINIUM COMMUNITY MANUAL**

**Consisting of:**  
**Certificate of Formation**  
**Bylaws**  
**Initial Rules**  
**Assessment Collection Policy**  
**Fine Policy**  
**Mold Policy**  
**Records Inspection, Copying and Retention Policy**  
**Swimming Pool Enclosure Policy**  
**Religious Display Policy**  
**Certification and Acknowledgment**

### ***PROPERTY***

Townhomes at Gattis Condominiums, a condominium regime, is located at 2600 Gattis School Road, Round Rock, Texas, Williamson County, Texas, and subject to the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas.

**TOWNHOMES AT GATTIS CONDOMINIUMS  
CONDOMINIUM COMMUNITY MANUAL**

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**ATTACHMENT 1**

**CERTIFICATE OF FORMATION  
OF  
TOWNHOMES AT GATTIS CONDOMINIUM COMMUNITY, INC.**

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a corporation under the Texas Business Organizations Code, does hereby adopt the following Certificate of Formation for such corporation:

**ARTICLE I  
NAME**

The name of the corporation is: Townhomes at Gattis Condominium Community, Inc. (hereinafter called the "**Association**").

**ARTICLE II  
NONPROFIT CORPORATION**

The Association is a nonprofit corporation.

**ARTICLE III  
INITIAL MAILING ADDRESS**

The initial mailing address of the Association for the purpose of receiving state franchise tax correspondence is 401 Congress Ave., Suite 2100, Austin, Texas 78701, c/o Winstead PC, Attn.: Robert D. Burton.

**ARTICLE IV  
DURATION**

The Association shall exist perpetually.

**ARTICLE V  
PURPOSE AND POWERS OF THE ASSOCIATION**

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organizations Code, and does not contemplate pecuniary gain or profit to its members. In furtherance of its purposes, the Association shall have the following powers which, unless indicated otherwise by this Certificate of Formation, that certain Declaration of Condominium Regime for Townhomes at Gattis Condominiums, which is recorded in the Official Public Records of Williamson County, Texas, as the same may be amended from time to time (the "**Declaration**"), the Bylaws, or Texas law, may be exercised by the Board of Directors:

- (a) all rights and powers conferred upon nonprofit corporations by Texas law in effect from time to time;
- (b) all rights and powers conferred upon condominium associations by Texas law, including the Act, in effect from time to time, provided, however, that the Association shall not have

the power to institute, defend, intervene in, settle or compromise proceedings in the name of any Owner as provided in Section 82.102(a)(4) of the Act; and

- (c) all powers necessary, appropriate, or advisable to perform any purpose or duty of the Association as set out in this Certificate of Formation, the Bylaws, the Declaration, or Texas law.

Notwithstanding any provision in *Article XV* to the contrary, any proposed amendment to the provisions of this *Article V* shall be adopted only upon an affirmative vote by the holders of one-hundred percent (100%) of the total number of votes of the Association and the Declarant, as determined and defined under the Declaration. Terms used but not defined in this Certificate of Formation shall have the meaning subscribed to such terms in the Declaration.

**ARTICLE VI  
REGISTERED OFFICE; REGISTERED AGENT**

The street address of the initial registered office of the Association is 401 Congress Avenue, Suite 2100, Austin, Texas 78701. The name of its initial registered agent at such address is Robert D. Burton.

**ARTICLE VII  
MEMBERSHIP**

Membership in the Association shall be determined by the Declaration.

**ARTICLE VIII  
VOTING RIGHTS**

Voting rights of the members of the Association shall be determined as set forth in the Declaration. Notwithstanding the foregoing, cumulative voting is not permitted.

**ARTICLE IX  
INCORPORATOR**

The name and street address of the incorporator is:

<u>NAME</u>	<u>ADDRESS</u>
Robert D. Burton	401 Congress Avenue, Suite 2100 Austin, Texas 78701

**ARTICLE X  
BOARD OF DIRECTORS**

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors for nonprofit corporations pursuant to the Texas Business Organizations Code. The number of directors of the Association may be increased in accordance with the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

NAME

ADDRESS

Varun Monpara Alias Patel

11624 Jollyville Road, #528  
Austin, Texas 78759

Vinodkumar Kikani

27511 Gardenview Point Ct.  
Katy, Texas 77494

Niral Sachani

15143 Terra Verde Dr.  
Austin, Texas 78717

All of the powers and prerogatives of the Association shall be exercised by the initial Board of Directors named above until their successors are elected or appointed in accordance with the Declaration.

**ARTICLE XI  
LIMITATION OF DIRECTOR LIABILITY**

A director of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a director, except to the extent otherwise expressly provided by a statute of the State of Texas. Any repeal or modification of this *Article XI* shall be prospective only, and shall not adversely affect any limitation of the personal liability of a director of the Association existing at the time of the repeal or modification.

**ARTICLE XII  
INDEMNIFICATION**

Each person who acts as a director, officer or committee member of the Association shall be indemnified by the Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him in connection with any civil or criminal action, suit or proceeding in which he may be named as a party defendant or in which he may be a witness by reason of his being or having been a member of the Board of Directors, officer, or committee member of the Association, or by reason of any action alleged to have been taken or omitted by him or her in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in the Bylaws of the Association.

**ARTICLE XIII  
DISSOLUTION**

Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes substantially similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such substantially similar purposes.

**ARTICLE XIV  
ACTION WITHOUT MEETING**

Any action required by law to be taken at any annual or special meeting of the members of the Association, or any action that may be taken at any annual or special meeting of the members of the

TOWNHOMES AT GATTIS COMMUNITY MANUAL  
ATTACHMENT 1

Association, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the number of members having the total number of votes of the Association necessary to enact the action taken, as determined under the Declaration or this Certificate of Formation.

**ARTICLE XV  
AMENDMENT**

This Certificate of Formation may be amended by proposal submitted to the membership of the Association. Except as otherwise provided by the terms and provisions of *Article V* of this Certificate of Formation, any such proposed amendment shall be adopted only upon an affirmative vote by the holders of a two-thirds (2/3) majority of the total number of votes of the Association, as determined under the Declaration. In the case of any conflict between the Declaration and this Certificate of Formation, the Declaration shall control; and in the case of any conflict between this Certificate of Formation and the Bylaws of the Association, this Certificate of Formation shall control.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Robert D. Burton, Incorporator

## ATTACHMENT 2

### TOWNHOMES AT GATTIS CONDOMINIUM COMMUNITY, INC.

#### BYLAWS

(a Texas condominium association)

### ARTICLE 1

#### INTRODUCTION

1.1. **Property.** These Bylaws of Townhomes at Gattis Condominium Community, Inc., provide for the governance of the condominium regime known as Townhomes at Gattis Condominiums, established on certain real property in Williamson County, Texas (the "**Property**"), as more particularly described in that certain Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas (the "**Declaration**").

1.2. **Parties to Bylaws.** All present or future Owners of Units and all other persons who use or occupy the Property in any manner are subject to these Bylaws, the Declaration, and the other Documents as defined in the Declaration. The mere acquisition or occupancy of a Unit will signify that these Bylaws are accepted, ratified, and will be strictly followed.

1.3. **Definitions.** Words and phrases defined in the Declaration have the same meanings when used in these Bylaws. *Article 1* of the Declaration is incorporated herein by reference.

1.4. **Nonprofit Purpose.** The Association is organized to be a nonprofit corporation.

1.5. **Declarant Control.** Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in Appendix "A" of the Declaration during the Declarant Control Period and the Development Period, as defined in the Declaration, including the number, qualification, appointment, removal, and replacement of directors.

1.6. **General Powers and Duties.** The Association, acting through the Board, has the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of the Property as may be required or permitted by the Documents and Texas law. The Association may do any and all things that are lawful and which are necessary, proper, or desirable in operating for the best interests of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Documents.

**ARTICLE 2**  
**BOARD OF DIRECTORS**

During the Declarant Control Period, Appendix "A" of the Declaration governs the number, qualification, and appointment of directors. During the Declarant Control Period, Directors appointed by the Declarant need not be Owners. Directors appointed by the Declarant may not be removed by the Owners and need not comply with the qualifications set forth in *Section 2.2* below. Directors appointed by the Declarant may be removed by Declarant only and are not subject to removal pursuant to *Section 2.5* below. During the Declarant Control Period, Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

2.1. **Number and Term of Office.** The Board will initially consist of three (3) persons. Provided that the Declarant Control Period has not yet expired or terminated, within one hundred and twenty (120) days after fifty percent (50%) of the Units which may be created pursuant to the Declaration have been conveyed to Owners other than Declarant, the President of the Association shall call a meeting of the Members of the Association where Owners will elect one (1) director to the Board (the "**Initial Elected Director**") for a term ending on the date of the Full Member Election Meeting. Within one hundred and twenty (120) days after the expiration or termination of the Declarant Control Period, the President of the Association shall call a meeting of the Members of the Association (the "**Full Member Election Meeting**"). On the date of the Full Member Election Meeting, the number of directors shall be increased to five (5). At the Full Member Election Meeting, all existing directors of the Board will resign and the Members will elect five (5) directors to serve on the Board. Two directors will be elected for a three (3) year term, two directors will be elected for a two (2) year term, and one director will be elected for a one (1) year term; provided that the individuals receiving the highest number of votes at such Full Member Election Meeting shall be elected to serve the longest terms. Upon expiration of the term of the directors elected pursuant to the previous sentence, his or her successor will be elected for a term of two (2) years. A director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed. The number of directors may be changed by amendment of these Bylaws, but may not be less than three (3).

2.2. **Qualification.** The following qualifications apply to the election or appointment of persons to the Board.

2.2.1. **Owners.** At least a Majority of the directors must be Members of the Association or spouses of Members.

2.2.2. **Entity Member.** If a Unit is owned by a legal entity, such as a partnership or corporation, any officer, partner, agent, or employee of that entity Member is eligible to serve as a director and is deemed to be a Member for the purposes of this Section. If the relationship between the entity Member and the director representing it terminates, that directorship will be deemed vacant.

2.2.3. Delinquency. No person may be elected or appointed as a director if any assessment or fine against the person or his Unit is delinquent at the time of election or appointment, provided he has been given notice of the delinquency and a reasonable opportunity to cure the delinquency.

2.2.4. Litigation. No person may be elected or appointed as a director if the person is a party adverse to the Association or the Board in pending litigation to which the Association or the Board is a party.

2.3. **Election**. Directors will be elected by the Members of the Association. The election of directors will be conducted at the annual meeting of the Association, at any special meeting called for that purpose, or by mail, facsimile transmission, electronic mail, or a combination of any of these.

2.4. **Vacancies**. Vacancies on the Board caused by any reason, except the removal of a director by a vote of the Association, are filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board. Each director so elected serves until the next meeting of the Association, at which time a successor will be elected to fill the remainder of the term.

2.5. **Removal of Directors**.

2.5.1. Removal by Members. At any annual meeting or special meeting of the Association, any one or more of the directors may be removed with or without cause by Members representing at least two-thirds of the votes present in person or by proxy at the meeting, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members must be given an opportunity to be heard at the meeting.

2.5.2. Removal by Directors. A director may not be removed by the officers or by the remaining directors, except for the following limited reasons for which a director may be removed by at least a Majority of the other directors at a meeting of the Board called for that purpose:

i. The director is a party adverse to the Association or the Board in pending litigation to which the Association or the Board is a party; provided the Association did not file suit to effect removal of the director.

ii. The director's account with the Association has been delinquent for at least ninety (90) days or has been delinquent at least three (3) times during the preceding twelve (12) months; provided he was given notice of the default and a reasonable opportunity to cure.

iii. The director has refused or failed to attend three (3) or more meetings of the Board during the preceding twelve (12) months; provided he was given proper notice of the meetings.

iv. The director has refused or failed to cure a violation of the Documents for which he has been given notice, a reasonable opportunity to cure, and an opportunity to request a hearing before the Board.

## 2.6. Meetings of the Board.

2.6.1. Organizational Meeting of the Board. Within ten (10) days after the annual meeting, the directors will convene an organizational meeting for the purpose of electing officers. The time and place of the meeting will be fixed by the Board and announced to the directors.

2.6.2. Regular Meetings of the Board. Regular meetings of the Board may be held at a time and place that the Board determines, from time to time, but at least one (1) such meeting must be held annually. Notice of regular meetings of the Board will be given to each director, personally or by telephone, written, or electronic communication, at least three (3) days prior to the date of the meeting.

2.6.3. Special Meetings of the Board. Special meetings of the Board may be called by the president or, if he is absent or refuses to act, by the secretary, or by any two (2) directors. At least three (3) days' notice will be given to each director, personally or by telephone, written, or electronic communication, which notice must state the place, time, and purpose of the meeting.

2.6.4. Emergency Meetings. In case of an emergency, the Board may convene a meeting after making a diligent attempt to notify each director by any practical method.

2.6.5. Conduct of Meetings. The president presides over meetings of the Board and the secretary keeps, or causes to be kept, a record of resolutions adopted by the Board and a record of transactions and proceedings occurring at meetings. When not in conflict with law or the Documents, the then current edition of Robert's Rules of Order governs the conduct of the meetings of the Board.

2.6.6. Quorum. At meetings of the Board, a Majority of Directors constitutes a quorum for the transaction of business, and the acts of the Majority of the Directors present at a meeting at which a quorum is present are the acts of the Board. If less than a quorum is present at a meeting of the Board, the Majority of those present may adjourn the meeting from time to time. At any reconvened meeting at which a quorum is present, any business that may have been transacted at the meeting as originally called may be transacted without further notice. Directors may not participate by proxy at meetings of the Board.

2.6.7. Open Meetings. Regular and special meetings of the Board are open to Members of the Association, subject to the following provisions to the extent permitted or required by the Act:

- i. No audio or video recording of the meeting may be made, except by the Board or with the Board's prior express consent.
- ii. Members who are not Directors may not participate in Board deliberations under any circumstances, and may not participate in Board discussions unless the Board expressly so authorizes at the meeting.
- iii. The Board may adjourn any meeting and reconvene in executive session to discuss and vote on personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar or sensitive nature. The nature of business to be considered in executive session will first be announced in open session.
- iv. The Board may prohibit attendance by non-Members, including representatives, proxies, agents, and attorneys of Members.
- v. The Board may prohibit attendance by any Member who disrupts meetings or interferes with the conduct of Board business.
- vi. The Board may but is not required to publish to Members the time, date, and place of Board meetings, but will provide the information if requested in writing by a Member on a meeting by meeting basis.

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

2.6.9. Action without a Meeting. Any action required or permitted to be taken by the Board at a meeting may be taken without a meeting, if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote. This Section does not apply to actions that require meetings under the Act.

2.7. **Liabilities and Standard of Care**. In performing their duties, the directors are required to exercise certain standards of care and are subject to certain liabilities, including but not limited to the following provisions of State law: Section 82.103(a) and (f) of the Act, and

Sections 3.102, 3.105, 22.221, 22.223, 22.224, 22.225, 22.226, 22.227 and 22.230 of the Texas Business Organizations Code.

2.8. **Powers and Duties.** The Board has all the powers and duties necessary for the administration of the Association and for the operation and maintenance of the Property. The Board may do all acts and things except those which, by law or the Documents, are reserved to the Members and may not be delegated to the Board. Without prejudice to the general and specific powers and duties set forth in laws or the Documents, or powers and duties as may hereafter be imposed on the Board by resolution of the Association, the powers and duties of the Board include, but are not limited to, the following:

2.8.1. **Appointment of Committees.** The Board, by resolution, may from time to time designate standing or ad hoc committees to advise or assist the Board with its responsibilities. The resolution may establish the purposes and powers of the committee created, provide for the appointment of a chair and committee Members, and may provide for reports, termination, and other administrative matters deemed appropriate by the Board. Members of committees will be appointed from among the Owners and Occupants.

2.8.2. **Manager.** The Board may employ a manager or managing agent for the Association, at a compensation established by the Board, to perform duties and services authorized by the Board.

2.9. **Fidelity Bonds.** Any person handling or responsible for Association funds, including officers, agents, and employees of the Association, must furnish adequate fidelity bonds. The premiums on the bonds may be a Common Expense of the Association.

### **ARTICLE 3** **OFFICERS**

3.1. **Designation.** The principal officers of the Association are the president, the secretary, and the treasurer. The Board may appoint one (1) or more vice-presidents and other officers and assistant officers as it deems necessary. The president and secretary must be directors. Other officers may, but need not, be Members or directors. Any two (2) offices may be held by the same person, except the offices of president and secretary. If an officer is absent or unable to act, the Board may appoint a director to perform the duties of that officer and to act in place of that officer, on an interim basis.

3.2. **Election of Officers.** The officers are elected no less than annually by the directors at the organizational meeting of the Board and hold office at the pleasure of the Board. Except for resignation or removal, officers hold office until their respective successors have been designated by the Board.

3.3. **Removal and Resignation of Officers.** A Majority of directors may remove any officer, with or without cause, at any regular meeting of the Board or at any special meeting of

the Board called for that purpose. A successor may be elected at any regular or special meeting of the Board called for that purpose. An officer may resign at any time by giving written notice to the Board. Unless the notice of resignation states otherwise, it is effective when received by the Board and does not require acceptance by the Board. The resignation or removal of an officer who is also a director does not constitute resignation or removal from the Board.

3.4. **Standard of Care.** In performing their duties, the officers are required to exercise the standards of care provided by Section 82.103(a) and (f) of the Act and by Section 3.105 of the Texas Business Organizations Code.

3.5. **Description of Principal Offices.**

3.5.1. **President.** As the chief executive officer of the Association, the president: (i) presides at all meetings of the Association and of the Board; (ii) has all the general powers and duties which are usually vested in the office of president of a corporation organized under the laws of the State of Texas; (iii) has general supervision, direction, and control of the business of the Association, subject to the control of the Board; and (iv) sees that all orders and resolutions of the Board are carried into effect.

3.5.2. **Secretary.** The secretary: (i) keeps the minutes of all meetings of the Board and of the Association; (ii) has charge of such books, papers, and records as the Board may direct; (iii) maintains a record of the names and addresses of the Members for the mailing of notices; and (iv) in general, performs all duties incident to the office of secretary.

3.5.3. **Treasurer.** The treasurer: (i) is responsible for Association funds; (ii) keeps full and accurate financial records and books of account showing all receipts and disbursements; (iii) prepares all required financial data and tax returns; (iv) deposits all monies or other valuable effects in the name of the Association in depositories as may from time to time be designated by the Board; (v) prepares the annual and supplemental budgets of the Association; (vi) reviews the accounts of the managing agent on a monthly basis in the event a managing agent is responsible for collecting and disbursing Association funds; and (vii) performs all the duties incident to the office of treasurer.

3.6. **Authorized Agents.** Except when the Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association. In the absence of Board designation, the president and the secretary are the only persons authorized to execute instruments on behalf of the Association.

## **ARTICLE 4**

### **MEETINGS OF THE ASSOCIATION**

4.1. **Annual Meeting.** An annual meeting of the Association will be held once during each twelve (12) month period on a date and at a time determined by the Board. At each annual meeting the Members will elect directors in accordance with these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

4.2. **Special Meetings.** It is the duty of the president to call a special meeting of the Association if directed to do so by a Majority of the Board or by a petition signed by Owners of at least thirty percent (30%) of the Units. The meeting must be held within thirty (30) days after the Board resolution or receipt of petition. The notice of any special meeting must state the time, place, and purpose of the meeting. No business, except the purpose stated in the notice of the meeting, may be transacted at a special meeting.

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

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

4.5. **Ineligibility.** The Board may determine that no Member may vote at meetings of the Association if the Member's financial account with the Association is in arrears forty-five (45) days before the date of a meeting of the Association at which Members will vote, provided each ineligible Member is given notice of the arrearage and an opportunity to become eligible. The Board may specify the manner, place, and time for payment for purposes of restoring eligibility. A determination of Members entitled to vote at a meeting of the Association is effective for any adjournment of the meeting, provided the date of the adjourned meeting is not more than forty-five (45) days after the original meeting.

4.6. **Voting Members List.** The Board will prepare and make available a list of the Association's voting Members in accordance with Section 22.158(b) of the Texas Business Organizations Code.

4.7. **Quorum.** At any meeting of the Association, the presence in person or by proxy of Members representing at least ten percent (10%) of the Units in the Property constitutes a quorum.

4.8. **Lack of Quorum.** If a quorum is not present at any meeting of the Association for which proper notice was given, Members representing at least a Majority of the votes present at the meeting, although not constituting a quorum, may vote to recess the meeting for not more than twenty-four (24) hours in order to attain a quorum, provided the place of the meeting remains as stated in the notice. If the meeting is adjourned without attainment of a quorum, notice of a new meeting for the same purposes within fifteen (15) to thirty (30) days may be given to an Owner of each Unit, at which meeting the Members present in person or by proxy (even if representing less than ten percent (10%) of the Units) will be sufficient to constitute a quorum for the purposes of that meeting.

4.9. **Votes.** The vote of Members representing at least a Majority of the votes cast at any meeting at which a quorum is present binds all Members for all purposes, except when a higher percentage is required by these Bylaws, the Declaration, or by law. Cumulative voting is prohibited.

4.9.1. **Co-Owned Units.** If a Unit is owned by more than one Member, the vote appurtenant to that Unit is cast in accordance with Section 82.110(a) of Act, which is summarized as follows. If only one of the multiple Owners of a Unit is present at a meeting of the Association, that person may cast the vote allocated to that Unit. If more than one of the multiple Owners is present, the vote allocated to that Unit may be cast only in accordance with the Owners' unanimous agreement. Multiple Owners are in unanimous agreement if one of the multiple Owners casts the vote allocated to a Unit and none of the other Owners makes prompt protest to the person presiding over the meeting.

4.9.2. **Corporation-Owned Units.** If a Unit is owned by a corporation, the vote appurtenant to that Unit may be cast by any officer of the corporation in the absence of the corporation's written appointment of a specific person to exercise its vote. The vote of a partnership may be cast by any general partner in the absence of the partners' written appointment of a specific person. The person presiding over a meeting or vote may require reasonable evidence that a person voting on behalf of a corporation or partnership is qualified to vote.

4.9.3. **Association-Owned Units.** Votes allocated to a Unit owned by the Association may be counted towards a quorum and for all ballots and votes except the election or removal of directors. The vote appurtenant to a Unit owned by the Association is exercised by the Board.

4.10. **Proxies.** Votes may be cast in person or by written proxy. To be valid, each proxy must: (i) be signed and dated by a Member or his attorney-in-fact; (ii) identify the Unit to which the vote is appurtenant; (iii) name the person or title (such as "presiding officer") in favor of whom the proxy is granted, such person having agreed to exercise the proxy; (iv) identify the meeting for which the proxy is given; (v) not purport to be revocable without notice; and (vi) be delivered to the Secretary, to the person presiding over the Association meeting for which the proxy is designated, or to a person or company designated by the Board. Unless the proxy specifies a shorter or longer time, it terminates eleven (11) months after the date of its execution. Perpetual or self-renewing proxies are permitted, provided they are revocable. To revoke a proxy, the granting Member must give actual notice of revocation to the person presiding over the Association meeting for which the proxy is designated. Unless revoked, any proxy designated for a meeting which is adjourned, recessed, or rescheduled is valid when the meeting reconvenes. A proxy may be delivered by fax. However, a proxy received by fax may not be counted to make or break a tie-vote unless: (a) the proxy has been acknowledged or sworn to by the Member, before and certified by an officer authorized to take acknowledgments and oaths; or (b) the Association also receives the original proxy within five (5) days after the vote.

4.11. **Conduct of Meetings.** The president, or any person designated by the Board, presides over meetings of the Association. The secretary keeps, or causes to be kept, the minutes of the meeting which should record all resolutions adopted and all transactions occurring at the meeting, as well as a record of any votes taken at the meeting. The person presiding over the meeting may appoint a parliamentarian. The then current edition of Robert's Rules of Order governs the conduct of meetings of the Association when not in conflict with the Documents. Votes should be tallied by Members appointed by the person presiding over the meeting.

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

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

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

4.14. **Action without Meeting.** Subject to Board approval, any action which may be taken by a vote of the Members at a meeting of the Association may also be taken without a meeting by written consents. The Board may permit Members to vote by any method allowed by Section 22.160(b)(c) and (d) of the Texas Business Organizations Code, which may include hand delivery, mail, fax, email, or any combination of these. Written consents by Members representing at least a Majority of votes in the Association, or such higher percentage as may be required by the Documents, constitutes approval by written consent. This Section may not be used to avoid the requirement of an annual meeting and does not apply to the election of directors.

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

**ARTICLE 5**  
**RULES**

5.1. **Rules.** The Declarant has adopted initial rules and regulations for: (i) the administration of the Association and the Documents; (ii) the maintenance, management, operation, use, conservation, and beautification of the Property; and (iii) the health, comfort, and general welfare of the Occupants; provided, however, that such rules may not be in conflict with law or the Documents. The Board will, at all times, maintain the then current and complete rules in a written form which can be copied and distributed to the Members. The Board has the right to amend, from time to time, the rules and regulations; provided, however, that until the expiration or termination of the Development Period, all amendments to the rules and regulations must be approved in advance and in writing by Declarant.

5.2. **Adoption and Amendment.** Any rule may be adopted, amended, or terminated by the Board, provided that the rule and the requisite Board (and Declarant, if applicable) approval are properly recorded as a resolution in the minutes of the meeting of the Board.

5.3. **Distribution.** On request from any Member or Occupant, the Board will provide a current and complete copy of rules. Additionally, the Board will, from time to time, distribute copies of the current and complete rules to Owners and, if the Board so chooses, to non-Member Occupants.

**ARTICLE 6**  
**ENFORCEMENT**

6.1. **Remedies.** The violation of any provision of the Documents gives the Board the following rights, in addition to any other rights set forth in the Documents:

6.1.1. **Fines.** To impose reasonable fines, if notice and an opportunity to be heard are given.

6.1.2. **Self-Help.** After notice and an opportunity to be heard are given, except in case of an emergency, to enter the Unit or Common Element in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is contrary to the intent and meaning of the provisions of the Documents. The Board may not be deemed liable for any manner of trespass by this action.

6.1.3. **Courts.** To enjoin, abate, or remedy, by appropriate legal proceedings, the continuance of any breach.

6.2. **Notice and Hearing.** Before charging for property damage, imposing a fine or exercising self-help abatement, the Board must give the Owner a written violation notice and an opportunity to be heard.

6.2.1. Notice of Violation. Before charging for property damage or levying a fine, the Association will give the Owner a written violation notice, and an opportunity to be heard. This requirement may not be waived. The Association's written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation or property damage; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation; (5) the amount of the fine or damage charge; (6) a statement that not later than the thirtieth (30th) day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine or damage charge; and (7) the date the fine or damage charge attaches or begins accruing. The notice sent out is further subject to the Association's Fine Policy.

6.2.2. Notice to Occupant. In addition to giving the written violation notice to the Owner, the Board may also give a copy of the notice to the non-Owner Occupant, if the Board deems it appropriate.

6.2.3. Request for Hearing. To request a hearing before the Board, an Owner must submit a written request to the Association's manager (or the Board if there is no manager) within thirty (30) days after the date of the violation notice. Within fifteen (15) days after receiving the Owner's request for a hearing, the Board will give the Owner at least fifteen (15) days' notice of the date, time, and place of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend.

6.2.4. Pending Hearing. Pending the hearing, the Board may continue to exercise the Association's other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of the fine or the abatement action described in the notice.

6.2.5. Hearing. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication. No audio or video recording of the hearing may be made.

6.2.6. Minutes of Hearing. The minutes of the hearing must contain a statement of the results of the hearing and the amount of fine, if any, imposed, or abatement action, if any, authorized. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the hearing, the notice requirement will be deemed satisfied.

6.3. **Imposition of Fine.** Within thirty (30) days after levying the fine or authorizing the abatement, the Board must give the Owner notice of the levied fine or abatement action. If

the fine or action is announced at the hearing at which the Owner is actually present, the notice requirement will be satisfied. Otherwise, the notice must be in writing.

6.3.1. Amount. The Board may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Board may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation. If the Board allows fines to accumulate, it may establish a maximum amount for a particular fine, at which point the total fine will be capped.

6.3.2. Type of Fine. If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, weekly, or monthly). If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.

6.3.3. Other Fine-Related. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The Association may not charge interest on unpaid fines. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Board may adopt a collection policy that applies Owners' payments to unpaid fines before retiring other types of assessments.

6.4. Additional Enforcement Rights. Notwithstanding the notice and hearing requirement, the Board may take immediate and appropriate action, without giving the notices required in this Article, against violations of the Documents which, in the Board's opinion, are: (i) self-evident, such as vehicles parked illegally or in violation of posted signs; (ii) threatening to life or property; or (iii) repeat violations of the same provision by the same Owner to whom prior notices and demands have been given for the same violation. Further, the provisions of this Article do not apply to specific remedies provided in the Documents for certain violations, such as nonpayment of assessments.

## **ARTICLE 7**

### **OBLIGATIONS OF THE OWNERS**

7.1. Proof of Ownership. On request by the Association from time to time, any person who purports to be an Owner or the agent of an Owner must furnish to the Board evidence of ownership of the Unit. A copy of the recorded deed is the customary evidence. This requirement may be satisfied by receipt of a Board-approved form that is completed and acknowledged by a title company or attorney at time of conveyance of the Unit or any interest therein. The Association may refuse to recognize a person as a Member unless the requested documentation is provided.

7.2. Owners' Information. Within thirty (30) days after acquiring an ownership interest in a Unit, the Owner must provide the Association with the Owner's mailing address, telephone number, and driver's license number, if any; the name and telephone number of any

Occupant other than the Owner; and the name, address, and telephone number of any person managing the Unit as agent of the Unit Owner. An Owner must notify the Association within thirty (30) days after he has notice of a change in any information required by this Section, and must provide the information on request by the Association from time to time.

7.3. **Mailing Address.** The Owner or the several co-Owners of a Unit must register and maintain one mailing address to be used by the Association for mailing of notices, demands, and all other communications. If an Owner fails to maintain a current mailing address with the Association, the address of the Owner's Unit is deemed to be his mailing address.

7.4. **Registration of Mortgagees.** Within thirty (30) days after granting a lien against his Unit, the Owner must provide the Association with the name and address of the holder of the lien and the loan number. The Owner must notify the Association within thirty (30) days after he has notice of a change in the information required by this Section. Also, the Owner will provide the information on request by the Association from time to time.

7.5. **Assessments.** All Owners are obligated to pay assessments imposed by the Association to meet the Common Expenses as defined in the Declaration. A Member is deemed to be in good standing and entitled to vote at any meeting of the Association if he is current in the assessments made or levied against him and his Unit.

7.6. **Compliance with Documents.** Each Owner will comply with the provisions and terms of the Documents, and any amendments thereto. Further, each Owner will always endeavor to observe and promote the cooperative purposes for which the Property was established.

## **ARTICLE 8**

### **ASSOCIATION RECORDS**

8.1. **Records.** The Association will use its best efforts to keep the records required by Section 82.114(a) of the Act , including the following:

- i. Minutes or a similar record of the proceedings of meetings of the Association.
- ii. Minutes or a similar record of the proceedings of meetings of the Board.
- iii. Names and mailing addresses of the Members, the currency and accuracy of the information being the responsibility of the Members.
- iv. Names and mailing addresses of the mortgagees, the currency and accuracy of the information being the responsibility of the Members and their mortgagees.
- v. Financial records and books of account for the Association, kept in a manner consistent with generally accepted accounting principles.

- vi. Copies of income tax returns prepared for the Internal Revenue Service.
- vii. Copies of the Documents and all amendments to any of these.
- viii. A record of all votes or written consents by which amendments to the Documents were approved, for at least four (4) years after the approval.

8.2. **Inspection of Books and Records.** Books and records of the Association will be made available for inspection and copying pursuant to Section 82.114(b) of the Act and Sections 3.151, 3.153 and 22.351 of the Texas Business Organizations Code.

8.2.1. **Proper Purpose.** The Board may require a Member to submit a written demand for inspection, stating the purpose for which the Member will inspect the books and records. The Board has the following rights: (i) to determine whether the Member's purpose for inspection is proper; (ii) to deny the request if the Board determines that the Member's purpose is not proper; (iii) if granting the request, to identify which books and records are relevant to the Member's stated purpose for inspection.

8.2.2. **Copies.** A Member, at Member's expense, may obtain photocopies of books and records for which the Board grants the right of inspection. The Board has the right to retain possession of the original books and records, to make copies requested by the Member, and to charge the Member a reasonable fee for copying.

8.2.3. **Member's Agent.** A Member's inspection of the books and records may be assisted or performed by the Member's agent, accountant, or attorney.

8.2.4. **Records of Attorneys and Accountants.** The files and records of an attorney or accountant who performs services for the Association are not records of the Association, are not subject to inspection by Members, and are not subject to production in a legal proceeding.

8.3. **Resale Certificates.** Any officer may prepare or cause to be prepared, certify, and execute resale certificates in accordance with Section 82.157 of the Act. The Association may charge a reasonable fee for preparing resale certificates. The Association may refuse to furnish resale certificates until the fee is paid. Any unpaid fees may be assessed against the Unit for which the certificate is furnished.

## **ARTICLE 9** **NOTICES**

9.1. **Co-Owners.** If a Unit is owned by more than one person, notice to one co-Owner is deemed notice to all co-Owners.

9.2. **Delivery of Notices.** Any written notice required or permitted by these Bylaws may be given personally, by mail, by electronic mail, by fax, or by any other method permitted

by the Texas Business Organizations Code. If mailed, the notice is deemed delivered when deposited in the U.S. mail addressed to the Member at the address shown on the Association's records. If transmitted by fax or electronic mail, the notice is deemed delivered on successful transmission of the facsimile or electronic message.

9.3. **Waiver of Notice.** Whenever a notice is required to be given to an Owner, Member, or director, a written waiver of the notice, signed by the person entitled to the notice, whether before or after the time stated in the notice, is equivalent to giving the notice. Attendance by a Member or director at any meeting of the Association or Board, respectively, constitutes a waiver of notice by the Member or director of the time, place, and purpose of the meeting. If all Members or directors are present at any meeting of the Association or Board, respectively, no notice is required and any business may be transacted at the meeting.

## **ARTICLE 10**

### **DECLARANT PROVISIONS**

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

10.2. **Board of Directors.** During the Declarant Control Period, Appendix "A" of the Declaration governs the number, qualification, and appointment of directors. The initial directors will be appointed by Declarant and need not be Owners or Occupants. Directors appointed by Declarant may not be removed by the Owners and may be removed by Declarant only. Declarant has the right to fill vacancies in any directorship vacated by a Declarant appointee.

10.3. **Transition Meeting.** On or before the termination of the Declarant Control Period, or sooner at Declarant's option, Declarant will call a meeting of the Members for the purpose of electing directors, by ballot of Members. Notice of the organizational meeting will be given as if it were notice of an annual meeting.

## **ARTICLE 11**

### **AMENDMENTS TO BYLAWS**

11.1. **Authority.** These Bylaws may be amended by a Majority vote of the Board of Directors; provided, however, that during the Development Period, any amendment to the Bylaws must be approved in advance and in writing by the Declarant.

11.2. **Mortgagee Protection.** In addition to the notices and consents required by these Bylaws, certain actions and amendments require notice to or approval by Mortgagees, pursuant to the Mortgagee Protection article of the Declaration. If applicable, the Association must give the required notices to and obtain the required approvals from Mortgagees.

11.3. **Effective.** To be effective, each amendment must be in writing, reference the names of the Property and the Association, and be executed by a Majority of the Board of Directors. Further, if these Bylaws are publicly recorded, the amendment must recite the

recording data for the Bylaws, and be recorded in the Official Public Records of Williamson County, Texas.

11.4. **Declarant Protection.** During the Development Period, no amendment of these Bylaws may affect the Declarant's rights herein without the Declarant's written and acknowledged consent. Specifically, this Section and the article titled "Declarant Provisions" may not be amended without the prior written approval of the Declarant. The Declarant's written consent must be part of the amendment instrument.

## **ARTICLE 12** **GENERAL PROVISIONS**

12.1. **Compensation.** A director, officer, Member, or Occupant may not receive any pecuniary profit from the operation of the Association, and no funds or assets of the Association may be paid as a salary or as compensation to, or be distributed to, or inure to the benefit of a director, officer, Member, or Occupant. Nevertheless,

i. Reasonable compensation may be paid to a director, officer, Member, or Occupant for services rendered to the Association in other capacities.

ii. A director, officer, Member, or Occupant may, from time to time, be reimbursed for his actual and reasonable expenses incurred on behalf of the Association in connection with the administration of the affairs of the Association, provided the expense has been approved by the Board.

iii. The Board may budget and use Association funds to purchase awards, certificates, a celebratory meal, or other customary tokens or demonstrations of appreciation for volunteer activities.

iv. This provision does not apply to distributions to Unit Owners permitted or required by the Declaration or the Act.

12.2. **Conflicting Provisions.** If any provision of these Bylaws conflicts with any provision of the laws of the State of Texas, the conflicting Bylaws provision is null and void, but all other provisions of these Bylaws remain in full force and effect. In the case of any conflict between the Certificate of Formation of the Association and these Bylaws, the Certificate of Formation controls. In the case of any conflict between the Declaration and these Bylaws, the Declaration controls.

12.3. **Severability.** Whenever possible, each provision of these Bylaws will be interpreted in a manner as to be effective and valid. Invalidation of any provision of these Bylaws, by judgment or court order, does not affect any other provision which remains in full force and effect.

12.4. **Construction.** The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and may not be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

12.5. **Fiscal Year.** The fiscal year of the Association will be set by resolution of the Board, and is subject to change from time to time as the Board determines. In the absence of a resolution by the Board, the fiscal year is the calendar year.

12.6. **Waiver.** No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

12.7. **Indemnification.** To the fullest extent permitted by applicable law, the Association will indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that such person is or was a director, officer, committee member, employee, servant, or agent of the Association against expenses (including attorney's fees, judgments, fines, and amounts paid in settlement) actually and reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court that such person: (i) acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interests of the Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe such conduct was unlawful. The termination of any action, suit, or proceeding by settlement, or upon a plea of Nolo Contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that such conduct was unlawful.

12.8. **Preparer.** These Bylaws were prepared by Robert D. Burton, Esq., Winstead PC, 401 Congress Ave., Suite 2100, Austin, Texas 78701.

## ATTACHMENT 3

### INITIAL RULES

These Initial Rules are established by **GREEN ABODE DEVELOPERS, LLC**, a Texas limited liability company, for the benefit of Townhomes at Gattis Condominium Community, Inc., a Texas nonprofit corporation (the "**Association**"). These Community Rules are the "Rules" defined in Article 1 of the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas (the "**Declaration**").

These Rules are in addition to the provisions of the Declaration and Bylaws. By owning or occupying a Unit, each Owner and Occupant agrees to abide by these Rules and to comply with the obligations of Owners and Occupants under the Declaration and Bylaws of the Association.

Words and phrases defined in the Declaration have the same meaning when used in these Rules. In the event of a conflict between Documents, the hierarchy of authority is as follows: Declaration (highest), Bylaws, and these Rules (lowest). The Association's board of directors is empowered to interpret, enforce, amend, and repeal these Rules.

#### A. COMPLIANCE

- A-1. Compliance. Each Owner will comply with the provisions of these Rules, the other Documents, and policies adopted by the Board to supplement these Rules, as any of these may be revised from time to time. Each Owner, additionally, is responsible for compliance with the Documents by the Occupants of his Unit, and his or their respective relatives, invitees, tenants, agents, employees, or contractors. If a Rule requires or prohibits conduct by an "Owner" or "Occupant," each of those terms are deemed to include the other, and applies to all persons for whom an Owner or Occupant is responsible. Again, the Owner is ultimately responsible for compliance by all persons using or related to his Unit. An Owner should contact the Association if he has a question about these Rules. The Association has the right to enforce these Rules against any person on the Property.
- A-2. Additional Rules. Each Occupant must comply with any rules and signs posted from time to time on the Property by the Association. Posted rules are incorporated in these Rules by reference. Each Occupant must comply with notices communicated by the Association, from time to time, in the nature of seasonal or temporary rules, or notice of a change affecting use of the Property. Temporary rules are incorporated in these Rules by reference.
- A-3. Waiver. Circumstances may warrant waiver or variance of these Rules. To obtain a waiver, an Owner must make written application to the Board. The Board's approval of a variance must be in writing, and may be conditioned.

- A-4. Limits. It is understood that individuals may have different interpretations of and tolerances for these Rules. On lifestyle-related rules, such as the “Community Etiquette” rules below, the Association may refrain from acting on a perceived violation unless the Board determines the violation to be significant or a community-wide problem. The Association may not be compelled by one Occupant to enforce these Rules against another Occupant. Occupants are expected to deal directly and peaceably with each other about their differences.
- A-5. Filing Complaints. Because the Association is not staffed to monitor the Property for Rules violations, the Association relies on Occupants to identify and report violations of these Rules and the Documents, and to monitor compliance with these Rules by violators. The Association also relies on Occupants to help keep each other informed about the Rules. Recognizing that an Occupant may be reluctant to confront another Occupant about a violation, the Association will work with Occupants to enforce the Rules. Generally, a complaint must be in writing and must be signed by an Occupant or Owner who is willing to be identified as the complainant. The Association may refuse to enforce a violation (a) that cannot be easily and independently verified, (b) for which it did not receive a signed written complaint, (c) for which the complainant will not cooperate with monitoring the violation and compliance, and (d) which the Board does not consider to be significant or community-wide.

## **B. OBLIGATIONS OF OWNERS AND OCCUPANTS**

- B-1. Damage. An Owner is responsible for any loss or damage he causes to his Unit, other Units, the personal property of other Occupants or their guests, or to the Common Elements.
- B-2. Association Does Not Insure. A person assumes full risk and sole responsibility for placing his personal property in or on the Property. Each Occupant is solely responsible for insuring his personal property in the Unit and on the Property, including his furnishings and vehicles. THE ASSOCIATION REQUIRES THAT ALL OWNERS AND OCCUPANTS PURCHASE AND MAINTAIN INSURANCE ON THEIR PERSONAL BELONGINGS.
- B-3. Risk Management. An Owner may not permit anything to be done or kept in his Unit or the Common Elements that is illegal or that may result in the cancellation of insurance on the Property.
- B-4. Reimbursement for Enforcement. An Owner must promptly reimburse the Association for any expense incurred by the Association to enforce the Documents against the Owner, his Unit, or persons for whom the Owner is responsible.

- B-5. Reimbursement for Damage. An Owner must promptly reimburse the Association for the cost of damage to the Property caused by the negligent or willful conduct of the Owner or persons for whom the Owner is responsible.
- B-6. No Garage Sales. Without the Board's prior written permission, no person may conduct at the Property a sale or activity that is advertised or attractive to the public, such as garage sales, car sales, or estate sales. This Section does not apply to marketing the sale or rental of a Unit, unless combined with a prohibited activity.
- B-7. Supervision of Minors. For their own well-being and protection, persons who are legally incompetent or younger than 18 years must be under the general control and supervision of their parents or guardians at all times while on the Property.

### C. OCCUPANCY STANDARDS

- C-1. Leases. Each lease must be in writing. At the Association's request, an Owner must give the Board a copy of each lease and lease renewal. A Unit may not be leased for hotel or transient purposes. Less than the entire Unit may not be leased. See *Article 12* of the Declaration for additional leasing requirements.
- C-2. Danger. As permitted by the federal Fair Housing Act Rules, no Unit may be occupied by a person who constitutes a direct threat to the health or safety of other persons, or whose occupancy would result in substantial physical damage to the property of others.

### D. FIRE AND SAFETY

- D-1. Safety. Each Occupant is solely responsible for his own safety and for the safety, well-being, and supervision of his guests and any person on the Property to whom the Occupant has a duty of care, control, or custody.
- D-2. Fires. Except for barbecue fires as permitted by these Rules, there may not be any exterior fires on the Property.
- D-3. Barbecue. Occupants may keep and use barbecue grills that comply with all Applicable Law, subject to the limitations contained in this Section. The Board reserves the right to prohibit or restrict the existence and/or use of all or certain outdoor cooking grills if, in the Board's discretion, a grill constitutes a fire hazard or is unattractive or oversized for the area in which it is kept. On permitted grills, (a) open fires must be supervised at all times; (b) gas tanks must be properly used and maintained; (c) no flames may be higher than the cooking surface; and (d) a grill may not be used near combustible materials.
- D-4. Intrusion Monitoring. Although the Unit may be wired for intrusion monitoring service, the Association is not the service provider to the Unit, and has no responsibility or liability for the availability for quality of the service, or for the maintenance, repair, or replacement of the wires, conduits, equipment, or other fittings relating to the contract service. As

stated in the Declaration, the Association may serve as a conduit for the service fees and payments from the Owner to the provider.

- D-5. Safety Equipment. No person may use, tamper with, or modify the fire and safety equipment, if any, in the Common Elements of the Property, such as alarms, extinguishers, monitors, and self-closing gates or doors. This Section may not be construed to require the installation or use of such equipment.
- D-6. Security. The Association may, but is not be obligated to, maintain or support certain activities within the Property designed to make the Property less attractive to intruders than it otherwise might be. The Association, its directors, committees, Members, agents, and employees will not in any way be considered an insurer or guarantor of security within the Property, and may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. Each Owner, Occupant, guest, and invitee on the Property assumes all risk for loss or damage to his person, to his Unit, to the contents of his Unit, and to any other of his property on the Property. The Association expressly disclaims and disavows any and all representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any security systems, equipment, or measures recommended, installed, or undertaken within the Property.
- D-7. Responsibility. Each Owner and Occupant is solely responsible for his or her own safety and for the safety, well-being, and supervision of his or her guests and/or invitees and any person on the Property to whom the Owner or Occupant has a duty of care, control, or custody.

#### **E. GENERAL USE AND MAINTENANCE OF UNIT**

- E-1. Residential Use. Each Unit must be used solely for residential use, and may not be used for commercial or business purposes except as permitted in the Declaration. No Unit may be used for any type of daycare facility. This restriction does not prohibit an Occupant from using his Unit for personal, business, or professional pursuits, provided that: (a) the non-residential use is incidental to the Unit's residential use; (b) the use conforms to applicable laws and ordinances; (c) there is no external evidence of the non-residential use; (d) the non-residential use does not entail visits to the Unit by the public, employees, suppliers, or clients; and (e) the non-residential use does not interfere with the use and enjoyment of neighboring Units.
- E-2. Annoyance. An Occupant may not use his Unit in a way that: (a) annoys Occupants of neighboring Units; (b) reduces the desirability of the Property as a residential community; (c) endangers the health or safety of other Occupants; or (d) violates any law or any provision of the Documents.

- E-3. Patio Maintenance. An Occupant will maintain the patio of his Unit (if any) in a clean manner. An Occupant will take care that the cleaning of his patio does not annoy or inconvenience other Occupants. A patio may not be enclosed or used for storage purposes. If the Board determines that a patio is unsightly, the Board may give the Owner notice of the problem and a reasonable time period in which to correct it, after which the Board may take corrective action at the Owner's expense.
- E-4. Utility Equipment. Each Owner, at his expense, will maintain, repair, and replace the water heating and air heating and cooling equipment/system serving his Unit.
- E-5. Combustibles. An Occupant may not store or maintain, anywhere on the Property – including within a Unit – explosives or materials capable of spontaneous combustion.
- E-6. Report Malfunctions. An Occupant will immediately report to the Board his discovery of any leak, break, or malfunction in any portion of the Property which the Association has a duty to maintain. An Occupant who fails to promptly report a problem may be deemed negligent, in which case the Owner may be liable for any additional damage caused by the delay.
- E-7. Emergencies. In case of continuous water overflow, an Occupant should immediately turn off water and TURN THE SHUT-OFF VALVES BEHIND THE TOILET OR UNDER THE SINK.
- E-8. Frozen Water Pipes. Some Units are constructed with water lines in exterior walls. It is the duty of every Owner and Occupant of such a Unit to protect the water lines from freezing during winter months. Between November 1 and March 25 of any year, no Unit with water lines in exterior walls may be left unheated. During periods of anticipated below freezing temperatures, water lines in exterior walls should be allowed to drip continuously, and cabinets enclosing plumbing lines should be left ajar. Dishwashers on exterior walls should not be used during and immediately after periods of extreme cold. Failure by an Owner or Occupant to monitor the local weather and take appropriate precautions may be deemed negligence.

#### **F. GENERAL USE & MAINTENANCE OF COMMON ELEMENTS**

- F-1. Intended Use. Every area and facility in the Property may be used only for its intended and obvious use.
- F-2. Personal Property. The sidewalks, entrances, passages, driveways, parking areas and similar portions of the Common Elements shall not be obstructed nor used for any purpose other than for ingress and egress to and from the Regime and the Units. No carts, bicycles, carriages, chairs, tables or other similar objects or personal property shall be stored in, on or upon the Common Elements, except in areas, if any, designated for such purposes.

- F-3. Grounds. Unless the Board designates otherwise, Occupants may not use or abuse the landscaped areas, lawns, beds, and plant materials on the Common Elements.
- F-4. Abandoned Items. No item or object of any type may be stored, placed, or maintained anywhere on the General Common Elements, except by the Board or with the Board's prior written consent. Items of personal property found on the General Common Elements are deemed abandoned and may be disposed of by the Board.

### G. COMMUNITY ETIQUETTE

- G-1. Courtesy. Each Occupant will endeavor to use his Unit and the Common Elements in a manner calculated to respect the rights and privileges of other Occupants.
- G-2. Annoyance. An Occupant will avoid doing or permitting anything to be done that will annoy, harass, embarrass, or inconvenience other Occupants or their guests, or the Association's employees and agents.
- G-3. Noise and Odors. Each Occupant must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb Occupants of other Units. The following are expressly prohibited: (1) installing speakers, subwoofers, or other noise or vibration emitting equipment in or on a Party Wall; (2) creating any protrusion in a Party Wall, through which sound may more easily transfer; (3) mounting a speaker in a ceiling at a point that is less than 5 feet from a Party Wall; and (4) loud vocalizations and boisterous conduct on Common Elements.

#### **NOT SOUNDPROOFED**

The units are not soundproofed, and some noise transmission between adjoining units will occur. Reasonable people may disagree about "customary" noise levels and what constitutes a "disturbance." Persons who are hypersensitive to noise may be required to tolerate a degree of noise transmission.

- G-4. Parties. In planning private social functions at the Property, an Occupant should be aware of the potential consequences on the Property's parking resources and on the sensibilities of other Occupants. An Occupant intending to use his Unit for a party or other activity that may be expected to produce a higher-than-customary level or duration of noise or other disturbance will make a diligent effort to give Occupants of adjoining Buildings timely prior notice of the event, as a courtesy. If the event is expected to attract twenty (20) or more guests to the Property, the Occupant will also give the Board timely prior written notice of the event.
- G-5. Reception Interference. Each Occupant will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, or electronic reception on the Property.

## H. ARCHITECTURAL CONTROL; WORK UPON UNITS AND COMMON ELEMENTS

- H-1. Exteriors. Without the written approval of the Architectural Reviewer, an Owner or Occupant may NOT change, remodel, decorate, destroy, or improve any exterior surface or component of the Property, nor do anything to change the outside appearance of the Property, including without limitation the entry door, front porch, patios, windows, and driveway appurtenant to the Unit.
- H-2. Protrusions. An Owner or Occupant may not cause anything to protrude or project through the boundaries of the Unit, such as the foundation, roof, party wall between Buildings, or an exterior wall of a Building. Examples of installations that may entail protruding wires or conduits include, without limitation, exterior horns, lights, speakers, or aerials.
- H-3. Patios. Because patios are distinctive architectural features of the Property, an Owner or Occupant may not change the appearance or condition of the patio portion of his Unit in any manner, without the prior authorization of the Architectural Reviewer. While certain types of furniture are allowed on patios, such items must be in good condition, of a first class nature, and compatible with the design and quality of the community, as determined by the Board its sole and absolute discretion. Prohibited activities include the following:
- a. Painting or staining any part of the patio.
  - b. Enclosing the patio or porch in any manner.
  - c. Hanging items from the trellis, arbor, walls, roof, or railing, or failing to remove hanging items that the Architectural Reviewer has determined to be unattractive, such as wind chimes, windsocks, birdfeeders, rope lights, and hanging baskets.
  - d. Maintaining anything on the patio that the Architectural Reviewer determines to be unattractive, such as umbrellas, items of storage, bicycles, and oversize or inappropriate furniture.
- H-4. Work Upon Common Elements and Units. Notwithstanding any provision in the Declaration or these Rules to the contrary, no Owner or Occupant shall perform or permit to be performed any work to any portion of: (i) the Owner's Unit, which work may require access to, over or through the Common Elements or other Units or (ii) the Common Elements, without the prior consent of the Board of Directors except in case of an emergency. All such work may only be performed by a person who shall deliver to the Board of Directors prior to commencement of such work, in form satisfactory to the Board of Directors:
- a. releases of the Board of Directors and the Association for all claims that such Person may assert in connection with such work;

- b. indemnities of the Board of Directors and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Elements or other Units;
- c. certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board of Directors; and
- d. all other information and protections which the Board of Directors may reasonably require.

H-5. Window Treatments. An Owner MAY install window treatments inside his Unit, provided:

- a. The window treatment, including drapes, blinds, shades, or shutters, must appear to be (1) clear, (2) white, (3) near-white light neutral, or (4) light wood tone when viewed from outside the Unit.
- b. The use of bed sheets, tablecloths, or other obviously non-drapery fabrics is expressly prohibited, even on a temporary basis.
- c. Aluminum foil, reflective window treatments, window tinting, and window decals or stickers are expressly prohibited.
- d. Window treatments must be maintained in good condition, and must be removed or replaced if they become stained, torn, damaged, or otherwise unsightly in the opinion of the Board.

H-6. Prohibited Acts. In addition to the foregoing, a person may not:

- a. Post signs, notices, or advertisements on the Common Elements or in a Unit if the sign is visible from outside the Unit, other than signs permitted by *Section 11.10* of the Declaration.
- b. Place or hang an object in, on, from, or above any window, interior window sill, deck, patio, or carport that, in the sole opinion of the Board, detracts from the appearance of the Property. Prohibited objects include planters and planter boxes, flower pots, window boxes, birdfeeders, windsocks, mobiles, wind chimes, and other outside accessories.
- c. Hang, shake, or otherwise display linens, clothing, towels, rugs, shoes, mops, bedding, or other similar items from windows, doors, patios, or passageways.
- d. Have bicycles or similar sporting equipment on patios.

- e. Place decorations on exterior walls, doors, and fences, or on the General Common Elements.
  - f. Enclose a patio.
  - g. Install storm or screen doors and windows, including solar screen.
- H-7. Architectural Reviewer. All proposed improvements and modifications to the Regime must be approved in advance by the Architectural Reviewer in accordance with the Declaration.

### **I. VEHICLE RESTRICTIONS**

- I-1. Permitted Vehicles. To be permitted on the Property, a vehicle must be operable, and must display a current license tag and inspection sticker. For purposes of these Rules, vehicles include automobiles, motorcycles, motorized bikes, passenger trucks, small vans, and similar passenger vehicles. The following are not permitted on the Property without the Board's consent: trailers, boats, recreational vehicles, buses, large commercial trucks, industrial vehicles. Motorcycles, motorbikes, or other motorized vehicles may not be operated on the Property except to provide transportation to and from a Unit.
- I-2. Repairs. Repairs, restoration, or maintenance (including oil changes) of vehicles is prohibited on driveways and parking areas, except for emergency repairs, and then only to the extent necessary to enable movement of the vehicle to a repair facility.
- I-3. Proper Placement. No vehicle, including motorcycles, may be driven, parked, or placed anywhere on the Property except in designated areas. Motorcycles may not be chained to buildings, fences, or any other part of the Property, unless designated for that purpose.
- I-4. Guest Parking. Guest parking along the street is limited to a period of no more than twenty-four (24) consecutive hours unless in the event of an emergency or otherwise approved in advance by the Board. An "emergency" means an event which jeopardizes life or property. Vehicles found to be in violation of this rule are subject to towing at the vehicle owner's expense.
- I-5. Garages and Carports. Because of the shortage of guest parking within the Property, it is imperative that each Owner or Occupant use their garage or carport for the parking of vehicles. An Owner or Occupant with a vehicle must use his garage or carport for routine parking. No garage or carport may be enclosed or used for any purpose that prevents the parking of the maximum number of vehicles for which it was constructed. Garage doors, if applicable, must be kept completely closed at all times, except when entering or exiting.
- I-6. Nuisances. Each vehicle must be muffled and must be maintained and operated to minimize noise, odor, and oil emissions. The use of car horns on the Property is

discouraged. No vehicle may be kept on the Property if the Board deems it to be unsightly, inoperable, inappropriate, or otherwise violative of these Rules.

- I-7. Obstructions. No vehicle may be parked in a manner that impedes or prevents ready access to the Property, driveways, or parking spaces. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard. No vehicle may be parked, even temporarily, in spaces reserved for others, in firelanes, or in any area designated as "No Parking." Vehicles parked in violation of the Documents (including this provision) will be towed at the owner's expense.
- I-8. Violations. A vehicle in violation of these Rules may be stickered, wheel-locked, towed, or otherwise removed from the Property by the Board, at the expense of the vehicle's Owner. The Association expressly disclaims any liability for damage to vehicles on which the Association exercises these remedies for Rules violations.

## **J. TRASH DISPOSAL**

- J-1. General Duty. Occupants will endeavor to keep the Property clean and will dispose of all refuse in receptacles designated specifically by the Association or by the applicable municipality for that purpose. Occupants may NOT litter Common Elements.
- J-2. Trash Containers and Recycling Bins. Except as provided herein, trash containers and recycling bins must be stored and screened from view from the front of the Unit and the Common Elements or street. Trash containers and recycling bins may only be placed on the street within twenty-four (24) hours of the designated trash pick-up day and must be returned to the storage area screened from view from the front of the Unit and the Common Elements or street within twenty four (24) hours after pick-up. Occupants must arrange privately for removal of discarded furnishings or any unusually large volume of debris. The Architectural Reviewer shall have the right to specify additional locations in which trash containers or recycling bins must be stored.
- J-3. Hazards. Occupants may NOT store trash inside or outside his Unit in a manner that may permit the spread of fire, odors, or seepage, or encouragement of vermin. Before discarding coals, ashes, logs, or other materials used in barbecue grills or fireplaces, Occupant will ensure that the debris is thoroughly cold.

## **K. PETS**

- K-1. Permitted Pets. An Occupant may not keep or permit on the Property a pet or animal of any kind, except as permitted by these Rules and the Documents. Subject to these Rules, an Occupant may keep in his or her Building customary domesticated housepets, such as

domesticated dogs, cats, caged birds, and aquarium fish, provided there are not more than three (3) cats and dogs, in the aggregate.

K-2. Prohibited Animals. 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, maintained, or cared for anywhere on the Property. No Occupant may keep a dangerous or exotic animal, trained attack dog, or any other animal deemed by the Board to be a potential threat to the well-being of people or other animals. In the event that the Board determines that an animal within the Property is dangerous or hazardous, then the owner of such animal shall be required to immediately remove the animal from the Property. No animal or house pet may be kept, bred, or maintained for any commercial purpose or for food.

K-3. Dog Park. The dog park, if any, is subject to the following rules, which may change at any time, and from time to time as determined by the Board:

- (a) All activity inside the dog park is "at your own risk" and the Declarant, Board, Association and their members, officers, directors or agents will be held harmless for any pet injury and/or any injury to any person(s), or loss of property.
- (b) Occupants may not leave their pet(s) unattended at any time.
- (c) Occupants may allow their pets to run free within the dog park, but shall ensure that their pets are not aggressive towards any other pets or Occupants. Pets known to be aggressive towards humans and/or other animals are not permitted in the dog park.
- (d) All dogs entering the dog park must be current on all vaccinations and must be licensed. Dogs and puppies should be generally healthy and parasite-free.
- (e) There is a limit (2) dogs per handler.
- (f) Dogs in heat are NOT allowed in the dog park area.
- (g) Human and dog food is prohibited in the dog park.
- (h) Prong, chain and spiked collars should not be worn by pets in the dog park.
- (i) Small children and toddlers are not permitted in the dog park area.
- (j) Excessive barking must be dealt with immediately by the handler, or the dog must be removed from the dog park.
- (k) It is mandatory for all pet owners and handlers to at all times clean up after their pets and use the receptacles provided. Rules apply to guests of Occupants.

- K-4. Indoors/Outdoors. A permitted pet must be maintained inside the Building, and may not be kept on a patio. No pet is allowed on General Common Elements unless carried or leashed. No pet may be leashed to a stationary object on the Common Elements.
- K-5. Disturbance. Pets must be kept in a manner that does not disturb another Occupant's rest or peaceful enjoyment of his Unit or the Common Elements. No pet may be permitted to bark, howl, whine, screech, or make other loud noises for extended or repeated periods of time.
- K-6. Damage. Each Occupant is responsible for any property damage, injury, or disturbance his pet may cause or inflict. An Occupant who keeps a pet on the Property is deemed to indemnify and agrees to hold harmless the Board, the Association, and other Owners and Occupants, from any loss, claim, or liability of any kind or character whatever resulting from any action of his pet or arising by reason of keeping or maintaining the pet on the Property.
- K-7. Pooper Scooper. Each Occupant is responsible for the removal of his pet's wastes from the Common Elements. The Board may levy a fine against a Unit and its Owner each time feces are discovered on the Common Elements and attributed to an animal in the custody of that Unit's Occupant.
- K-8. Removal. If an Occupant or his pet violates these Rules, or if a pet creates a noise, odor, or other disturbance or nuisance, the Occupant or person having control of the animal may be given a written notice by the Board to correct the problem. If the problem is not corrected within the time specified in the notice (not less than 10 days), the Occupant, upon written notice from the Board, may be required to remove the animal. Each Occupant agrees to permanently remove his violating animal from the Property within 10 days after receipt of a removal notice from the Board.

#### L. MISCELLANEOUS

- L-1. Right to Hearing. An Owner may request in writing a hearing by the Board regarding an alleged breach of these Rules by the Owner or any person for whom the Owner is responsible. The Board will schedule a hearing within thirty (30) days after receiving the Owner's written request. At the hearing, the Board will consider the facts and circumstances surrounding the alleged violation. The Owner may attend the hearing in person, or may be represented by another person or written communication.
- L-2. Mailing Address. An Owner who receives mail at any address other than the address of his Unit must maintain with the Association his current mailing address. Notifications of change of name or change of address should be clearly marked as such. All notices required to be sent to Owners by the Documents may be sent to an Owner's most recent address as shown on the records of the Association. If an Owner fails to provide a forwarding address, the address of that Owner's Unit is deemed effective for purposes of delivery.

- L-3. Revision. These Rules are subject to being revised, replaced, or supplemented, and Owners and Occupants are urged to contact the Association to verify the rules currently in effect on any matter of interest. These Rules will remain effective until 10 days after an Owner of each Unit has been given a notice of the amendment or revocation of these Rules.
- L-4. Other Rights. These Rules are in addition to and in no way whatsoever detract from the rights of the Association under the other Documents and the laws of the State of Texas.

## ATTACHMENT 4

### ASSESSMENT COLLECTION POLICY

Townhomes at Gattis Condominiums is a condominium regime created by and subject to the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas, as it may be amended (the “**Declaration**”). As a condominium regime, Townhomes at Gattis Condominiums is also subject to State laws, including Chapter 82 of the Texas Property Code -- the Texas Uniform Condominium Act (“**TUCA**”). The operation of the condominium regime, Townhomes at Gattis Condominiums, is vested in Townhomes at Gattis Condominium Community, Inc. (the “**Association**”), acting through its board of directors (the “**Board**”). The Association is empowered to enforce the covenants of the Declaration, including the obligation of owners to pay Assessments. In addition to rights and remedies of the Association under the Declaration, TUCA gives the Association, acting through the Board:

1. Authority to adopt and amend rules regulating the collection of delinquent Assessments and the application of payments. §82.102(a)(13);
2. Authority to impose interest and late charges for late payments of Assessments, and returned check charges. §82.102(a)(12);
3. Authority to adopt and amend rules regulating the termination of utility service to a Unit, the Owner of which is delinquent in the payment of an Assessment that is used, in whole or in part, to pay the cost of that utility. §82.102(a)(14);
4. Authority to suspend the voting privileges of or the use of certain general common elements by an Owner delinquent for more than thirty (30) days in the payment of Assessments. §82.102(a)(17); and
5. A private power of sale to foreclose the Assessment lien nonjudicially, subject to a limited right of redemption by the Unit Owner. §82.113.

To establish equitable policies and procedures for the collection of delinquent Assessments, the Declarant hereby adopts this policy for the benefit of the Association, as part of the initial project documentation.

#### **SECTION 1. DELINQUENCIES, LATE CHARGES & INTEREST**

- 1-A. Due Date. An Owner will timely and fully pay Regular Assessments, and Special, Individual, Utility and Deficiency Assessments. Regular Assessments are due and payable on the first calendar day of each month. Special, Individual, Utility and Deficiency Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within ten (10) days after notice of the Special, Individual, Utility or Deficiency Assessment is given.

- 1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of a Unit becomes delinquent, it remains delinquent until paid in full – including collection costs and late fees.
- 1-C. Late Fees & Interest. If the Association does not receive full payment of a Regular Assessment by 5:00 p.m. on the tenth (10<sup>th</sup>) calendar day of the month, the Association may levy a late fee of \$25 per month and/or interest of ten percent (10%) per annum from the first day of delinquency until the delinquency is paid in full. After the initial month of delinquency, a late fee of \$25 may be imposed on the first day of each month the account is delinquent until the account is current.
- 1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney’s fees incurred by the Association in collecting the delinquency.
- 1-E. Insufficient Funds. The Association may levy a charge for any check returned to the Association marked “not sufficient funds” or the equivalent.
- 1-F. Waiver. Properly levied collection costs, late fees, and interest may not be waived by the Board, unless a Majority of the directors determines that extraordinary circumstances warrant an adjustment to the account, in which case the adjustment must be described in detail in the minutes of the Board’s meeting. Because of the potential for inadvertently effecting a waiver of the policies contained in this policy, the Board will exercise caution in granting adjustments to an Owner’s account.

## SECTION 2. INSTALLMENTS & ACCELERATION

If a Special or Deficiency Assessment is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of that Assessment. A Special or Deficiency Assessment payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association’s intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

## SECTION 3. PAYMENTS

- 3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner’s liability for late fees or interest, and collection costs, **any payment received by the Association may be applied in the following order, starting with the oldest charge in each category, until that category is fully paid**, regardless of the amount of payment, notations on checks, and the date the obligations arose:

- |  |                                     |
|--|-------------------------------------|
| (1) Collection costs and attorney's fees | (8) Delinquent Utility Assessments  |
| (2) Fines                                | (9) Delinquent Regular Assessments  |
| (3) Reimbursable expenses                | (10) Current Individual Assessments |
| (4) Late charges and interest            | (11) Current Deficiency Assessments |
| (5) Delinquent Individual Assessments    | (12) Current Special Assessments    |
| (6) Delinquent Deficiency Assessments    | (13) Current Utility Assessments    |
| (7) Delinquent Special Assessments       | (14) Current Regular Assessments    |

3-B. Form of Payment. The Association may require that payment of delinquent assessments be made only in the form of cash, cashier's check, or certified funds.

3-C. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Unit's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.

3-D. Notice of Payment. If the Association receives full payment of the delinquency after recording a notice of lien, the Association will cause a release of notice of lien to be publicly recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and recording the release.

3-E. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

#### **SECTION 4. LIABILITY FOR COLLECTION COSTS**

The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency, which amounts are secured by a lien against the Unit.

## SECTION 5. COLLECTION PROCEDURES

- 5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's managing agent, an attorney, or a debt collector.
- 5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send one or more written notices of nonpayment to the defaulting Owner, by hand delivery, first class mail, and/or by certified mail, stating the amount delinquent. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.
- 5-C. Collection by Attorney. After giving the Owner notice of the delinquency, the Association may refer the delinquent account to an attorney for collection. In that event, the defaulting Owner will be liable to the Association for its legal fees and expenses.
- 5-D. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lienholders, including the mortgage company.
- 5-E. Notification of Mortgage Lender. The Association may notify the mortgage lender of the default obligations.
- 5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5-G. Notice of Lien. The Association may cause a notice of the Association's Assessment lien against the Unit to be publicly recorded. In that event, a copy of the notice will be sent to the defaulting Owner, and may be sent to his mortgage holder.
- 5-H. Foreclosure of Lien -- Nonjudicially. The Board may instruct an attorney, officer, or agent of the Association to notify the defaulting Owner of the Association's intent to foreclose its assessment lien, to post the property for public auction, and to conduct a public auction of the Unit on the steps of the county courthouse in accordance with State law and the Association's documents. The Board may not foreclose a lien consisting solely of fines or securing money for which the Association has obtained a personal money judgment.
- 5-I. Foreclosure of Lien -- Judicially. The Association may file suit against the Owner for judicial foreclosure of the Association's Assessment lien. This action may be combined with a claim against the Owner's personal liability, for recovery of a money judgment.
- 5-J. Suit for Owner's Personal Liability. Whether or not the Association forecloses the Association's Assessment lien, the Board may file a suit for a personal judgment against the defaulting Owner, and may execute on the judgment.

- 5-K. Possession Following Foreclosure. If the Association purchases the Unit at public auction, the Board may immediately institute actions to recover possession.
- 5-L. Limited Right of Redemption. If the Association buys a Unit at the nonjudicial foreclosure sale of its assessment lien, the Association's ownership is subject to a ninety (90) day right of redemption by the Owner. TUCA's statutory right of redemption does not apply to judicial foreclosures or foreclosures of judgment liens.
- 5-M. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.
- 5-N. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.
- 5-O. Suspension of Voting Rights. The Association may suspend the voting rights of an Owner whose account with the Association is delinquent for at least thirty (30) days.
- 5-P. Suspension of Use of Certain Facilities or Services. The Association may suspend the use of any Common Element amenities by an Owner, or his tenant, whose account with the Association is delinquent for at least thirty (30) days.
- 5-Q. Utility Shut-Off. The Association may terminate utility service to the Unit for which Assessments used to pay the cost of that utility are delinquent, according to the Association's utility shut-off policy.

## SECTION 6. GENERAL PROVISIONS

- 6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, manager, and attorney of the Association will exercise their independent, collective, and respective judgment in applying this policy.
- 6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Association's Documents and the laws of the State of Texas.
- 6-C. Limitations of Interest. The Association, and its officers, directors, managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by Applicable Law. If, from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid

Special and Regular Assessments, or reimbursed to the Owner if those Assessments are paid in full.

- 6-D. Notices. Unless the Documents, Texas law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that two (2) or more persons own a Unit, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant is deemed notice to all Occupants. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.
- 6-E. Definitions. Words and phrases used in this policy have the same meanings given to them by the Declaration.
- 6-F. Amendment of Policy. This policy will remain effective until ten (10) days after the Association delivers to an Owner of each Unit notice of amendment or revocation of this policy. The notice may be published and distributed in an Association newsletter or other community-wide publication.

## ATTACHMENT 5

### FINE POLICY

1. Background. This fine policy is based on the requirements of Sections 82.102(d) and (e) of the Texas Uniform Condominium Act (“TUCA”). To establish policies and procedures for fining under TUCA, the Declarant adopts this policy for the benefit of the Association, as part of the initial project documentation.
2. Policy. The Association uses fines to discourage violations of the Documents, and to encourage compliance when a violation occurs - not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Documents. The Association’s use of fines does not interfere with its exercise of other rights and remedies for the same violation. Nor may the Association use fines to the exclusion of other remedies.

***DRAFTER’S DICTUM***

*Users of this document should periodically review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by this document.*

3. Owner’s Liability. An Owner is liable for fines levied by the Association for violations of the Documents by the Owner, the Occupants of the Unit, and the relatives, guests, employees, and agents of the Owner and Occupants. Regardless of who performs the violation, the Association will direct its communications to the Owner, although the Association may send copies of its notices to the Occupant.
4. Violation Notice. Before levying a fine, the Association will give the Owner a written violation notice and an opportunity to be heard. This requirement may not be waived. The Association’s written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation or property damage; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation; (5) the amount of the fine or damage charge; (6) a statement that not later than the thirtieth (30<sup>th</sup>) day after the date of the violation notice, the Owner may request a hearing before the Board to contest the fine or damage charge; and (7) the date the fine or damage charge attaches or begins accruing (the “**Start Date**”), subject to the following:
  - a. New Violation. If the Owner was not given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months, the notice will state a specific date by which the violation must be cured to avoid the fine, if the violation is ongoing or continuous. If the violation is not ongoing, but is instead

sporadic or periodic, the notice must state that any future violation of the same rule may result in the levy of a fine.

- b. Repeat Violation. In the case of a repeat violation, the notice will state that, because the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months, the fine attaches from the date of the violation notice.
5. Violation Hearing. An Owner may request in writing a hearing by the Board to contest the fine. To request a hearing before the Board, an Owner must submit a written request to the Association's manager (or the Board if there is no manager) within thirty (30) days after the date of the violation notice. Within fifteen (15) days after Owner's request for a hearing, the Board will give the Owner at least fifteen (15) days' notice of the date, time, and place of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation, as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend the hearing in person, or may be represented by another person or written communication. No audio or video recording of the hearing may be made. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, imposed. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied.
6. Levy of Fine. Within thirty (30) days after levying the fine, the Board must give the Owner notice of the levied fine. If the fine is levied at the hearing at which the Owner is actually present, the notice requirement will be satisfied if the Board announces its decision to the Owner at the hearing. Otherwise, the notice must be in writing. In addition to the initial levy notice, the Association will give the Owner periodic written notices of an accruing fine or the application of an Owner's payments to reduce the fine. The periodic notices may be in the form of monthly statements or delinquency notices.
7. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. If circumstances warrant a variance from the schedule, the Board will document the reasons for the variance in the minutes of its meeting. The amount and cumulative total of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Documents. If the Association allows fines to accumulate, it will establish a maximum amount for a particular fine, at which point the total fine will be capped.

8. Type of Levy. If the violation is ongoing or continuous, the fine may be levied on a periodic basis (such as daily, monthly, or quarterly), beginning on the Start Date. If the violation is not ongoing, but is instead sporadic or periodic, the fine may be levied on a per occurrence basis.
9. Collection of Fines. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Association may not charge interest or late fees for unpaid fines.
10. Definitions. Words and phrases used in this policy have the same meanings given to them by the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded or to be recorded in the Official Public Records of Williamson County, Texas (the "**Declaration**").
11. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until ten (10) days after the Association delivers to an Owner of each Unit notice of amendment or revocation of this policy. The notice may be published and distributed in an Association newsletter or other community wide publication.

## ATTACHMENT 6

### MOLD POLICY

#### RECITALS

A. Background. Because of extensive news coverage in recent years relating to mold, the public and the insurance industry have a heightened awareness of and sensitivity to anything pertaining to mold. In a condominium context, the mold issue has numerous facets.

B. Mold Information. In adopting this policy, the Association relies on information about mold obtained from government sources, including the "Indoor Air Mold" website sponsored by the U. S. Environmental Protection Agency at <http://www.epa.gov/mold/index.html>. As stated in the "Frequently Asked Questions" section of the EPA Mold site:

*What are the basic mold clean-up steps?*

- 1. The key to mold control is moisture control.*
- 2. Scrub mold off hard surfaces with detergent and water, and dry completely.*
- 3. Fix plumbing leaks and other water problems as soon as possible. Dry all items completely.*
- 4. Absorbent or porous materials, such as ceiling tiles and carpet, may have to be thrown away if they become moldy. Mold can grow on or fill in the empty spaces and crevices of porous materials, so the mold may be difficult or impossible to remove completely.*
- 5. Avoid exposing yourself or others to mold (see discussions: What to Wear When Cleaning Moldy Areas (<http://www.epa.gov/mold/whattowear.html>) and Hidden Mold (<http://www.epa.gov/mold/hiddenmold.html>)).*
- 6. Do not paint or caulk moldy surfaces. Clean up the mold and dry the surfaces before painting. Paint applied over moldy surfaces is likely to peel.*
- 7. If you are unsure about how to clean an item, or if the item is expensive or of sentimental value, you may wish to consult a specialist. Specialists in furniture repair, restoration, painting, art restoration and conservation, carpet and rug cleaning, water damage, and fire or water restoration are commonly listed in phone books. Be sure to ask for and check references. Look for specialists who are affiliated with professional organizations.*

C. Owner/Occupant Duty. Because the Association does not have continual access to Units, the Association relies on Owners and Occupants to control the moisture levels in their Units, and to promptly identify and report water leaks and water penetrations in their Units. That a Unit is vacant or occupied by a person other than the Owner does not relieve the Owner from fulfilling his obligations to the Association and to the Owners of other Units.

D. Insurance. On the date of this Mold Policy, property insurance available to the Association does not include coverage of mold at a price that is affordable. An Owner who wants

insurance coverage with respect to mold and mold-related damages is advised to purchase such insurance coverage as part of his homeowners insurance policy.

E. Mold Reminders. Mold spores are a natural component of our environment. Mold spores are everywhere - in the outside air and inside of Units. In addition to air-borne mold, visible surface mold is a common occurrence in wet areas, such as showers. Air quality tests for mold are capable of being unreliable as determinates of a health problem.

## RULES

1. Inspect for Surface Mold. Each Owner and Occupant will regularly inspect their entire Unit (including inside closets and cabinets, and behind furniture and appliances) for visible surface mold and will promptly remove same using procedures recommended by an appropriate source, such as the U.S. Environmental Protection Agency ([www.epa.gov](http://www.epa.gov)). Similarly, the Owner and Occupant will be alert to odors associated with mold, and will try to locate the source of such odor when detected.
2. Inspect for Water Leaks. Each Owner and Occupant will regularly inspect their entire Unit (including inside closets and cabinets, and behind furniture and appliances) for leaks, breaks, or malfunctions of any kind that may emanate from or cause damage to the Common Elements or another Unit. When possible, such inspection will be performed after rains when leaks from wind-driven rain are most likely to be evident. Typical indicators of water penetration problems include water leaks around windows, doors, flues, and vents; standing water on a floor; water stains on ceilings and walls.
3. Monitor Water Appliances. Each Owner and Occupant is responsible for the inspection, maintenance, repair, and replacement of all water-using appliances and fixtures in the Unit or serving the Unit exclusively, such as dishwashers, water heaters, washing machines, ice-makers, toilets, air conditioning drip pans, and shower pans. The Owner is solely responsible for any damage to the Owner's Unit, another Unit, or the Common Elements from the appliances and fixtures in the Owner's Unit or serving the Owner's Unit exclusively, regardless of the nature or exact location of the water source.
4. Report. An Owner and Occupant will promptly report to the Association the discovery of any leak, break, or malfunction in any portion of the Owner's Unit or the adjacent Common Elements for which the Association has a maintenance responsibility. The origin of a water leak can be difficult to locate and may require repeated attempts to repair. The failure of the Association or its contractors to effectively stop a water leak on the first repair attempt is not uncommon and must not dissuade an Owner or Occupant from re-reporting the leak on its next occurrence. The failure by an Owner and Occupant to promptly report a water leak or water penetration problem may be deemed negligence, thereby making the Owner and Occupant liable for any additional damage caused by the delay.

5. Mitigate. To mitigate damage from water leaks and penetrations, and to discourage mold, the Owner or Occupant of a Unit that experiences a water leak or penetration must promptly dry, clean, and disinfect the wet area. If the water penetration is inside a wall cavity or above a ceiling, the Owner or Occupant must inform the Association or Manager immediately.
6. Humidity. To discourage mold in his Unit, the Owner or Occupant should maintain an inside humidity level under sixty percent (60%). If condensation or moisture collects on windows, walls or pipes, the Owner or Occupant should promptly dry the wet surface and reduce the moisture/water source. Condensation can be a sign of high humidity.
7. Negligence. The failure to promptly and properly repair a water-related problem in a Unit may be deemed negligence by the Owner, who may be liable for any additional damage caused by the failure or the delay.
8. Information. For more information about mold, please consult a reliable source, such as "A Brief Guide to Mold, Moisture, and Your Home" - a brochure published by the U. S. Environmental Protection Agency, which is available on its website at <http://www.epa.gov/mold/hiddenmold.html>.

## ATTACHMENT 7

### RECORDS INSPECTION, COPYING, AND RETENTION POLICY

Capitalized terms used but not defined in this policy will have the meaning ascribed to such terms in the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded in the Official Public Records of Williamson County, Texas, as the same may be amended from time to time.

1. **Written Form.** The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

2. **Request in Writing; Pay Estimated Costs In Advance.** An Owner (or an individual identified as an Owner's agent, attorney or certified public accountant, provided the designation is in writing and delivered to the Association) may submit a written request via certified mail to the Association's mailing address or authorized representative listed in the management certificate to access the Association's records. The written request must include sufficient detail describing the books and records requested and whether the Owner desires to inspect or copy the records. Upon receipt of a written request, the Association may estimate the costs associated with responding to each request, which costs may not exceed the costs allowed pursuant to Texas Administrative Code Section 70.3, as may be amended from time to time (a current copy of which is attached hereto), and may not exceed actual costs for an item produced by a third party. Before providing the requested records, the Association will require that the Owner remit such estimated amount to the Association. The Association will provide a final invoice to the Owner on or before the thirtieth (30<sup>th</sup>) business day after the records are provided by the Association. If the final invoice includes additional amounts due from the requesting party, the additional amounts, if not reimbursed to the Association before the thirtieth (30<sup>th</sup>) business day after the date the invoice is sent to the Owner, may be added to the Owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the Owner is entitled to a refund, and the refund shall be issued to the Owner not later than the thirtieth (30<sup>th</sup>) business day after the date the final invoice is sent to the Owner.

3. **Period of Inspection.** Within ten (10) business days from receipt of the written request, the Association must either: (1) provide the copies to the Owner; (2) provide available inspection dates; or (3) provide written notice that the Association cannot produce the documents within the ten (10) business days along with either: (i) another date within an additional fifteen (15) business days on which the records may either be inspected or by which the copies will be sent to the Owner; or (ii) a notice that after a diligent search, the requested records are missing and cannot be located.

4. **Records Retention.** The Association shall keep the following records for at least the time periods stated below:

- a. **PERMANENT:** The Articles of Incorporation or the Certificate of Formation, the Bylaws and the Declaration, any and all other governing documents, guidelines, rules, regulations and policies and all amendments thereto Recorded in the property records to be effective against any Owner and/or Member of the Association.
- b. **FOUR (4) YEARS:** Contracts with a term of more than one (1) year between the Association and a third party. The four (4) year retention term begins upon expiration of the contract term.
- c. **FIVE (5) YEARS:** Account records of each Owner. Account records include debit and credit entries associated with amounts due and payable by the Owner to the Association, and written or electronic records related to the Owner and produced by the Association in the ordinary course of business.
- d. **SEVEN (7) YEARS:** Minutes of all meetings of the Board and the Owners.
- e. **SEVEN (7) YEARS:** Financial books and records produced in the ordinary course of business, tax returns and audits of the Association.
- f. **GENERAL RETENTION INSTRUCTIONS:** "Permanent" means records which are not to be destroyed. Except for contracts with a term of one (1) year or more (See item 4.b. above), a retention period starts on the last day of the year in which the record is created and ends on the last day of the year of the retention period. For example, if a record is created on June 14, 2022, and the retention period is five (5) years, the retention period begins on December 31, 2022 and ends on December 31, 2027. If the retention period for a record has elapsed and the record will be destroyed, the record should be shredded or otherwise safely and completely destroyed. Electronic files should be destroyed to ensure that data cannot be reconstructed from the storage mechanism on which the record resides.

5. **Confidential Records.** As determined in the discretion of the Board, certain Association records may be kept confidential such as personnel files, Owner account or other personal information (except addresses) unless the Owner requesting the records provides a court order or written authorization from the person whose records are sought.

6. **Attorney Files.** Attorney's files and records relating to the Association (excluding invoices requested by an Owner pursuant to Texas Property Code Section 82.1141(c)), are not records of the Association and are not: (a) subject to inspection by the Owner; or (b) subject to production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy

from the attorney's files and records if the Association has not maintained a separate copy of the document. The Association is not required under any circumstance to produce a document for inspection or copying that constitutes attorney work product or that is privileged as an attorney-client communication.

7. *Presence of Board Member or Manager; No Removal.* At the discretion of the Board or the Association's Manager, certain records may only be inspected in the presence of a Board member or employee of the Association's Manager. No original records may be removed from the office without the express written consent of the Board.

**TEXAS ADMINISTRATIVE CODE**  
**TITLE 1, PART 3, CHAPTER 70**  
**RULE §70.3 - CHARGES FOR PROVIDING COPIES OF PUBLIC INFORMATION**

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §70.4 of this title (relating to Requesting an Exemption).

(b) Copy charge.

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

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

(A) Diskette--\$1.00;

(B) Magnetic tape--actual cost;

(C) Data cartridge--actual cost;

(D) Tape cartridge--actual cost;

(E) Rewritable CD (CD-RW)--\$1.00;

(F) Non-rewritable CD (CD-R)--\$1.00;

(G) Digital video disc (DVD)--\$3.00;

(H) JAZ drive--actual cost;

(I) Other electronic media--actual cost;

(J) VHS video cassette--\$2.50;

(K) Audio cassette--\$1.00;

(L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper--See also §70.9 of this title)--\$.50;

(M) Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic--actual cost.

(c) Labor charge for programming. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

(1) The hourly charge for a programmer is \$28.50 an hour. Only programming services shall be charged at this hourly rate.

(2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Texas Government Code.

(3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of §552.261(b) of the Texas Government Code.

(d) Labor charge for locating, compiling, manipulating data, and reproducing public information.

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

(2) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:

(A) Two or more separate buildings that are not physically connected with each other; or

(B) A remote storage facility.

(3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(A) To determine whether the governmental body will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or

(B) To research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.

(4) When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Texas Government Code, Chapter 552, §552.261(b).

(6) For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

(1) Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

(2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing,  $\$15.00 \times .20 = \$3.00$ ; or Programming labor charge,  $\$28.50 \times .20 = \$5.70$ . If a request requires one hour of labor charge for locating, compiling, and reproducing information ( $\$15.00$  per hour); and one hour of programming labor charge ( $\$28.50$  per hour), the combined overhead would be:  $\$15.00 + \$28.50 = \$43.50 \times .20 = \$8.70$ .

(f) Microfiche and microfilm charge.

(1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for governmental bodies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

(2) If only a master copy of information in microfilm is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

(1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the

extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

(2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

(1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

(2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.

(3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: mainframe--\$10 per CPU minute; Midsize--\$1.50 per CPU minute; Client/Server--\$2.20 per clock hour; PC or LAN--\$1.00 per clock hour.

(4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows:  $\$10 / 3 = \$3.33$ ; or  $\$10 / 60 \times 20 = \$3.33$ .

(5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the §552.231 of the Texas Government Code.

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

(j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(k) Sales tax. Pursuant to Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).

(l) Miscellaneous charges: A governmental body that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee.

(m) These charges are subject to periodic reevaluation and update.

**Source Note:** The provisions of this §70.3 adopted to be effective September 18, 1996, 21 TexReg 8587; amended to be effective February 20, 1997, 22 TexReg 1625; amended to be effective December 3, 1997, 22 TexReg 11651; amended to be effective December 21, 1999, 24 TexReg 11255; amended to be effective January 16, 2003, 28 TexReg 439; amended to be effective February 11, 2004, 29 TexReg 1189; transferred effective September 1, 2005, as published in the Texas Register September 29, 2006, 31 TexReg 8251; amended to be effective February 22, 2007, 32 TexReg 614.

**ATTACHMENT 8**  
**SWIMMING POOL ENCLOSURE POLICY**

Capitalized terms used but not defined in this policy will have the meaning ascribed to such terms in the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded in the Official Public Records of Williamson County, Texas, as the same may be amended from time to time.

1. **Approval Required.** All Improvements, including the installation of pool fencing, must be submitted for approval in accordance with the Association's architectural review requirements. Written approval must be furnished to the owner before installation or construction may commence.

2. **Swimming Pool Enclosures.** The term "**Swimming Pool Enclosure**" means a fence surrounding a water feature, including a swimming pool or spa, consisting of transparent mesh or clear panels set in metal frames, not more than six feet (6') in height, and designed to not be climbable. An Owner must submit any request to install a Swimming Pool Enclosure to the Architectural Reviewer for approval. The Architectural Reviewer will apply its architectural requirements to the request; however, the Architectural Reviewer may not deny an Owner's request to install a Swimming Pool Enclosure if the Swimming Pool Enclosure conforms to applicable state or local safety requirements and is black in color, consists of transparent mesh set in metal frames, and does not exceed six feet (6') in height.

3. **Amendment.** This policy may be amended by a Majority of the Board of Directors.

## ATTACHMENT 9

### RELIGIOUS DISPLAY POLICY

Capitalized terms used but not defined in this policy will have the meaning ascribed to such terms in the Declaration of Condominium Regime for Townhomes at Gattis Condominiums, recorded in the Official Public Records of Williamson County, Texas, as the same may be amended from time to time.

1. **Display of Religious Items.** Section 202.018 of the Texas Property Code provides certain rights for an owner or resident to display or affix one or more religious items on the owner's or resident's property. The display of which is motivated by the owner's or resident's sincere religious belief.

2. **Content Prohibitions.** No religious item may be displayed that: (a) threatens the public health or safety; (b) violates a law other than a law prohibiting the display of religious speech; or (c) contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content.

3. **Location Restrictions.** No religious item may be displayed that: (a) is installed on property owned or maintained by the Association; (b) is installed on property owned in common by members of the Association; (c) violates any applicable building line, right-of-way, setback, or easement; or (d) is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.

4. **Removal.** The Association may cause to be removed any item which is in violation of the terms and provisions of this policy.

5. **Conflicts.** To the extent that any provision of the Association's recorded covenants restrict or prohibit an owner or resident from displaying or affixing a religious item in violation of the controlling provisions of Section 202.018 of the Texas Property Code, the Association shall have no authority to enforce such provisions, and the provisions of this policy shall control.

6. **Amendment.** This policy may be amended by a Majority of the Board of Directors.

ATTACHMENT 10

TOWNHOMES AT GATTIS CONDOMINIUMS  
COMMUNITY MANUAL  
CERTIFICATION AND ACKNOWLEDGMENT

As the Declarant of Townhomes at Gattis Condominiums, a condominium regime, and the initial and sole member of Townhomes at Gattis Condominium Community, Inc. (the "Association"), I certify that the foregoing Townhomes at Gattis Condominium Community Manual was adopted for the benefit of the Association as part of the initial project documentation for Townhomes at Gattis Condominiums, a condominium regime located in Williamson County, Texas. This Community Manual becomes effective when recorded.

SIGNED on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**DECLARANT:**

**GREEN ABODE DEVELOPERS, LLC**, a Texas limited liability company

By: \_\_\_\_\_

Printed Name: Varun Monpara Alias Patel

Title: Owner-Manager

THE STATE OF TEXAS                    §  
   §  
COUNTY OF \_\_\_\_\_            §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Varun Monpara Alias Patel, Owner-Manager of Green Abode Developers, LLC, a Texas limited liability company, on behalf of said limited liability company.

[SEAL]

\_\_\_\_\_  
Notary Public Signature

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

ATTACHMENT 3

**BUDGET**

**TOWNHOMES AT GATTIS CONDOMINIUM COMMUNITY, INC.**

Summary of Initial 12-Month Build Out Budget

**Expenses**

<u>Maintenance</u>	\$88,980.00
Includes general maintenance, landscaping, irrigation repairs and maintenance, etc.	
<u>Administrative</u>	\$840.00
Includes office supplies, postage, scans, letters, etc.	
<u>Professional</u>	\$13,950.00
Includes tax preparation, professional fees, management fees, etc.	
<u>Utilities</u>	\$15,384.00
Includes Common Element electricity, water, trash, etc.	
<u>Insurance</u>	\$28,200.00
<u>Reserves</u>	
Funding for future improvements/repairs.	\$33,684.00

The estimated monthly Regular Assessment for each Unit is \$200.00.

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

**ATTACHMENT 4**  
**LIMITED WARRANTY**

Purchaser: \_\_\_\_\_

Closing Date: \_\_\_\_\_, \_\_\_\_\_

Unit Number: \_\_\_\_\_ (the "Unit")

Purchaser acknowledges receipt of the Limited Warranty attached as Exhibit "A". Purchaser further acknowledges that, pursuant to the Limited Warranty, Seller hereby assigns to Purchaser all manufacturer warranties covering Consumer Products (as such term is used and defined by the Federal Trade Commission) that are covered by the Magnuson-Moss Warranty Act when sold as part of the Unit.

Purchaser has conducted a pre-closing orientation of the Unit, the appliances, and additional installations, fixtures and features of the Unit, and has completed a pre-closing checklist. The pre-closing orientation was conducted by Purchaser with representatives of Seller. Purchaser accepts the Unit, the appliances, and additional installations, fixtures and features of the Unit, in their present state, including acceptance of the brand, type, model, color, finish, dimensions, features, and installation location or placement.

EXECUTED and delivered as of the date of the last signature on the following page.

[SIGNATURE PAGE FOLLOWS]

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

**PURCHASER:**

\_\_\_\_\_  
Purchaser 1's Signature

Printed Name: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

\_\_\_\_\_  
Purchaser 2's Signature

Printed Name: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

**SELLER:**

**GREEN ABODE DEVELOPERS, LLC**, a Texas limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

TOWNHOMES AT GATTIS  
CONDOMINIUM INFORMATION STATEMENT

**EXHIBIT "A"**

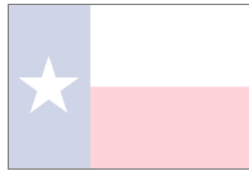
Unit: \_\_\_\_\_

**LIMITED WARRANTY**

*[SEE ATTACHED]*



**STRUCSURE**  
HOME WARRANTY



***One-Year Workmanship/Materials  
Two-Year Delivery Portion of Systems  
10-Year Major Structural Defects***

***- RESIDENTIAL -***



**StrucSure Home Warranty, LLC**

6825 East Tennessee Avenue, Suite #410 | Denver, CO 80224 (Corporate Office)  
1.877.806.8777 (toll-free) | 303.806.8688 (office) | 1.877.906.0222 (toll-free fax)

[www.strucsure.com](http://www.strucsure.com)

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## SECTION 1: OVERVIEW OF THE STRUCSURE HOME WARRANTY EXPRESS LIMITED WARRANTY

**Congratulations Homebuyer(s)! Your Builder is a member of the StrucSure Home Warranty program and sold You a Home that includes Express Limited Warranty protection. This Warranty booklet defines standards for the various components of a Home, the time periods, the scope of coverages, exclusions, homeowner responsibilities, and how to request warranty service and file a claim.**

**You may have been provided sample warranty booklets during the process of purchasing Your Home; however, Your actual Warranty booklet is assigned at closing. After Your Warranty goes into effect, You can access and download Your Warranty booklet and Certificate of Warranty Coverage via the Warranty Portal at <https://warranty.strucsure.com>. If You do not have Internet access, You can request Your warranty documents by mail.**

**Your Warranty will not go into effect until the signed Home Enrollment Application (HEA) and warranty payment have been received, processed, and approved by StrucSure Home Warranty.**

**Read this Warranty booklet in its entirety so that You may fully understand the terms and conditions. Please contact our customer service department at 1.877.806.8777 with questions or for more information.**

This Warranty embodies the entire extent of the express Limited Warranty provided to You by Your Builder, which is insurance backed.

Under this Warranty, the coverage periods for the Home are as follows:

- (a) One (1) year for Workmanship/Materials,
  - (b) Two (2) years for Delivery Portion of Systems (plumbing, electrical, heating, and air-conditioning delivery systems),
- and**
- (c) Ten (10) years for Major Structural Components of the Home.

*\*Please reference the schematic at the back of this booklet to understand each of these different Home components.*

If it is determined by the Administrator that the Builder is unable to perform or is in default of the one (1) Workmanship/Materials and two (2) year Delivery Portion of Systems warranty obligations, GIC shall perform, through the use of its Administrator, the Builder's warranty obligations. For Major Structural Defects, GIC, has agreed to perform, through the Administrator, the Builder's obligation for the complete 10-year warranty period. As a precondition to coverage, Defects and/or Deficiencies must occur and be reported within the Warranty Term. StrucSure Home Warranty, LLC is the warranty Administrator and not a warrantor.

## SECTION 2: DEFINITIONS

Unless defined or described in this Warranty, all terms and words shall have their plain, ordinary meaning commonly used in the residential construction or home warranty industries. Whenever the first letter of a word or the first letter of all substantive words in a phrase is capitalized, that word or phrase shall have the same meaning as defined in Section 2 of this warranty.

**Administrator:** StrucSure Home Warranty, LLC is the Administrator of the StrucSure Home Warranty Program and not a warrantor.

**ASCE Guidelines:** "Guidelines for the Evaluation and Repair of Residential Foundations," Version 2, published by the Texas Section of the American Society of Civil Engineers (2009).

**Builder:** The person, corporation, partnership, or other entity that is a member of the StrucSure Home Warranty Program and is listed on the StrucSure Home Warranty HEA. The Builder is the Warrantor of this Warranty provided for the Home.

**Certificate of Warranty :** This is a certificate issued by the Administrator confirming that Your Builder completed the required enrollment of Your Home in the Structural Home Warranty Program and confirms the issuance of this Warranty.

**Code:** The International Residential Code or if the context requires, the National Electrical Code.

**Common Elements:** Any portion of a multi-family building that is defined as a Common Element in either common interest or ownership laws or in the declaration establishing such community that is shared between units. Common Elements may include, without limitation, hallways, roofs, exterior finishes, and electrical, plumbing, and mechanical distribution systems.

**Defect/Deficiency:** A condition of any item that fails to meet the Performance Standards as set forth in the Warranty

**Delivery Portion of Systems:** The electrical, plumbing, and mechanical distribution systems in Your Home.

**Effective Date of Warranty:** For the Home, the Effective Date of Warranty is the date listed on the Certificate of Warranty. For multi-dwelling units such as condominiums, townhouses, and duplexes, the Effective Date of Warranty for Common Elements coverage is the date the first Certificate of Occupancy was issued for the building.

**Express Limited Warranty:** The terms and provisions contained within this Warranty Booklet.

**Extreme Weather Condition(s):** Severe or unseasonal weather or weather phenomena that are at the extremes of the historical distribution. Weather conditions in excess of or outside of the scope of the design criteria stated or assumed for the circumstance or locale in the Code.

**Golden Insurance Company, a Risk Retention Group (GIC):** The Warranty Insurer who underwrites the StrucSure Home Warranty Program. If, in the discretion of the Administrator, it is determined that the Builder is unable to perform or in default of the one (1) and two (2) year warranty obligations, GIC shall perform, through the use of its Administrator, the Builder's warranty obligations. For Major Structural Defects, GIC has agreed to perform, through the Administrator, the Builder's obligation for the complete 10-year Warranty Term.

**HEA:** Home Enrollment Application.

**Home:** The dwelling or property as identified by the address on the HEA.

**Homeowner:** The person(s) listed as the Homeowner(s) on the original HEA, and who holds the legal title to the Home. Included in the definition and any subsequent purchasers who hold the legal title to the Home.

**Major Structural Defect (MSD):** A condition of a Structural Component listed in Section 10 and that fails to meet the Performance Standards for Major Structural Components Under the 10-Year Structural Defect Warranty.

**Original Construction Elevations:** Actual elevations of the foundation taken before, on, or about the Effective Date of Warranty of the residential construction project. Such actual elevations shall include elevations of porches and garages if those structures are part of a monolithic foundation. To establish original construction elevations, elevations shall be taken at a rate of at least one elevation per 100 square feet showing a reference point and shall be taken at a rate of at least one elevation per 10 linear feet along the perimeter of the foundation, subject to obstructions. Each elevation shall be taken on the surface of the foundation or on the surface of the floor covering on the foundation, if any. For elevations taken on floor coverings, the type of floor covering shall be recorded at each elevation location. If no such actual elevations are taken, then the foundation for the habitable areas of the home are presumed to be level +/- 0.75 inch (three-quarters of an inch) over the entire area of the foundation.

**Performance Standard:** The standard(s) to which a Home or an element or component of a Home constructed as a part of new Home construction, a material improvement, or interior renovation must perform. Performance Standards are set forth in this Warranty.

**Residential Code:** The requirements specified in the text of the Residential Code officially adopted by the state, city, county (or parish) in which Your Home is located.

**Span (L):** Except for slab foundations, L shall be calculated as the distance between two supports for structural elements supported at both ends. For cantilever elements, L shall be determined as twice the distance from the last support to the unsupported end of the element. For slab foundations, L shall be defined as the edge to edge distance across any slab cross-section for which deflection or tilt is to be calculated but the minimum L shall be not less than 25 feet, and shall not include a detached or non-monolithic garage slab. If a monolithic garage slab is included and that slab was built with a slope in the garage floor, measurements shall be taken off the ceiling at locations immediately adjacent to the garage walls. For slab foundations, L shall be calculated to determine overall deflection, not localized deflection or tilt of slab foundations.

**Warranty:** The Express Limited Warranty for Workmanship/Material, Delivery Portion of Systems and Major Structural Defect set forth in this StrucSure Home Warranty booklet as provided by the Builder.

**Warranty Term:** The period during which the one (1) year Workmanship/Material, two (2) years Delivery Portion of Systems, and ten (10) years Major Structural Defect are effective. The warranty term starts on the Effective Date of Warranty or the Effective Date of Warranty for Common Element.

**You/Your:** The Homeowner(s).

### SECTION 3: LIMIT OF LIABILITY

- (1) **You have accepted the terms provided in this Warranty, and all other express or implied warranties, including any oral or written statements or representations made by Your Builder or any implied warranty of habitability, merchantability or fitness, good and workmanship, and repair are hereby disclaimed by Your Builder and hereby waived by You to the extent possible under the laws of Your state.**
- (2) Any action or claim, regardless of form, that arises from or relates to this Warranty, the construction and/or the improvements to the Home is barred unless it is brought no later than two (2) years and one (1) day from the date the cause of action accrues.
- (3) The Homeowner(s) agree that with respect to any loss or damage that may occur to the Home that could be or is insured against under the terms of standard fire and extended coverage insurance policies, or any other insurance, regardless of the cause or origin, such insurance and suffering said loss, hereby release the Builder, GIC, or Administrator from any and all claims with respect to such loss. **The Homeowner(s) agree that the respective insurance company shall have no right of subrogation against the Builder, GIC or Administrator on account of any such loss as all rights of subrogation are hereby waived and disclaimed.**
- (4) Subject to the provisions of this Warranty, the Builder's and GIC's total aggregate limit of financial liability under this warranty shall not exceed the original sales price of the Home (as shown on the HEA) or \$3 million, **whichever is lower.** This means that every time Your Builder or GIC pays for costs of determining the existence and/or extent of a covered Defect and/or Deficiency, pays for a repair, or pays a claim, those payments are deducted from the sales price of the Home listed on the HEA

(the warranty limit). Once that total aggregate equals the sales price of the Home on the HEA or \$3 million (whichever is lower), Your warranty limits are exhausted and there is no further warranty coverage.

- (5) The Builder's and GIC's total aggregate limit of financial liability for a multi-dwelling building shall not exceed the aggregate original sales price of each unit (as shown on the HEA) located within a single multi-dwelling building or \$3 million, whichever is lower. If the payment is for Common Element of a multi-dwelling building, payment shall be deducted pro rata from the sales price listed on the HEA for each unit.
- (6) There is no warranty coverage for any defect, loss or claim if there is any other valid and collectible insurance. The Warranty is neither primary nor contributory to any other available insurance, whether primary, excess, contingent or any other basis. This Warranty is not Your Builder's general liability insurance. This Warranty is not a maintenance agreement, service contract, an insurance policy or homeowner's insurance.
- (7) This Warranty is separate and apart from any other contracts between You and Your Builder, including any sales agreements. It cannot be altered, affected, or amended in any manner by any other agreement except only through a formal written agreement signed by the Builder, GIC, the Administrator, and You.
- (8) This Warranty does not cover special, incidental, indirect, or consequential damages and does not reimburse parties for their attorney's fees or costs.
- (9) This Warranty does not cover latent defects that do not result in actual physical damage This Warranty is binding on the Builder and You and Your heirs, executors, Administrators, successors, and assigns. An assignment or transfer of benefits, rights or sums payable under this Warranty is prohibited except as expressly allowed in this Warranty.
- (10) This Warranty automatically transfers to subsequent owners during the Warranty Term upon the transfer of title to the Home. There is no limit to the number of transfers during the Warranty Term or any cost as a result of such transfer(s). Each subsequent owner will be bound by (1) *all* terms of this warranty, including, but not limited to, those regarding arbitration and (2) every act or failure to act by any past owner to the extent that the act or failure to act affects this warranty or the rights and obligations of either party. Any release executed by You shall bind a mortgagee and any subsequent owner.
- (11) If any term, condition, or provision of this Warranty is found to be void or a violation of law or public policy by an arbitrator or court, it shall be deemed modified to the extent necessary so that it is no longer void or in violation of law or public policy. Any binding decisions that determine a part of the Warranty is void, or in violation of law or public policy, will not serve to invalidate the enforceability of any other term, condition, or provision of this Warranty.

#### **SECTION 4: MULTI-DWELLING BUILDING AND UNIT COVERAGE**

If the Home is located within a multi-dwelling building, then the additional provisions below apply.

- (1) Clubhouses, recreational facilities, exterior structures, exterior walkways, decks, balconies, arches, or any non-residential structure(s) that are a part of the multi-dwelling unit (whether attached or not) are not covered by this Warranty. Equipment or systems that are owned by the condominium association or designated as a condominium common area are not covered. Coverage will not be provided for Common Element exterior stairways and landings, unless they are constructed entirely of metal or concrete (or in any combination of these two materials).
- (2) The Common Elements of the multi-dwelling building will be free from Workmanship/Material, Delivery Portion of Systems, and Major Structural Defects during the Common Element Warranty Term. Common Element Defects/Deficiencies must be reported within the applicable Warranty Term. The association governing the multi-dwelling building must file the claim for Defects/Deficiencies concerning Common Elements. An investigation fee of \$300 is owed for each unit located within a building, in which a claim is being submitted for Common Elements.
- (3) Upon notice by the Builder, GIC, or the Administrator, You agree to allow access to Your Home during normal business hours for all inspections and/or repairs to Your unit, any adjacent unit or the Common Elements.
- (4) The aggregate warranty limit for a multi-dwelling building for Common Elements is the total of the remaining Warranty Limits of those dwellings within the multi-dwelling building that have a valid and unexpired Warranty. If there are one or more dwellings in the multi-dwelling building that have no valid or has an expired Warranty, then the aggregate warranty limits for Common Elements is calculated on a pro-rata basis: The aggregate of the original sale price for all dwellings within the multi-dwelling building that have a valid and unexpired Warranty divided by the aggregate original sale price for all dwellings within the multi-dwelling building.
- (5) All costs to investigate Defects/Deficiencies, repairs or pay a claim incurred by the Builder or GIC for a Common Element is deducted from remaining Warranty Limits of each dwelling in the multi-dwelling building with a valid and unexpired Warranty on a pro-rata basis: The original sales price of each dwelling in the multi-dwelling building divided by the aggregate of the original sales price of all dwellings in the multi-dwelling building.
- (6) All provisions of this Warranty apply to this Section 4. To the extent that any provisions contained outside Section 4 of this Warranty directly conflict or cannot be reconciled with the provisions contained within this Section 4, the provisions contained within this Section control.

## SECTION 5: HOMEOWNER DUTIES & RESPONSIBILITIES

You have duties and responsibilities under the law and under this Warranty. This Warranty is expressly conditioned on Your full performance of duties (express or implied) relating to residential construction and the Warranty. These duties include, but are not limited to:

- (1) You have a duty to ensure that any plans, specifications, and other information supplied to the Builder are accurate and suitable for the construction of the project and to provide all information relating to the project. You have a duty to work toward the mutual goal of achieving a successful project, to not cause any unreasonable delay in the start of the project, to not delay, hinder, or interfere with the performance of other parties, to not act arbitrarily with respect to requests for extensions of time, to perform all of the contractual obligations in good faith, and to not take any action that would prevent the Warrantor from pursuing Your rights and remedies against other parties responsible for Your loss.
- (2) You have a duty to make reasonable efforts to minimize or avoid losses to the extent permitted under this Warranty. You agree to make only those temporary repairs necessary to make the house habitable or mitigate further damage. You agree that any and all repairs performed beyond such measures will not be covered by the Warranty. Any unauthorized repairs made by You or someone under Your direction, other than those permitted in this paragraph, will not be reimbursed or compensated.
- (3) You are responsible for the proper maintenance of Your Home. Regular preventative maintenance is necessary to prolong the life of the Home. Your obligation is to care for Your Home in such a way as to prevent or minimize damage to it. You should be aware that all new homes go through a period of settlement and movement. During this period, Your Home may experience some minor material shrinkage, cracking, and other events that are normal and customary.
- (4) Maintenance of the Home and the lot on which the Home is located is essential to the proper functioning of the Home, and You are responsible for that maintenance. You are responsible for maintenance items described in this Section and those maintenance items identified separately in this warranty booklet. Additionally, You are responsible for ongoing maintenance responsibilities that affect the performance of the Home but that may not be expressly stated in this booklet. Such ongoing maintenance responsibilities include, but are not limited to:
  - (a) Periodic repainting and resealing of finished surfaces as necessary,
  - (b) Caulking for the life of the Home,
  - (c) Regular maintenance of mechanical systems,
  - (d) Regular replacement of HVAC filters,
  - (e) Cleaning and proper preservation of grading around the Home and drainage systems to allow for the proper drainage of water away from the Home, and
  - (f) Other standard and customary maintenance repairs.
- (5) You shall properly maintain each component of the Home including proper cleaning, care, and upkeep of the Home. You shall use Home components for the purposes for which they are intended and shall not damage, misuse, or abuse Home components.
- (6) In connection with the investigation and determination of Your claim, You may be sent a series of recommendations to be implemented. If You fail to implement the recommendations or substantiate that the recommendations were implemented, the Administrator may deny a future claim for benefits if the failure to implement the recommendations that caused or contributed to a Defect/Deficiency in the Home.
- (7) You shall use and perform periodic maintenance on all Manufactured Products according to the manufacturer's instructions and specifications. The misuse, abuse, neglect or other failure to follow manufacturer's specifications regarding Manufactured Products may void the manufacturer's warranty. The Builder has no responsibility for Manufactured Products.
- (8) You shall take measures to reduce/prevent swelling or shrinking soil as it can cause damage by either expanding when moisture is added or shrinking when it dries out (which can cause uplift to concrete slabs and other property damage). Best practices include, but are not limited to: maintaining adequate runoff drainage slopes; cleaning gutters and downspouts; ensuring that lawns and gardens are not over watered; properly maintaining sprinkler systems; preventing landscaping materials or plants, trees, and/or shrubs from contacting the exterior surface of the Home and from interfering with the proper drainage of water away from the foundation; positive slopes in your yard; sealing old construction joints and cracks that develop over time; inspecting concrete and walls; and repairing cracks that are found as soon as possible.
- (9) You should not alter the proper drainage pattern or grade of the soil within ten (10) feet of the foundation so that it negatively impacts the Home's performance or fails to comply with the Residential Code.
- (10) You shall take action to prevent excessive moisture accumulation by properly using ventilation equipment, preventing excessive temperature fluctuation, and taking any other action reasonably necessary to avoid excessive moisture, dampness, humidity, or condensation in the Home that may lead to damage due to excessive moisture or dryness.
- (11) When a request for warranty performance is filed and the Defect/Deficiency cannot be observed under normal conditions, it is Your obligation to substantiate that the Performance Standards are violated and any costs involved.
- (12) You have an obligation to cooperate with the mediation, inspection, and investigation of any warranty request. Your claim will be closed and the applicable Warranty Term will not be extended should You fail to cooperate or respond to requests within thirty (90) days. You agree to provide this Warranty to any subsequent purchaser of Your Home.

## SECTION 6: EMERGENCY PROCEDURES

An emergency is a condition that if not immediately repaired will cause damage to the Home or a Home component, will cause danger to the Home's occupants, and/or will make the house uninhabitable.

If You have a One-Year Workmanship/Materials and/or Two-Year Delivery Portion of Systems coverage, You must contact Your Builder and the Administrator (StrucSure Home Warranty) at 1.877.806.8777 in order to receive authorization for any emergency repairs. If You are unable to contact Your Builder and the Administrator for emergency authorization, You must make minimal and temporary repairs that mitigate further damage until authorization for more extensive repairs has been approved by Your Builder and the Administrator.

If You have a Ten-Year Major Structural Defect coverage, You must contact the Administrator at 1.877.806.8777 in order to receive authorization for any emergency repairs. If You are unable to contact the Administrator for emergency authorization, You must make minimal repairs that mitigate further damage until authorization for more extensive repairs has been approved by the Administrator.

## SECTION 7: EXCLUSIONS

*This Warranty does NOT provide coverage for the following items listed in this Section:*

(1) *Any damage, loss or costs incurred by You in connection with any of the following:*

- (a) The Builder's failure to complete any or all construction of the Home including, but not limited to, compliance with the original plans and specifications, or washing or cleaning of any kind. An incomplete item is not considered a Defect/Deficiency under the Warranty; however, the Builder may be obligated to complete such items under separate agreements.
- (b) Any condition, Defect/Deficiency You were aware of prior to the Effective Date of Warranty, whether appearing on a "walk through" or "punch" list or not.
- (c) Any changes, modifications, additions, or improvements made to the Home after the Effective Date of Warranty.
- (d) Driveways, detached garages, carports, outbuildings, swimming pools, tennis courts, basketball courts, recreational facilities, boundary and/or retaining walls, bulkheads (except where boundary walls, retaining walls and bulkheads are necessary for the structural stability of the Home), landscaping, sod, seeding, shrubs, trees, plantings, fences, lawn sprinkler systems, subsurface draining systems (other than footer drains), streets, sidewalks, any other appurtenant structure or attachment to the dwelling, and adjacent properties.
- (e) Elements of the Home constructed separately from foundation of the Home including but not limited to decks, balconies, patios, porches, porch roofs, porticos, porte-cocheres, concrete floors of basements, "floating" floor slabs, except as set forth in Section 9(A) below: Performance Standards for Foundations and Slabs.
- (f) Green Building Compliance: Any and all green building requirements, standards, certifications or otherwise are controlled by those written standards applicable to and agreed upon between the Builder and the initial owner(s), if any, after which there is no warranty or guarantee related to or concerning any such green building requirements, standards, certifications or otherwise to any subsequent owner of the property and/or improvements.
- (g) Any loss, damage, cost, or expense that is caused, in whole or in part, by any peril or occurrence that is covered by Homeowner's insurance, from another warranty or insurance policy, or for which compensation is provided by state legislation and/or public funds.
- (h) Sound transmission and sound proofing.
- (i) The quality and potability of water.
- (j) Violations of local or national residential building codes, standards, or ordinances.
- (k) Diminution in the value of the Home, including but not limited to that amount that is equal to the fair market value of the Home with a defect compared to the Home market value without a defect or the fair market value of the Home with defect that has been repaired versus the Home without a defect ever occurring.
- (l) A Home used for nonresidential purposes.
- (m) A Home that was subject to Foreclosure.
- (n) Any condition that does not result in actual physical damage to the Home.
- (o) Normal wear and tear or deterioration to any component of the Home. This includes, but is not limited to, the deterioration of concrete surfaces caused by salt, chemicals, implements, or any other any factors.
- (p) Bodily injury or personal injury of any kind, including but not limited to physical or mental pain and suffering and emotional distress and any medical or hospital expenses.
- (q) Costs of shelter, transportation, food, moving, storage, kenneling of animals, veterinary expenses, pet daycare, loss of use, loss of wages or profits, inconvenience, annoyance or other incidental expenses including those related to relocation during any work performed under this Warranty.

- (r) Personal property and property that You do not own.
  - (s) Any and all exclusions set forth in the Performance Standards.
- (2) Any damage, loss or costs that is caused or made worse by any of the following causes, whether acting alone or in sequence or concurrence with any other causes or causes whatsoever:
- (a) Use of the Home that exceeds the normal design loads prescribed by local or national building Codes, Residential Codes, standards, or ordinances or the engineer of record.
  - (b) The negligence, improper maintenance, misuse, abuse, failure to follow manufacturer's recommendations, failure to take reasonable action to mitigate damage by anyone other than the Builder, or failure to take reasonable action to maintain Your Home.
  - (c) Work performed or material supplied incident to construction, modification, or repair to the Home performed by anyone other than Your Builder or persons providing work or materials at the direction of the Builder. Changes to the grading or drainage surrounding the Home made by anyone other than Your Builder or persons providing work at the direction of the Builder. This includes, but is not limited to, soil erosion or runoff caused by Your failure to maintain the Builder-established grades, changes in the grading caused by erosion, or changes in the level of the underground water table, drainage structures, devices or swales, stabilized soil, sodded, seeded or landscaped areas.
  - (d) War, nuclear hazards, contamination accidents, explosion, riot, civil commotion, terrorism, communicable disease, vandalism, malicious mischief, theft, burglary, blasting, steam or water escape, condensation, mud or mud slides, sinkholes, fire, smoke, Extreme Weather Conditions, drought, windstorm, hail, lightning, ice, snow, blizzard, hurricane, tornado, tsunami, flood, earthquake, land shock waves or tremors occurring before, during, or after volcanic eruption or by any other external cause (whether sudden or gradual), mine subsidence, faults, fissures, crevices, falling trees or other objects, or accidents involving aircraft, vehicles, or boats.
  - (e) Damage resulting directly or indirectly from water intrusion or moisture of any kind, excessive or inadequate water pressure, plumbing failure, flood, surface water, waves, tidal water, overflow of a body of water (whether wind driven or not), wetlands, springs, or aquifers. Water that backs up from sewers or drains, water below the surface of the ground (including water which exerts pressure on, seeps, or leaks under or through a Home, building, sidewalk, driveway, foundation, swimming pool, or other structure). Change in the underground water table that exerts pressure on, seeps, or leaks under the Home, sidewalk, driveway, foundation, or other structure or causes subsidence or sinkholes.
  - (f) Defects, Deficiencies, or damage caused by micro-organisms, plants, fungus, decay, wet rot, dry rot, soft rot, or any other kind of rotting, mold, mildew, termites, insects, vermin, rodents, birds, wild or domestic animals, corrosion, rust, radon, radiation, formaldehyde, asbestos, any solid, liquid, or gaseous pollutant, contaminant, toxin, irritant, or carcinogenic substance, whether organic or inorganic, or an electromagnetic field or emission. This Exclusion includes any claim of health risks or inhabitability as a result of Volatile Organic Compounds (VOCs) or any of the foregoing items.
  - (g) Any request for warranty performance submitted after unreasonable delay or after the expiration of the Warranty Term or failure by You to minimize or prevent loss or damage in a timely manner.

## **SECTION 8: WORKMANSHIP/MATERIALS & DELIVERY PORTION OF SYSTEMS COVERAGE**

For one (1) year from the Effective Date of Warranty, Your Builder warrants that Your Home will be free from Deficiencies in Workmanship and Materials as defined in the Performance Standards of this Warranty. For two (2) years from the Effective Date of Warranty, Your Builder warrants that Your Home will be free from Deficiencies in the Delivery Portion of Systems (electrical, plumbing, and mechanical distribution systems) to the extent stated in the Performance Standards of this Warranty. Notwithstanding a Performance Standard stated in this Warranty, a specialty feature, which is work performed or material supplied incident to certain design elements shown on the construction plans and specifications and agreed to in writing by the Builder and the homeowner, shall be deemed to be compliant with the Performance Standards stated herein so long as all items are compliant with the Code.

All manufactured products shall be installed by the Builder in accordance with the manufacturer's instructions and specifications. The Builder shall use only new manufactured products and parts unless otherwise agreed in writing by the parties. If the Builder does not install a manufactured product in accordance with the manufacturer's specifications or use newly manufactured parts as required, the Builder shall take such action as is necessary to bring the variance within the standard. The Builder will assign to the Homeowner, without recourse, the manufacturer's warranty for all manufactured products that are covered by a manufacturer's warranty. Any rights that inure to the Homeowner provided under a manufacturer's warranty are the obligation of the manufacturer.

The Builder does not assume any of the obligations of the manufacturer resulting from a manufacturer's warranty. In no event shall there be Builder responsibility for any manufactured product that was installed in accordance with the manufacturer's instructions and specifications. appliances, fixtures, and equipment. This includes air conditioning units, attic fans, boilers, burglar alarms, carbon monoxide detectors, ceiling fans, central vacuum systems, doorbell systems, dishwashers, dryers, electronic air cleaners, exhaust fans, fire alarms, freezers, furnaces, garage door openers, garbage disposals, gas and electric meters, heat exchangers, heat pumps, humidifiers, intercoms, interior sprinkler systems, microwave ovens, oil tanks, outside lights or motion lights not attached to the Home, ranges and range hoods, refrigerators, sewage pumps, smoke detectors, solar collectors, space heaters, sump

pumps, thermostats, trash compactors, washers, water pumps, water softeners, water heaters, whirlpool bathtubs, whole house fans, and similar items/appliances.

In no event shall there be Builder responsibility for any denial of warranty claim or otherwise by the manufacturer.

## **SECTION 9: HOW TO REQUEST WARRANTY PERFORMANCE FOR A WORKMANSHIP/MATERIALS AND/OR DELIVERY PORTION OF SYSTEMS DEFECT OR DEFICIENCY**

If You believe Your Home has a Defect/ Deficiency covered under this warranty, You must notify the Builder in writing, either through e-mail or certified mail, return receipt. Text message are not acceptable. **Notice cannot be initiated with a phone call.** Your written notice for warranty performance must be received by Your Builder and the Administrator no later than fifteen (15) days after the expiration of the applicable Warranty Term of one (1) year for Workmanship/Materials and two (2) years for Delivery Portion of Systems (electrical, plumbing, and mechanical distribution systems). Notice to the Builder is not notice to GIC or the Administrator. Written notice received more than fifteen (15) days after the expiration of the Warranty Term will be denied. Neither Your Builder nor GIC shall have any obligation to You under this Warranty. The time limits are a material condition of this Warranty. In addition, the Defects/ Deficiencies must occur within the Warranty Term to be covered.

- (1) The Builder will investigate and respond to Your request within thirty (30) days of receipt notice. You must provide the Builder a reasonable opportunity to inspect Your Home during normal business hours if the Builder requests such an opportunity. **Any repairs will be made during normal business hours.**
- (2) If the Builder does not respond to Your request for warranty performance within thirty (30) days, complete the Request for Warranty Performance Form at the back of this booklet and send it to the Administrator: StrucSure Home Warranty, LLC, Attn: Warranty Service Division, 6825 East Tennessee Avenue, Suite #410, Denver, CO 80224. Such notice must be received by the Administrator no later than fifteen (15) days after the expiration of the Warranty Term.
- (3) Once Your written notice has been received, the Administrator will review Your request for warranty performance in accordance with the provisions of this Warranty. The Administrator will investigate to determine whether Your Builder is unable to arbitrate due to death, insolvency, dissolution, or any other similar reason that renders Your Builder incapable of performing its Warranty obligations or is in default. Should the Administrator determine the Builder is unable to perform or is in default of the warranty obligations under the Workmanship/Materials Warranty during year one (1) and/or Delivery Portion of Systems warranty during the first two (2) years, GIC will then, through the use of the Administrator, investigate and determine the Builder's obligation under this Warranty. In the event GIC must investigate and determine the Builder's Warranty obligations, the following conditions apply:
  - (a) You agree to provide the Administrator with any information or evidence in Your possession to support Your claim along with any inspector's, engineer's, and/or other expert's reports, photographs, videos, etc. related to and in support of Your claim. You also must provide the Administrator and GIC a reasonable opportunity to inspect Your Home (both the interior and/or exterior, as necessary) during normal business hours.
  - (b) A \$300 non-refundable fee must be submitted. Submission of the \$300 fee does not guarantee coverage.
  - (c) You have an obligation to cooperate with the Builder, Administrator and GIC concerning the arbitration, inspection, investigation, repair, and claim settlement. Your failure to cooperate may jeopardize Your warranty coverage.
- (4) Alternatively,
  - (a) Within thirty (30) days following the Administrator's receipt of appropriate notice of request for warranty performance, the Administrator may review and mediate Your request by communicating with You, Your Builder, and/or GIC and any other individuals or entities who the Administrator believes possess pertinent information.
  - (b) If, after thirty (30) days, the Administrator has not been able to successfully mediate Your request or Your Builder has not responded or at any earlier time when the Administrator believes that You and Your Builder are at an impasse, then the Administrator will notify You that Your request has become an unresolved warranty issue and that You may proceed to arbitration.
- (5) If a request for warranty performance during years one (1) for Workmanship/Materials and years one (1) and two (2) for Delivery Portion of Systems qualifies for coverage, the Builder or GIC, as applicable, has the right to choose to repair or replace or pay the reasonable cost of repair or replacement that do not meet Performance Standards and are not excluded from coverage.

## SECTION 10: MAJOR STRUCTURAL DEFECT COVERAGE

This Warranty provides coverage for Major Structural Defect coverage for Ten-Years (10) from the effective date of the Warranty. The Major Structural Defect coverage is limited to the following Structural Components:

- (1) Foundation systems and footings,
- (2) Flooring framing systems,
- (3) Walls and partitions,
- (4) Roof framing systems,
- (5) Beams,
- (6) Headers,
- (7) Girders,
- (8) Lintels (other than those supporting veneers),
- (9) Columns, and
- (10) Masonry arches.

The following are some examples of non-load bearing elements of the Home, and **DO NOT** qualify for Major Structural Defect Coverage:

- (a) Non load-bearing partitions and walls,
- (b) Wall tile or paper, etc.,
- (c) Plaster, laths, or drywall,
- (d) Flooring and sub-flooring materials,
- (e) Brick, stucco, stone, or veneer,
- (f) Any type of exterior siding,
- (g) Roof shingles, tiles, sheathing, and tar paper,
- (h) Heating, cooling, ventilating, plumbing, electrical, and mechanical systems,
- (i) Appliances, fixtures, or items of equipment,
- (j) Doors, trim, cabinets, hardware, insulation, paint, and stains, and
- (k) Basement and other interior floating, ground-supported concrete slabs.

The repair of a qualifying Major Structural Defect under the Warranty consists of and is limited to: 1) the repair of damage to the structural component that is necessary to restore its load-bearing function, 2) the repair of the non-structural components of the Home damaged by the Major Structural Defect, 3) the repair, removal, and replacement of only those surfaces, finishes, and coverings original to the Home that are damaged by the Major Structural Defect or repair.

Repair or replacement is NOT intended to restore the Home to a like new condition. If an improvement, fixture or property not constructed by the Builder is damaged or requires removal during the repair of any Warranted defect, it is Your sole responsibility, and not the responsibility of the Builder or GIC, to pay for the cost of repair or removal of such improvement, fixture or property. This Warranty does not cover special, incidental, indirect, or consequential damages and does not reimburse parties for their attorney's fees or costs.

All decisions concerning the repair of a Major Structural Defect, including, but not limited to, development and choice of a repair design (or "plan"), method of repair, execution of repairs, replacement of covered Defective items, as well as all matters pertaining to the repair or replacement of all covered damage, belong to the sole discretion of GIC. GIC also has the right to choose to repair or replace or pay the reasonable cost of repair or replacement.

## SECTION 11: HOW TO REPORT A MAJOR STRUCTURAL DEFECT CLAIM

If You believe Your Home has a Major Structural Defect, You must notify the Administrator in writing, either through e-mail or certified mail, return receipt. Text message are not acceptable. **Notice cannot be initiated with a phone call.** Your written Notice of a Major Structural Defect Form must be received by the Administrator within the 10 year Warranty Term. Notice to the Builder is not notice to GIC or the Administrator. Written notice received after the expiration of the Warranty Term will be denied. Neither Your Builder nor GIC shall have any obligation to You under this Warranty. The time limit is a material condition of this Warranty. In addition, the Major Structural Defect must occur within the Warranty Term to be covered.

If mailing, send the Notice of Major Structural Defect Form to StrucSure Home Warranty, LLC, Attn: Warranty Service Division, 6825 East Tennessee Avenue, Suite #410, Denver, CO 80224. In addition, there is a \$300 non-refundable processing fee which needs to be submitted with the notice and made payable to Golden Insurance Company, Risk Retention Group.

Once Your written notice has been received, the Administrator will process and investigate Your Notice of Major Structural Defect. Upon completion of the Administrator's investigation, a determination will be rendered as to whether there is a qualifying Major Structural Defect.

You agree to provide the Administrator with any information or evidence in Your possession to support Your claim along with any inspector's, engineer's, and/or other expert's reports, photographs, videos, etc. related to and in support of Your claim. You also must provide the Administrator and GIC a reasonable opportunity to inspect Your Home (both the interior and/or exterior, as necessary) during normal business hours. Your failure to cooperate may jeopardize Your warranty coverage.

In connection with the investigation and determination of your claim, You may be sent a series of recommendations to be implemented. Failure to implement the recommendations may result in a denial of a future claim for benefits if the failure to implement the recommendations caused or contributed to a Defect in the Home.

If the Administrator does not receive any communication from You within ninety (90) days following a denial of Your request for warranty performance, Your claim will be closed and the applicable Warranty Term will not be modified or extended. A closed file will require the filing of a new Notice of Major Structural Defect Form and submission of another processing fee.

## SECTION 12: CONDITIONS OF WARRANTY PERFORMANCE

- (1) In order for Your Builder and GIC to carry out their responsibilities under this Warranty, access to Your Home is required from time to time. The Builder, GIC and their designees shall be allowed full access during normal business operations for testing, inspection, and repairs. Failure to provide access for more than 30 calendar days, unless mutually agreed upon, after a written request is made will void the Warranty.
- (2) Any events that cause a delay in the performance of the warranty obligations of the Builder, the Administrator, and/or GIC, and that are beyond the control of the Builder, the Administrator, and/or GIC, shall excuse the Builder, the Administrator, and/or GIC from performing until the events causing the delay are remedied. Such events include, but are not limited to, concealed or unknown conditions such as soil conditions, unavoidable accidents or circumstances, encountering hazardous materials, damage caused by a utility company, acts of God or nature, pandemic, acts of the common enemy, fire, war, riot, civil commotion or sovereign conduct, material shortages or unusual material delivery delays, abnormal adverse weather conditions not reasonably anticipated, labor disputes, acts of terrorism, government action, and/or acts or omissions by You or a person or entity not a party to this Warranty. Such delay shall operate to extend the time period for performance but shall not act to extend the term(s) of warranty coverage(s).
- (3) If the Builder or GIC, as applicable, repairs, replaces, or pays You the reasonable cost to repair or replace, the Builder or GIC, as applicable, shall be subrogated to all Your rights of recovery against any person or entity. You must sign and deliver to the Builder, and GIC a full and unconditional release, in recordable form, of all legal obligations and rights to recovery (including subrogation rights) with respect to the warranted Defects/Deficiencies, and any condition arising from the warranted items. This must occur prior to payment for the reasonable cost of repair or replacement. You must execute and deliver any and all instruments and documents, and take any and all other actions necessary to secure such rights including, but not limited to, assignment of proceeds of any other insurance or other warranties to the Builder or GIC, as applicable. You shall do nothing to prejudice these rights of subrogation.
- (4) Any repair will be finished or touched up to match the surrounding area as closely as practical but not necessarily to a like-new condition. Imperfections and variations may exist and should be expected. A repair or action bringing a variance within the standard under this warranty shall not cause the period of the applicable warranty to be extended.
- (5) The Builder or GIC, as applicable, is not responsible for exact color, texture or finish matches when replacing or repairing materials, repainting areas, or when items or materials have been discontinued. Surfaces altered incident to any repair will be finished or touched up to match the surrounding area as closely as practical. In connection with the repair of finish or surface material, such as paint, wallpaper, flooring or a hard surface, the Warrantor (Builder or GIC, as applicable) will match the standard and grade as closely as reasonably possible. The (Builder or GIC, as applicable) will attempt to match the finish, but will not be responsible for discontinued patterns or materials, color variations, or shade variations. When the surface finish

material must be replaced and the original material has been discontinued, the Builder or GIC, as applicable, is responsible for installing replacement material substantially similar in appearance to the original material. Repair or replacement is NOT intended to restore the Home to a like-new condition. Imperfections and variations may exist and should be expected. Coverage does not include refinishing of interior or exterior surfaces not damaged.

### **SECTION 13: DISPUTES MUST BE SUBMITTED TO ARBITRATION**

Any and all claims, disputes and controversies by or between the Homeowner, the Builder, the Administrator, and/or GIC, or any combination of the foregoing arising out of, in connection with, or related to this Warranty, any alleged Defect or Deficiency in or to the subject Home or the real property on which the subject Home is situated, or the sale of the subject Home by the Builder, including, without limitation, any claim of breach of contract, negligent or intentional misrepresentation, or nondisclosure in the Inducement, execution, or performance of any contract, including this arbitration agreement, breach of any alleged duty of good faith and fair dealing a violation of state, federal, or local law, statute, regulation, ordinance or rule, whether the claim must be arbitrated, or the validity and enforceability of this arbitration agreement, shall be settled by binding arbitration. Agreeing to arbitration means You are waiving Your right to a trial by a judge and/or a jury.

If an independent arbitration service cannot be mutually agreed upon by You, the Administrator, and the Builder or GIC, as applicable; then the arbitration shall be conducted by the American Arbitration Association pursuant to its Home Warranty Rules, or by DeMars & Associates, Ltd. This Warranty and arbitration provision involves and concerns interstate commerce and is governed by the Federal Arbitration Act, 9 U.S.C. 1 et seq., as amended (FAA), and any rules of the independent arbitration service employed by the parties to the arbitration. Should any conflict exist between the FAA and the rules of the independent arbitration service selected, the FAA shall control.

You understand that should You submit a request for arbitration, all administrative fees of the arbitration service and fees of the arbitrator shall be allocated to the parties as provided in the rules of the arbitration service, subject to the discretion of the arbitrator to reallocate such fees in the interests of justice.

This arbitration agreement shall inure to the benefit of, and be enforceable by, the Builder's subcontractors, agents, vendors, suppliers, design professionals, Insurers, and any other person alleged to be responsible for any Defects/ Deficiencies in or to the subject Home or the real property on which the subject Home is situated. Any party shall be entitled to recover reasonable attorney's fees and costs incurred in enforcing this arbitration agreement. The decision of the Arbitrator shall be final and binding and may be entered as a judgment in any State or Federal court of competent jurisdiction.

This arbitration agreement shall be deemed to be a self-executing arbitration agreement. Any disputes concerning the interpretation or the enforceability of this arbitration agreement, including, without limitation, its revocability or voidability for any cause, the scope of arbitration issues, class or collective arbitrability, and any defense based upon waiver, estoppel or laches, shall be decided by the Arbitrator.

The initiation of or participation by any party in any judicial proceeding concerning this arbitration agreement or any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this arbitration agreement, and, notwithstanding any applicable rule of law to the contrary, shall not be asserted or accepted as a reason for delay, refusal to participate in, or refusal to enforce this arbitration agreement.

The arbitration hearing shall take place at the Home unless the parties mutually agree to hold the arbitration at a different location.

The Builder or GIC, or Administrator shall have the right, in advance of the arbitration proceeding, to re-inspect any Home (both the interior and/or exterior, as necessary) that is the subject to the arbitration proceeding if the request for arbitration was made more than sixty (60) days following the last claim decision of the (Builder or GIC, as applicable) or Administrator concerning such Home.

No arbitration proceeding shall involve more than one single-family detached dwelling, more than one multi-dwelling unit, or one multi-unit building involving common elements. Any arbitration proceeding shall be on an individual basis and not in a class, consolidated, or representative action.

No arbitration award will be allowed to be confirmed or filed for confirmation in any court of law, regardless of the applicable rules of the arbitration, before the expiration of 90 days after the award is issued and/or signed by the arbitrator and all rules related to the modification, clarification or otherwise in the arbitration proceeding are expired.

### **PERFORMANCE STANDARDS FOR HOME COMPONENTS UNDER THE ONE-YEAR WORKMANSHIP/MATERIALS WARRANTY**

(A) This Section describes the Performance Standards for the various Workmanship and Materials elements or components of a Home as described. Unless otherwise stated under the various Performance Standards herein, if any such Performance Standard is not met, the Builder or GIC (as applicable) shall take such action as is necessary to bring the variance within the standard subject to the terms and conditions herein. The Builder or GIC (as applicable) will repair or replace those elements or components of a Home that do not meet these standards during the applicable warranty period. **PERFORMANCE STANDARDS FOR FOUNDATIONS AND SLABS**

(1) Performance Standards for Raised Floor Foundations or Crawl Spaces:

- (a) A crawl space shall be graded and drained properly to prevent surface run-off from accumulating deeper than 2 inches in areas 36 inches or larger in diameter. Exterior drainage around the perimeter crawl space wall shall not allow water to accumulate within ten (10) feet of the foundation for more than 24 hours after a rain except in a sump that drains other areas.
  - i. The homeowner shall not modify improperly the existing grade or allow water from an irrigation system to cause water to accumulate excessively under the foundation. The homeowner shall not allow landscape plantings to interfere with proper drainage away from the foundation. The homeowner shall not use the crawl space for storage of any kind.
- (b) Water shall not enter through the basement or crawl space wall or seep through the basement floor.
  - i. The homeowner shall not modify improperly the existing grade or allow water from an irrigation system to cause water to accumulate excessively near the foundation. The homeowner shall not allow landscape plantings to interfere with proper drainage away from the foundation.

**(2) Performance Standards For Concrete Slab Foundations, Excluding Finished Concrete Floors:**

- (a) Concrete floor slabs in living spaces that are not otherwise designed with a slope for drainage, such as a laundry room, shall not have excessive pits, depressions or unevenness equal to or exceeding 3/8 of an inch in any 32 inches and shall not have separations or cracks that equal or exceed 1/8 of an inch in width or 1/16 of an inch in vertical displacement.
- (b) Concrete slabs shall not have protruding objects, such as a nail, rebar, or wire mesh.
- (c) Concrete portions of a raised-floor foundation should not have separations or cracks that equal or exceed 1/8 of an inch in width or 1/16 of an inch in vertical displacement.
- (d) A separation in an expansion joint in a concrete slab shall not equal or exceed 1/4 of an inch vertically or one (1) inch horizontally from an adjoining section.
- (e) Slab-on-ground foundations should not have separations or cracks that equal or exceed 1/8 of an inch in width or 1/16 of an inch in vertical displacement.

**(3) Performance Standards For Exterior Concrete Including Patios, Stem Walls, Driveways, Stairs Or Walkways:**

- (a) Concrete corners or edges shall not be damaged excessively due to construction activities.
- (b) A crack in exterior concrete shall not cause vertical displacement equal to or in excess of 1/4 of an inch or horizontal separation equal to or excess of 1/4 of an inch.
- (c) The homeowner shall not over-water surrounding soil or allow the surrounding soil to become excessively dry. The homeowner shall not allow heavy equipment to be placed on the concrete.
- (d) The finish on exterior concrete shall not be excessively smooth, so that the surface becomes slippery. A concrete surface that has been designed to be smooth is excepted from this performance standard.
- (e) Exterior concrete shall not contain a protruding object, such as a nail, rebar, or wire mesh.
- (f) A separation in an expansion joint in an exterior concrete shall not equal or exceed 1/2 of an inch vertically from an adjoining section or one (1) inch horizontally, including joint material.
- (g) A separation in a control joint shall not equal or exceed 1/4 of an inch vertically or 1/2 of an inch horizontally from an adjoining section.
- (h) Concrete stair steepness and dimensions, such as tread width, riser height, landing size and stairway width shall comply with the Code such that they perform their intended function without posing a safety risk.
- (i) Handrails shall remain securely attached to concrete stairs.
- (j) Concrete stairs or stoops shall not settle or heave in an amount equal to or exceeding 3/8 of an inch. Concrete stairs or stoops shall not separate from the home in an amount equal to or exceeding one (1) inch, including joint material.
- (k) A driveway will not have a negative slope unless due to site conditions, unless it has swales or drains properly installed to prevent water from entering into the garage. If a driveway is sloped such that it allows water to enter the garage in normal weather conditions, the Builder shall take such action as is necessary to prevent water from entering the garage due to driveway slope.
- (l) Concrete floor slabs in detached garages, carports or porte-cocheres shall not have excessive pits, depressions, deterioration or unevenness equal to or exceeding 3/8 of an inch in any 32 inches. Separations or cracks in these slabs should not equal or exceed 3/16 of an inch in width, except at expansion joint, or 1/8 of an inch in vertical displacement.
- (m) Plaster over concrete shall not flake off more than one (1) square foot in one spot within 36 square inches or more than three (3) feet over the entire surface of the Home.

**(B) PERFORMANCE STANDARDS FOR FRAMING**

**(1) Building and Performance Standard for Walls:**

- (a) Walls shall not bow or have depressions that equal or exceed 1/4 of an inch out of line within any 32-inch horizontal measurement as measured from the center of the bow or depression or 1/2 of an inch within any eight-foot vertical measurement.
- (b) Walls shall be level, plumb and square to all adjoining openings or other walls within 3/8 of an inch in any 32-inch measurement.
- (c) A crack in a beam or a post shall not equal or exceed 1/2 of an inch in width at any point along the length of the crack.
- (d) A non-structural post or beam shall not have a warp or twist equal or exceeding one (1) inch in eight (8) feet of length. Warping or twisting shall not damage the beam pocket.
- (e) Exterior sheathing shall not delaminate or swell.
  - i. The homeowner shall not make penetrations in the exterior finish of a wall that allow moisture to come in contact with the exterior sheathing.
- (f) An exterior moisture barrier shall not allow an accumulation of moisture inside the barrier.
  - i. The homeowner shall not make penetrations through the exterior moisture barrier that permit the introduction of moisture inside the barrier.

**(2) Performance Standards for Ceilings:**

- (a) A ceiling shall not bow or have depressions that equal or exceed 1/2 of an inch out of line within a 32-inch measurement as measured from the center of the bow or depression running parallel with a ceiling joist.

**(3) Performance Standards for Sub-Floors:**

- (a) Under normal residential use, the floor shall not make excessive squeaking or popping sounds.
- (b) Sub-floors shall not delaminate or swell to the extent that it causes observable physical damage to the floor covering or visually affects the appearance of the floor covering. Exposed structural flooring, where the structural flooring is used as the finished flooring, is excluded from the standard stated in this subsection.
- (c) Sub-flooring shall not have excessive humps, ridges, depressions, or slope within any room that equals or exceeds 3/8 of an inch in any 32-inch direction.

**(4) Performance Standards for Stairs:**

- (a) Stair steepness and dimensions such as tread width, riser height, landing size and stairway width, shall comply with the Code.
- (b) Under normal residential use, stairs shall not make excessive squeaking or popping sounds.

**(C) PERFORMANCE STANDARDS FOR DRYWALL**

**(1) Performance Standards for Drywall:**

- (a) A drywall surface shall not have a bow or depression that equals or exceeds 1/4 of an inch out of line within any 32-inch horizontal measurement as measured from the center of the bow or depression or 1/2 of an inch within any eight foot vertical measurement; such measurement to be made utilizing a straight-edge that is held reasonably parallel to the plane of the wall or ceiling surface.
- (b) A ceiling made of drywall shall not have bows or depressions that equal or exceed 1/2 of an inch out of line within a 32-inch measurement as measured from the center of the bow or depression running parallel with a ceiling joist or within 1/2 of an inch deviation from the plane of the ceiling within any eight foot measurement; such measurement to be made utilizing a straight-edge that is held reasonably parallel to the plane of the wall or ceiling surface.
- (c) A drywall surface shall not have a crack such that any crack equals or exceeds 1/32 of an inch in width at any point along the length of the crack.
- (d) Crowning at a drywall joint shall not equal or exceed 1/4 of an inch within a twelve-inch measurement centered over the drywall joint. Crowning occurs when a drywall joint is higher than the plane of the drywall board on each side.
- (e) A drywall surface shall not have surface imperfections such as blisters, cracked corner beads, seam lines, excess joint compound or trowel marks that are visible from a distance of six (6) feet or more in normal light. Minor variations in the 'splatter' or 'drag' appearance of texture that are the result of the original installation or subsequent repair work, visible from any distance, are not considered to be Warrantable defects under this warranty.
- (f) A drywall surface shall not be out of level (horizontal), plumb (vertical) or square (perpendicular at a 90-degree angle) such that there are variations in those measurements to wall or surface edges at any opening, corner, sill, shelf, etc. shall not equal or exceed 3/8 of an inch in any 32-inch measurement along the wall or surface.

- i. This standard shall not apply to remodeling projects where existing conditions do not permit the Builder to achieve the Performance Standard. At or about the time of discovery of such a pre-existing condition, a remodeler shall notify the homeowner, in writing, of any existing condition that prevents achievement of the standard. Accumulations of drywall compound in wall corners, at wallboard joints or outside corners, and at door, window or built-in cabinet openings, may not be the sole determinant that a wall or ceiling section is out of plumb or square.

- (g) Nails or screws shall not be visible in a drywall surface from a distance of six (6) feet under normal lighting conditions.

**(D) PERFORMANCE STANDARDS FOR INSULATION**

**(1) Performance Standards for Insulation:**

- (a) Insulation shall be installed in the walls, ceilings and floors of a home in accordance with the building plan and specifications and the Code.
- (b) Blown insulation in the attic shall not displace or settle so that it reduces the R-value below manufacturer's specifications, the building plans and the Code.
- (c) A gap equal to or in excess of 1/4 of an inch between insulation batts or a gap between insulation batts and framing members is not permitted.
- (d) Insulation shall not cover or block a soffit vent to the extent that it blocks the free flow of air.

**(E) PERFORMANCE STANDARDS FOR EXTERIOR SIDING AND TRIM**

**(1) Performance Standards for Exterior Siding:**

- (a) Exterior siding shall be equally spaced and properly aligned. Horizontal siding shall not equal or exceed 1/2 of an inch off parallel with the bottom course or 1/4 of an inch off parallel with the adjacent course from corner to corner.
- (b) Siding shall not gap or bow. A siding end joint shall not have a gap that leaks or that equals or exceeds 1/4 of an inch in width. Siding end joint gaps shall be caulked. A bow in siding shall not equal or exceed 3/8 of an inch out of line in a 32-inch measurement.
- (c) Nails shall not protrude from the finished surface of siding but nail heads may be visible on some products where allowed by the manufacturer's specifications.
- (d) Siding shall not have a nail stain.
- (e) Siding and siding knots shall not become loose or fall off.
- (f) Siding shall not delaminate.
- (g) Siding shall not cup in an amount equal to or exceeding 1/4 of an inch in a six-foot run.
- (h) Siding shall not have cracks or splits that equal or exceed 1/8 of an inch in width.

**(2) Performance Standards for Exterior Trim:**

- (a) A joint between two trim pieces or between a trim piece and the adjoining material shall not have a separation that is equal to or exceeding 1/4 of an inch in width. All trim joints shall be caulked and shall not leak.
- (b) Exterior trim and eave block shall not warp in an amount equal to or exceeding 1/2 of an inch in an eight-foot run.
- (c) Exterior trim and eave block shall not cup in an amount equal to or in excess of 1/4 of an inch in a six-foot run.
- (d) Exterior trim and eave block shall not have cracks or splits equal to or in excess of 1/8 of an inch in average width.
- (e) Trim shall not have nails that completely protrude through the finished surface of the trim but nail heads may be visible on some products.
  - i. Some products specify that the nails be flush with the trim surface. When these products are used, visible nail heads are not considered protruding nails as long as they are painted over.
- (f) Trim shall not have a nail stain.

**(F) PERFORMANCE STANDARDS FOR MASONRY INCLUDING BRICK, BLOCK AND STONE**

**(1) Performance Standards for Masonry including Brick, Block and Stone:**

- (a) A masonry wall shall not bow in an amount equal to or in excess of one (1) inch when measured from the base to the top of the wall.
  - i. The standard set forth in this subsection does not apply to natural stone products.
- (b) A masonry unit or mortar shall not be broken or loose.
- (c) A masonry mortar crack shall not equal or exceed 1/8 of an inch in width.

- (d) A masonry unit or mortar shall not deteriorate.
- (e) Masonry shall not have dirt, stain, or debris on the surface due to construction activities.
- (f) A gap between masonry and adjacent material shall not equal or exceed 1/4 of an inch in average width and all such gaps shall be caulked.
- (g) Mortar shall not obstruct a functional opening, such as a vent, weep hole or plumbing cleanout.
  - i. The homeowner shall not put any material into weep holes. Weep holes are an integral part of the wall drainage system and must remain unobstructed.

**(G) PERFORMANCE STANDARDS FOR STUCCO**

**(1) Performance Standards for Stucco:**

- (a) Stucco surfaces shall not be excessively bowed, uneven, or wavy.
  - i. This standard shall not apply to decorative finishes.
- (b) Stucco shall not be broken or loose.
- (c) Stucco shall not have cracks that equal or exceed 1/8 of an inch in width at any point along the length of the crack.
  - i. The Builder shall not be responsible for repairing cracks in stucco caused by the homeowner's actions, including but not limited to periodic maintenance, caulking, painting, diversion of water onto the surface of the stucco, the attachment of devices to the stucco surface such as, but not limited to, patio covers, plant holders, awnings and hose racks.
- (d) The homeowner shall not allow water from irrigation systems to contact stucco finishes.
- (e) Stucco shall not have dirt, stain, or debris on surface due to construction activities.
- (f) Stucco surfaces shall not have imperfections that are visible from a distance of six (6) feet under normal lighting conditions that disrupt the overall uniformity of the finished pattern.
- (g) The lath shall not be exposed.
- (h) A separation between the stucco joints shall not equal or exceed 1/16 of an inch in width.
- (i) A separation between a stucco surface and adjacent material shall not equal or exceed 1/4 of an inch in width and all separations shall be caulked.
- (j) Stucco shall not obstruct a functional opening, such as a vent, weep hole or plumbing cleanout.
- (k) Stucco screed shall have a minimum clearance of at least four (4) inches above the soil or landscape surface and at least two (2) inches above any paved surface.
- (l) Exterior Insulation Finish Systems (EIFS) stucco screed shall clear any paved or unpaved surface by six (6) inches.

**(H) PERFORMANCE STANDARDS FOR ROOFS**

**(1) Performance Standards for Roofs:**

- (a) Flashing shall prevent water penetration.
  - i. The Builder shall not be responsible for leaks caused by extreme weather.
- (b) The roof shall not leak.
  - i. The Builder shall not be responsible for leaks caused by extreme weather.
  - ii. The homeowner shall perform periodic maintenance to prevent leaks due to build-up of debris, snow, or ice. The homeowner shall take such action as is necessary to prevent downspouts and gutters from becoming clogged.
- (c) A vent, louver or other installed attic opening shall not leak.
  - i. The Builder shall not be responsible for leaks caused by Extreme Weather Conditions.
- (d) A gutter or downspout shall not leak or retain standing water. After cessation of rainfall, standing water in an unobstructed gutter shall not equal or exceed 1/2 of an inch in depth.
  - i. The Builder shall not be responsible for leaks caused by Extreme Weather Conditions.
  - ii. The homeowner shall maintain and clean gutters and downspouts to prevent buildup of debris or other obstructions.
- (e) Shingles, tiles, metal, or other roofing materials shall not become loose or fall off in wind speeds less than those set forth in the manufacturer's specifications.
- (f) A skylight shall not leak.

- (g) Water shall drain from a built-up roof within two hours after cessation of rainfall. The standard does not require that the roof dry completely within the time period.
- (h) A roof tile shall not be cracked or broken. No shingle shall be broken so that it detracts from the overall appearance of the Home.
- (i) A pipe, vent, fireplace, or other object designed to penetrate the roof shall not be located within the area of roof valley centerline without proper "cricketing" or other Code-approved water diversion methods.
- (j) The exterior moisture barrier of the roof shall not allow moisture penetration.
  - i. The homeowner shall not make penetrations through exterior moisture barrier of the roof.

**(I) PERFORMANCE STANDARDS FOR DOORS AND WINDOWS**

**(1) Performance Standards for Both Doors and Windows:**

- (a) When closed, a door or window shall not allow excessive infiltration of air or dust.
- (b) When closed, a door or window shall not allow excessive accumulation of moisture inside the door or window.
  - i. The homeowner shall keep weep holes on windows and doors free of dirt buildup and debris, thereby allowing water to drain properly.
  - ii. Most door and window assemblies are designed to open, close and weep moisture—allow condensation or minor penetration by the elements to drain outside.
- (c) Glass in doors and windows shall not be broken due to improper installation or construction activities.
- (d) A screen in a door or window shall fit properly and shall not be torn or damaged due to construction activities. A screen shall not have a gap equal to or exceeding 1/4 of an inch between the screen frame and the window frame.
- (e) There shall be no condensation between window and door panes in a sealed insulated glass unit.
  - i. The homeowner shall not apply a tinted window film or coating to window or door panes in sealed insulated glass units.
- (f) A door or window latch or lock shall close securely and shall not be loose or rattle.
- (g) A door or window shall operate easily and smoothly and shall not require excessive pressure when opening or closing.
- (h) A door or window shall be painted or stained according to the manufacturer's specifications.

**(2) Performance Standards for Windows:**

- (a) A double hung window shall not move more than two (2) inches when put in an open position.

**(3) Performance Standards for Doors:**

- (a) A sliding door and door screen shall stay on track.
  - i. The homeowner shall clean and lubricate sliding door or door screen hardware as necessary.
- (b) The spacing between an interior door bottom and original floor covering, except closet doors, shall not exceed 1.5 inches and shall be at least 1/2 of an inch. The spacing between an interior closet door bottom and original floor covering shall not exceed two (2) inches and shall be at least 1/2 of an inch.
- (c) A door shall not delaminate.
- (d) A door panel shall not split so that light from the other side is visible.
- (e) A door shall open and close without binding.
- (f) A door shall not warp to the extent that it becomes inoperable. A warp in a door panel shall not equal or exceed 1/4 of an inch from original dimension measured vertically, horizontally, or diagonally from corner to corner.
- (g) A storm door shall open and close properly and shall fit properly.
- (h) When a door is placed in an open position, it shall remain in the position it was placed, unless the movement is caused by airflow.
- (i) A metal door shall not be dented or scratched due to construction activities.

**(4) Performance Standards for Garage Doors:**

- (a) A metal garage door shall not be dented or scratched due to construction activities.
- (b) A garage door opener, if provided, shall operate properly in accordance with manufacturer's specifications.
  - i. The homeowner shall maintain tracks, rollers and chains and shall not block or bump sensors to electric garage door openers.

- (c) A garage door shall not allow excessive water to enter the garage and the gap around the garage door shall not equal or exceed 1/2 of an inch in width.
- (d) A garage door spring shall operate properly and shall not lose appreciable tension, break or be undersized.
- (e) A garage door shall remain in place at any open position, operate smoothly and not be off track.

**(J) PERFORMANCE STANDARDS FOR INTERIOR FLOORING**

This subsection includes Performance Standards for Carpet, Vinyl Flooring and Wood Flooring. Performance Standards for ceramic tile, flagstone, marble, granite, slate, quarry tile other hard surface floors, and finished concrete floors, are located in subsection K.

**(1) Performance Standards for Carpet:**

- (a) Carpet shall not wrinkle and shall remain tight, lay flat and be securely fastened.
- (b) Carpet seams may be visible but shall be smooth without a gap or overlap.
- (c) Carpet shall not be stained or spotted due to construction activities.

**(2) Performance Standards for Finished Concrete Floors:**

- (a) A finished slab, located in a living space that is not otherwise designed for drainage, shall not have pits, depressions or unevenness that equals or exceeds 3/8 of an inch in any 32 inches.
  - i. Finished concrete slabs in living spaces that are designed for drainage, such as a laundry room, are excepted from the standards stated in this subsection.
- (b) Finished concrete slabs in living spaces shall not have separations, including joints, and cracks that equal or exceed 1/8 of an inch in width or 1/16 of an inch in vertical displacement.

**(3) Performance Standards for Wood Flooring:**

- (a) Wood flooring shall not have excessive humps, depressions or unevenness that equals or exceeds 3/8 of an inch in any 32-inch direction within any room.
- (b) Wood flooring shall remain securely attached to the foundation or sub-floor unless the wood flooring is designed to be installed without nails, glue, adhesives, or fasteners.
- (c) Wood flooring shall not have open joints and separations that equal or exceed 1/8 of an inch.
  - i. These standards do not apply to non-hardwood species that contain greater moisture and may shrink after installation or structural floors that are designed to serve as the finished floor. If the floor is designed as a structural finish floor, the Builder must provide a written explanation of the characteristics of that floor to the homeowner prior to the execution of the contract or installation of the product, whichever occurs later.
- (d) Strips of floorboards shall not cup in an amount that equals or exceeds 1/16 of an inch in height in a three (3) inch distance when measured perpendicular to the length of the board.
  - i. This standard does not apply to non-hardwood species that typically shrink after installation or structural floors that are designed to serve as the finished floor. If the floor is designed as a structural finish floor, the Builder must provide a written explanation of the characteristics of that floor to the homeowner.
- (e) Unless installed as a specialty feature, wood flooring shall not have excessive shade changes or discoloration due to the construction activities of the Builder.
- (f) Unless installed as a specialty feature, wood flooring shall not be stained, spotted, or scratched due to construction activities of the Builder.

**(K) PERFORMANCE STANDARDS FOR VINYL FLOORING**

**(1) Performance Standards for Vinyl Flooring:**

- (a) Vinyl flooring shall be installed square to the most visible wall and shall not vary by 1/4 of an inch in any six (6) foot run.
- (b) The seam alignment in vinyl flooring shall not vary such that the pattern is out of alignment in an amount that equals or exceeds 1/8 of an inch.
- (c) Vinyl flooring shall remain securely attached to the foundation or sub-floor.
- (d) A vinyl floor shall not have a depression that equals or exceeds 1/2 of an inch in any six (6) foot run. If a vinyl floor has a depression that exceeds the standard stated in this paragraph and the depression is due to construction activities, the Builder shall take such action as is necessary to bring the variance within the standard.
- (e) A vinyl floor shall not have a ridge that equals or exceeds 1/2 of an inch when measured as provided in this subsection. The ridge measurement shall be made by measuring the gap created when a six (6) foot straight edge is placed tightly three (3) inches on each side of the Defect and the gap is measured between the floor and the straight edge at the

other end. If a vinyl floor has a ridge that fails to comply with the standard stated in this paragraph and the ridge is due to construction activities, the Builder shall take such action as is necessary to bring the variance within the standard.

- (f) Vinyl floor shall not be discolored, stained, or spotted due to the construction activities of the Builder.
- (g) Vinyl flooring shall not be scratched, gouged, cut, or torn due to construction activities.
- (h) Debris, sub-floor seams, nails and/or screws shall not be detectable under the vinyl floor from a distance of three (3) feet or more in normal light.
- (i) Sub-flooring shall not cause vinyl flooring to rupture.
- (j) A seam in vinyl flooring shall not have a separation that equals or exceeds 1/16 of an inch in width. Where dissimilar materials abut, there shall not be a gap equal to or greater than 1/8 of an inch.

**(L) PERFORMANCE STANDARDS FOR HARD SURFACES, INCLUDING CERAMIC TILE, FLAGSTONE, MARBLE, GRANITE, SLATE, QUARRY TILE, FINISHED CONCRETE OR OTHER HARD SURFACES**

**(1) Performance Standards for Hard Surfaces Generally:**

- (a) A hard surface shall not break or crack due to construction activities.
- (b) A hard surface shall remain secured to the substrate.
- (c) A surface imperfection in floor hard surface shall not be visible from a distance of three (3) feet or more in normal light. A surface imperfection in non-floor hard surface shall not be visible from a distance of two (2) feet or more in normal light. If a hard surface fails to meet the standards stated in this paragraph due to construction activities, the Builder shall take such action as is necessary to bring the variance within the standard.
- (d) Color variations between field hard surfaces and trim hard surfaces should not vary excessively due to construction activities.
  - i. Natural products such as flagstone, marble, granite, slate, and other quarry tile will have color variation.
- (e) Hard surface areas shall not leak.
- (f) The surfaces of two adjacent hard surfaces shall not vary in an amount equal to or exceeding 1/16 of an inch displacement at a joint (lippage) in addition to the actual manufacturing variations of the hard surface, such as warpage or dimensional differences in the hard surfaces, including thickness. If a joint between two hard surfaces fails to meet the Performance Standard stated in this paragraph (excluding trim pieces), the Builder shall take such action as is necessary to bring the variance within the standard.
- (g) Hard surface layout or grout line shall not be excessively irregular.
  - i. Natural products such as flagstone, marble, granite, slate, and other quarry tile will have size variations that may create irregular layouts or grout lines.
- (h) Hard surface countertops shall be level to within 1/4 of an inch in any six (6) foot measurement.
- (i) Hard surface floors located in a living space that is not otherwise designed for drainage, shall not have pits, depressions, or unevenness that equals or exceeds 3/8 of an inch in any 32 inches.
  - i. Finished hard surface floors located in living spaces that are designed for drainage, such as a laundry room, are excepted from the standards stated in this subsection.

**(2) Performance Standards for Grout:**

- (a) Grout shall not deteriorate.
- (b) Cracks in grout shall not exceed 1/16 of an inch in width.
- (c) Grout shall not change shade or discolor excessively due to construction activities.

**(3) Performance Standards for Concrete Countertops:**

- (a) A concrete countertop shall not have excessive pits, depressions, or unevenness that equal or exceed 1/8 of an inch in any 32-inch measurement.
- (b) A concrete countertop shall not have separations or cracks equal to or exceeding 1/16 of an inch in width or 1/64 of an inch in vertical displacement.
- (c) A finished concrete countertop shall not be stained, spotted, or scratched due to construction activities.
- (d) A concrete countertop shall not have a chipped edge that extends beyond 1/16 of an inch from the edge of the countertop due to construction activities.
- (e) A concrete countertop shall not change shade or discolor excessively due to construction activities.

**(M) PERFORMANCE STANDARDS FOR PAINTING, STAIN, AND WALL COVERINGS**

**(1) Performance Standards for Caulking:**

- (a) Interior caulking shall not deteriorate or crack excessively.

**(2) Performance Standards for Painting and Stain:**

- (a) Paint or stain shall not have excessive color, shade, or sheen variation.
  - i. This standard shall not apply to stained woodwork.
- (b) Paint shall cover all intended surfaces so that unpainted areas shall not show through paint when viewed from a distance of six (6) feet in normal light.
- (c) Interior paint or stain shall not deteriorate.
- (d) Exterior paint or stain shall not deteriorate excessively.
- (e) Paint over-spray shall not exist on any surface for which it was not intended.
- (f) Interior varnish, polyurethane or lacquer finish shall not deteriorate.
- (g) Exterior varnish, polyurethane or lacquer finishes shall not deteriorate excessively.
  - i. Exterior varnish, polyurethane or lacquer finishes that are subject to direct sunlight are excluded from this standard.
- (h) Interior painted, varnished, or finished surface shall not be scratched, dented, nicked or gouged due to construction activities.
- (i) A paint product shall perform as represented by the manufacturer to meet manufacturer's specifications for washability and/or scrubability.

**(3) Performance Standards for Wall Coverings:**

- (a) A wall covering shall be properly secured to the wall surface and shall not peel or bubble.
- (b) Pattern repeats in wall coverings shall match. Wall coverings shall be installed square to the most visible wall. Pattern repeats shall not vary in an amount equal to or exceeding 1/4 of an inch in any six (6) foot run.
- (c) A wall covering seam shall not separate or gap.
- (d) Lumps or ridges in a wall covering shall not be detectable from a distance of six (6) feet or more in normal light.
- (e) Wall coverings shall not be discolored, stained, or spotted due to construction activities.
- (f) Wall coverings shall not be scratched, gouged, cut, or torn due to construction activities.
- (g) Wall coverings shall perform as represented by the manufacturer to meet manufacturer's specifications for washability and/or scrubability.

**(N) PERFORMANCE STANDARDS FOR PLUMBING**

**(1) Performance Standards for Plumbing Accessories:**

- (a) A fixture surface shall not have a chip, crack, dent or scratch due to construction activities.
- (b) A fixture shall not have tarnish, blemishes or stains unless installed as a specialty feature.
  - i. Fixture finishes that are tarnished, blemished, or stained due to high iron, manganese or other mineral content in water are excluded from this standard.
- (c) A fixture or fixture fastener shall not corrode.
  - i. A Builder is not responsible for corrosion caused by factors beyond the manufacturer's or the Builder's control, including the homeowner's use of corrosive chemicals or cleaners or corrosion caused by water content.
- (d) A decorative gas appliance shall be installed in accordance with manufacturer's specifications and when so installed shall function in accordance with manufacturer's representations.
- (e) Fixtures shall be secure and not loose.
  - i. The homeowner shall not exert excessive force on a fixture.
- (f) A fixture stopper shall operate properly and shall retain water in accordance with the manufacturer's specifications.
- (g) The toilet equipment shall not allow water to run continuously.
  - i. If toilet equipment allows water to run continuously, the homeowner shall shut off the water supply or take such action as is necessary to avoid damage to the home.

- (h) A toilet shall be installed and perform in accordance with the manufacturer's specifications.
  - i. In the event of water spillage, the homeowner shall shut off the water supply and take such action as is necessary to avoid damage to the home.
- (i) A tub or shower pan shall not crack.
- (j) A tub or shower pan shall not squeak excessively.
- (k) A water heater shall be installed and secured according to the manufacturer's specifications and the Code.
- (l) A waste disposal unit shall be installed and operate according to the manufacturer's specifications.
- (m) A faucet or fixture shall not drip or leak.
  - i. This standard does not include drips or leaks due to debris or minerals from the water source, unless it is due to construction activities.
- (n) A sump pump shall be installed in accordance with the manufacturer's specifications and shall operate properly when so installed.
- (o) Coverage under this subsection (N)(1) is limited to repair or replacement of the plumbing accessory itself. Coverage includes repair or replace any surface necessarily damaged in accessing the plumbing accessory.
- (p) Any Major Structural Defect resulting, arising, or in any way stemming from an element that fails to meet this performance standard is excluded from warranty coverage as set forth in Section 7 of this Warranty.

**(2) Performance Standards for Pipes and Vents:**

- (a) A sewer gas odor originating from the plumbing system shall not be detectable inside the home under conditions of normal residential use.
  - i. The homeowner shall keep plumbing traps filled with water.
- (b) A vent stack shall be free from blockage and shall allow odor to exit the Home.
- (c) A water pipe shall not make excessive noise such as banging or hammering repeatedly.
  - i. A water pipe subject to expansion or contraction of the pipe as warm or cool water flows through the pipe may cause a "ticking" sound temporarily. The standard stated in this subsection does not require a Builder to remove all noise attributable to water flow and pipe expansion.

**(O) PERFORMANCE STANDARDS FOR HEATING, COOLING AND VENTILATION**

**(1) Performance Standards for Heating and Cooling:**

- (a) A condensation line shall not be obstructed due to construction activities.
  - i. The homeowner shall periodically check for the free flow of condensate (water) from the line and clear the line when necessary.
- (b) A drip pan and drain line shall be installed under a horizontal air handler as per the Code.
  - i. The homeowner shall periodically check for the free flow of condensate (water) from the line and clear the line when necessary.
- (c) Insulation shall completely encase the refrigerant line according to Code.
  - i. The homeowner shall ensure that insulation on the refrigerant line is not damaged or cut due to home maintenance or landscape work.
- (d) An exterior compressor unit shall be installed in accordance with the manufacturer's instructions and specifications. The bottom of the exterior compressor unit support shall not be below ground level.
  - i. The homeowner shall ensure that settlement of the exterior compressor unit pad does not occur due to home maintenance, landscape work or excessive water from irrigation.

**(2) Performance Standards for Venting:**

- (a) An appliance shall be vented according to the manufacturer's specifications.
- (b) Back draft dampers shall be installed and function according to the manufacturer's specifications.

**(3) Performance Standards for Ductwork:**

- (a) Ductwork shall not make excessive noise.
  - i. The flow of air, including its velocity, or the expansion of ductwork from heating and cooling may cause common "ticking" or "crackling" sounds. The Builder shall have no responsibility for correction in such cases.
  - ii. The homeowner shall not place any object on the ductwork.

**(P) PERFORMANCE STANDARDS FOR ELECTRICAL SYSTEMS AND FIXTURES**

**(1) Performance Standards for Electrical Systems and Fixtures:**

- (a) Excessive air infiltration shall not occur around electrical system components or fixtures.
- (b) A fixture or trim plate shall not be chipped, cracked, dented, or scratched due to construction activities.
- (c) A fixture or trim plate finish shall not be tarnished, blemished, or stained due to construction activities.
- (d) A fixture, electrical box or trim plate shall be installed in accordance with the Code and shall be plumb and level.
- (e) Fixtures, such as lights, fans and appliances shall operate properly when installed in accordance with the manufacturer's specifications.
- (f) A smoke detector shall operate according to the manufacturer's specifications and shall be installed in accordance with the Code.
- (g) An exhaust fan shall operate within the manufacturer's specified noise level.
- (h) A carbon monoxide detector shall operate according to the manufacturer's specifications and shall be installed in accordance with the Code.

**(Q) PERFORMANCE STANDARDS FOR INTERIOR TRIM**

**(1) Performance Standards for Trim:**

- (a) An interior trim joint separation shall not equal or exceed  $\frac{1}{8}$  of an inch in width or shall not separate from adjacent surfaces equal to or in excess of  $\frac{1}{8}$  of an inch and all joints shall be caulked or puttied.
- (b) The interior trim shall not have surface damage, such as scratches, chips, dents, gouges, splits, cracks, warping or cupping that is visible from a distance of six (6) feet or more in normal light due to construction activities.
- (c) A hammer mark on trim shall not be visible from a distance of six (6) feet or more when viewed in normal light.
- (d) A nail or nail hole in interior trim shall not be visible from a distance of six (6) feet or more when viewed in normal light.

**(R) PERFORMANCE STANDARDS FOR SHELVING**

**(1) Performance Standards for Shelving:**

- (a) Shelving, rods and end supports shall be installed in accordance with the measurements stated in this subsection. The length of a closet rod shall not be shorter than the actual distance between the end supports in an amount equal to or exceeding  $\frac{1}{4}$  of an inch. The length of a shelf shall not be shorter than the actual distance between the supporting walls by an amount equal to or exceeding  $\frac{1}{4}$  of an inch. End supports shall be securely mounted.

**(S) PERFORMANCE STANDARDS FOR CABINET DOORS**

**(1) Performance Standards for Cabinet Doors:**

- (a) Cabinet doors shall open and close with reasonable ease. Cabinet doors shall be even and shall not warp more than  $\frac{1}{4}$  of an inch when measured from the face to the point of the furthestmost point of the door or drawer front when closed.
  - i. Some warping, cupping, bowing, or twisting is normally caused by surface temperature and humidity changes.

**(T) PERFORMANCE STANDARDS FOR MIRRORS, INTERIOR GLASS AND SHOWER DOORS**

**(1) Performance Standards for Mirrors, Interior Glass, and Shower Doors:**

- (a) A mirror, interior glass or shower door shall not be loose and shall be securely mounted or attached to the supporting surface. Fixtures such as towel bars or door handles shall be securely mounted.
- (b) A mirror, interior glass or shower door shall not be damaged due to construction activities.
- (c) A shower door shall not leak due to Builder or construction activities.
- (d) Imperfections in a mirror or shower door shall not be visible from a distance of two (2) feet or more when viewed in normal light.
- (e) When opening and closing, a shower door shall operate easily and smoothly without requiring excessive pressure.

**(U) PERFORMANCE STANDARDS FOR HARDWARE AND IRONWORK**

**(1) Performance Standards for Hardware:**

- (a) Hardware finishes shall not be tarnished, blemished, corroded, or stained due to construction activities, unless the finish is installed as a specialty feature.

- i. The Builder is not responsible for tarnished, blemished, or stained hardware finishes that have been damaged by factors that are beyond the manufacturer's or the Builder's control such as the homeowner's use of abrasive pads or cleaners, harsh chemicals, alcohol, organic solvents or deterioration caused by exposure to outdoor elements such as salt air or humidity.
- (b) Hardware shall function properly, without catching, binding, or requiring excessive force to operate.
- (c) Hardware shall not be scratched, chipped, cracked or dented due to construction activities.
- (d) Hardware shall be installed securely and shall not be loose.
  - i. The homeowner shall not exert excessive force on hardware.

**(2) Performance Standards for Interior Ironwork:**

- (a) Interior ironwork shall not rust.
  - i. The Builder is not responsible for ironwork finishes that rust due to factors that are beyond the manufacturer's or the Builder's control such as the homeowner's use of abrasive pads or cleaners, harsh chemicals, alcohol, organic solvents or deterioration caused by exposure to humidity.

**(V) PERFORMANCE STANDARDS FOR COUNTERTOPS AND BACKSPLASHES**

**(1) Performance Standards for Countertops and Backsplashes Generally:**

- (a) A countertop or backsplash shall be secured to substrate in accordance with manufacturer's specifications.
- (b) For non-laminate countertops and backsplashes, the joints between countertop surfaces, between the countertop surface and the backsplash or side-splash and between adjoining backsplash panels may be visible, but shall not separate.
- (c) Countertops shall be level to within 1/4 of an inch in any six (6) foot measurement.
- (d) A countertop surface or edge shall not be damaged, broken, chipped or cracked due to construction activities.
- (e) A countertop shall not bow or warp in an amount equal to or exceeding 1/16 of an inch per lineal foot.
- (f) Counter and vanity top material should not delaminate.

**(2) Performance Standards for Laminate Countertops and Backsplashes:**

- (a) Laminate countertops and backsplashes shall not delaminate and shall remain securely attached to the substrate. Delamination is the separation of the finish surface veneer from the substrate material.
- (b) A seam in a laminate countertop or backsplash may be visible but shall not be separated or displaced.
- (c) A surface imperfection in a laminate countertop or a backsplash shall not be visible from a distance of three (3) feet or more when viewed in normal light due to construction activities.

**(W) PERFORMANCE STANDARDS FOR FIREPLACES**

**(1) Performance Standards for Fireplaces:**

- (a) A refractory panel shall not crack or separate.
  - i. The homeowner shall not use synthetic logs or other materials if not approved by the manufacturer.
- (b) A fireplace door shall operate properly. Fireplace doors shall meet evenly and shall not be out of alignment from one another in an amount equal to or exceeding 1/8 of an inch in any direction.
- (c) A fireplace shall not have a gas leak.
- (d) Gas logs shall be positioned in accordance with the manufacturer's specifications.
  - i. The homeowner shall not incorrectly reposition or relocate the logs after the original placement. The homeowner shall not place the logs in a manner that does not allow the flame to flow through the logs according to the manufacturer's specifications.
- (e) A crack in masonry hearth or facing shall not be equal to or exceed 1/4 of an inch in width.
- (f) A fireplace or chimney shall draw properly.
- (g) A firebox shall not have excessive water infiltration under normal weather conditions.
- (h) A fireplace fan shall not exceed the noise level established by the manufacturer's specifications.

**(X) PERFORMANCE STANDARDS FOR IRRIGATION SYSTEMS**

**(1) Performance Standards for Irrigation Systems:**

- (a) An irrigation system shall not leak, break or clog due to construction activities or due to soil settlement.

- (b) An irrigation system shall be installed such that sprinkler coverage shall be complete and water shall not spray an unintended area due to construction activities.
- (c) The irrigation system control shall operate in accordance with manufacturer's specifications.
  - i. The Builder shall provide the homeowner with instructions on the operation of the irrigation system at closing.

**(Y) PERFORMANCE STANDARDS FOR FENCING**

**(1) Performance Standards for Fencing:**

- (a) A fence shall not fall over and shall not lean in excess of two (2) inches out of plumb due to construction activities.
- (b) A wood fence board shall not be broken due to construction activities. Wood fence board shall not become detached from the fence due to construction activities of the Builder.
- (c) A masonry unit or mortar in a fence shall not be broken or loose. A crack in a masonry unit shall not occur. A crack in the mortar shall not equal or exceed 1/8 of an inch in width.
- (d) A masonry wall shall have adequate weep holes in the lowest course as required by the Code to allow seepage to pass through the wall.

**(Z) PERFORMANCE STANDARDS FOR YARD GRADING**

**(1) Performance Standards for Yard Grading:**

- (a) Yards shall have grades, swales, and/or other measures that provide for proper drainage in accordance with the Code, governmental regulations, or otherwise in accordance with an applicable drainage and grading plan, if any, and or approved variations. The homeowner shall maintain the drainage pattern and protect the grading contours from erosion, blockage, over-saturation or any other changes. The possibility of standing water, not immediately adjacent to the foundation but in the yard, after prolonged or an unusually heavy rainfall event should be anticipated by the homeowner.
- (b) Settling or sinking of soil shall not interfere with the drainage patterns of the lot or have a vertical depth of six (6) inches or more.

**(AA) PERFORMANCE STANDARDS FOR PEST CONTROL**

**(1) Performance Standards for Pest Control:**

- (a) Eave returns, truss blocks, attic vents and roof vent openings shall not allow rodents, birds, and other similar pests into the Home or attic space.

**PERFORMANCE STANDARDS FOR ELECTRICAL, PLUMBING, AND MECHANICAL  
DISTRIBUTION SYSTEMS UNDER THE TWO-YEAR DELIVERY PORTION OF SYSTEMS WARRANTY:**

This Section describes the Performance Standards for the various Delivery Portion of Systems in a Home as described. Unless otherwise stated under the various Performance Standards herein, if any such Performance Standard is not met, the Builder or GIC (as applicable) shall take such action as is necessary to bring the variance within the standard subject to the terms and conditions herein. The Builder or GIC (as applicable) will repair or replace those elements or components of a Home that do not meet these standards during the applicable warranty period.

**(A) PERFORMANCE STANDARDS FOR ELECTRICAL DELIVERY SYSTEMS**

**(1) Performance Standards for Electrical Wiring:**

Electrical wiring installed inside the home shall be installed in accordance with the Code and any other applicable electrical standards and shall function properly from the point of demarcation, as determined by the respective utility. The Builder shall not be responsible for utility improvements from the meter/demarcation point to the utility poles or the transformer.

Electrical wiring shall be capable of carrying the designated load as set forth in the Code. All electrical equipment shall be used for the purposes and/or capacities for which it was designed and in accordance with manufacturer's specifications.

**(2) Performance Standards for the Electrical Panel, Breakers, and Fuses:**

- (a) The electrical panel and breakers shall have sufficient capacity to provide electrical service to the home during normal residential usage. The Builder is not responsible for electrical service interruptions caused by external conditions such as power surges, circuit overloads and electrical shorts.
- (b) The electrical panel and breakers shall have sufficient capacity to provide electrical service to the home during normal residential usage such that a circuit breaker shall not trip and fuses shall not blow repeatedly under normal residential electric usage. The Builder is not responsible for circuit breaker trips or blown fuses that have functioned as designed to protect the home from external conditions such as power surges, circuit overloads and shorts.

**(3) Performance Standards for Electric Outlets with Ground Fault Interrupters:**

- (a) Electrical outlets with ground fault interrupters shall be installed and operate in accordance with the Code and manufacturer's specifications. If ground fault interrupters trip repeatedly under normal residential usage, the Builder shall take such action as is necessary to ensure that the electrical outlets with ground fault interrupters are installed in accordance with the Code and manufacturer's instructions and specifications and that they operate properly during normal residential electrical usage.

The homeowner shall not plug appliances that require constant electrical flow, such as refrigerators and freezers, into an outlet with a ground fault interrupter.

**(4) Performance Standards for Fixtures, Outlets, Doorbells and Switches:**

- (a) An outlet, doorbell or switch shall be installed in accordance with the manufacturer's specifications and the Code and shall operate properly when installed in accordance with the manufacturer's specifications and the Code.
- (b) A fixture, electrical box or trim plate shall be installed in accordance with the Code and manufacturer's specifications and shall be properly secured to the supporting surface.
- (c) A light shall not dim, flicker, or burn out repeatedly under normal circumstances. A lighting circuit shall meet the Code.

**(5) Performance Standards for Wiring or Outlets for Cable Television, Telephone, Ethernet or Other Services:**

- (a) Wiring or outlets for cable television, telephone, Ethernet, or other services shall be installed in accordance with the Code and any applicable manufacturer's specifications.
  - i. The Builder is not responsible for the failure of wiring or other utility service connectors or conduits that begin before the point at which the service enters the home.
- (b) Wiring or outlets for cable television, telephone, Ethernet, or other services inside the home or on the home side of the meter/demarcation point shall function properly when installed in accordance with the Performance Standards in this subsection.
  - i. The Builder is not responsible for the failure of wiring or other utility service connectors or conduits that begin before the point at which the service enters the home.

**(B) PERFORMANCE STANDARDS FOR PLUMBING DELIVERY SYSTEMS**

**(1) Performance Standards for Pipes including Water and Gas Pipes, Sewer and Drain Lines, Fittings and Valves (but not including pipes included in a Landscape Irrigation System):**

- (a) Pipes shall be installed and insulated in accordance with the Code and manufacturer's specifications.
  - i. If a water pipe bursts, the Builder shall take such action as is necessary to bring the variance within the standard stated in this subsection.
  - ii. The homeowner is responsible for insulating and protecting exterior pipes and hose bibs from freezing weather and for maintaining a reasonable temperature in the home during periods of extremely cold weather. The homeowner is responsible for maintaining a reasonable internal temperature in a home regardless of whether the home is occupied or unoccupied and for periodically checking to ensure that a reasonable internal temperature is maintained.
  - iii. A water pipe shall not leak.
  - iv. The homeowner shall shut off water supply immediately if such is required to prevent further damage to the home.
- (b) A gas pipe shall not leak, including natural gas, propane, or butane gas.
  - i. If a gas pipe is leaking, the homeowner shall shut off the source of the gas if the homeowner can do so safely.
- (c) Water pressure shall not exceed 80 pounds per square inch in any part of the water supply system located inside the home. Minimum static pressure at the building entrance for either public or private water service shall be 40 pounds per square inch in any part of the water supply system.
  - i. This standard assumes the public or community water supply reaches the home side of the meter at 40 pounds per square inch. The Builder is not responsible for water pressure variations originating from the water supply source.
- (d) A sewer, drain, or waste pipe shall not become clogged or stopped up due to construction activities.
  - i. The Builder shall take such action as is necessary to unclog a sewer, drain or waste pipe that is clogged or stopped up due to construction activities.
  - ii. The homeowner shall shut off water supply immediately if such is required to prevent damage to the home.
- (e) Coverage under this subsection (B)(1) is limited to repair or replacement of the pipe itself. The coverage includes repair or replace of any surface necessarily damaged in accessing the pipe.

- (f) Coverage does not include repair or replacement of any non-load bearing portions, items, systems, surfaces, finishes, or coverings damaged or affected by a Warranted Defect covered under this subsection (B)(1).
- (g) Any Major Structural Defect resulting, arising, or in any way stemming from an element that fails to meet this performance standard is excluded from warranty coverage as set forth in Section 7 of this Warranty.

**(2) Performance Standards for Individual Wastewater Treatment Systems.**

- (a) A wastewater treatment system should be capable of properly handling normal flow of household effluent in accordance with the Texas Commission on Environmental Quality requirements. The Builder shall take such action as is necessary for the wastewater treatment system to perform within the standard stated in this subsection.
- (b) The Builder is not responsible for:
  - i. A system malfunctions or is damaged due to the addition of a fixture, equipment, appliance or other source of waste or water into the septic system by a person other than the Builder or a person working at the Builder's direction; or
  - ii. Malfunctions or limitations in the operation of the system attributed to a design restriction imposed by state, county, or local governing agencies; or
  - iii. Malfunctions caused by freezing, soil saturation, soil conditions, changes in ground water table or any other acts of nature.

**(C) PERFORMANCE STANDARDS FOR HEATING, AIR CONDITIONING AND VENTILATION DELIVERY SYSTEMS**

*Please note that the party responsible for the costs of parts and/or labor may depend on the Manufacturer's product agreement.*

**(1) Performance Standards for Air Conditioning:**

- (a) A refrigerant line shall not leak.
  - i. Condensation on a refrigerant line is not a leak.

**(2) Performance Standards for Heating and Cooling Functions:**

- (a) A heating system shall produce an inside temperature of at least 68-degrees Fahrenheit as measured two (2) feet from the outside wall of a room at a height of three (3) feet above the floor under local outdoor winter design conditions as specified in the Code.
  - i. Temperatures may vary up to 4-degrees Fahrenheit between rooms but no less than the standard set forth in this subsection. The homeowner's changes made to the size or configuration of the home, the heating system or the ductwork shall negate the Builder's responsibility to take measures to meet this Performance Standard.
- (b) An air-conditioner system shall produce an inside temperature of at most 78-degrees Fahrenheit as measured in the center of a room at height of five (5) feet above the floor, under local outdoor summer design conditions as specified in the Code (In the case of outside temperatures exceeding 98 degrees Fahrenheit, the system shall keep the inside temperature 20 degrees cooler than the outside temperature.)
  - i. This standard does not apply to evaporative or other alternative cooling systems or if the homeowner makes changes to the size or configuration of the home, the air-conditioning system, or the ductwork. Internal temperatures may vary up to 4-degrees Fahrenheit between rooms but no more than the standard set forth in this subsection. If the homeowner modifies or changes the size or configuration of the system or the square footage associated with the property or dwelling, the cooling system or the ductwork, it shall negate the Builder's responsibility to take measures to meet this performance standard.
- (c) A thermostat reading shall not differ by more than 4-degrees Fahrenheit from the actual room temperature taken at a height of five (5) feet above the floor in the center of the room where the thermostat is located. The stated Performance Standard is related to the accuracy of the thermostat and not to the Performance Standard of the room temperature.
- (d) Heating and cooling equipment shall be installed and secured according to the manufacturer's instructions and specifications and shall not move excessively.

**(3) Performance Standards for Vents, Grills or Registers:**

- (a) A vent, grill or register shall operate easily and smoothly when applying normal operating pressure. If a vent, grill or register does not operate easily and smoothly when applying normal pressure when adjusting, the Builder shall repair the vent, grill or register so that it operates with ease of use when applying normal operating pressure.
- (b) A vent, grill or register shall be installed in accordance with the Code and manufacturer's instructions and specifications and shall be secured to the underlying surface.

**(4) Performance Standards for Ductwork:**

- (a) Ductwork shall be insulated in unconditioned areas according to Code.
- (b) Ductwork shall be secured according to the manufacturer's instructions and specifications and it shall not move excessively.
- (c) Ductwork shall be sealed and shall not separate or leak in excess of the standards set by the Code.

**PERFORMANCE STANDARDS FOR MAJOR STRUCTURAL COMPONENTS  
UNDER THE 10-YEAR STRUCTURAL DEFECT WARRANTY**

This Section describes the Performance Standards for the various Structural Components of a Home as described in Section 12. Subject to the applicable exclusions, GIC will repair or replace those elements or components of a Home that do not meet these standards during the applicable warranty period.

**(A) PERFORMANCE STANDARDS FOR SLAB-ON-GROUND FOUNDATIONS**

- (1) Slab-on-ground foundations should not move differentially after they are constructed, such that a tilt or deflection in the slab in excess of the standards defined below arises from actual post-construction movement. The protocol and standards for evaluating slab-on-ground foundations shall follow the ASCE Guidelines with the following modifications:
  - (a) Overall deflection from original construction shall be no greater than the overall length over which the deflection occurs divided by 360 ( $L/360$ ) and must not have more than one associated symptom of distress, as described in Section 5 of the ASCE Guidelines, and that results in actual observable physical damage to the Home. L shall be defined as the edge to edge distance across any slab cross-section for which overall deflection is calculated, but the minimum L shall be not less than 25 feet. Calculations of overall deflection shall be based upon the change in elevation at each point for which an Original Construction Elevation was taken. A deflection analysis must be based upon a minimum of three co-planar relative elevation data points – two end points that form a straight reference line along the evaluated section and a third point anywhere along the deformed surface that reflects a deviation of the foundation surface from the reference line. The distance from the deformed surface to the reference line shall be measured perpendicular to the reference line.
  - (b) The slab shall not tilt after construction in excess of one (1) percent across any edge-to-edge dimension of the Home or cause structural component(s) or masonry veneer to rotate into a structurally unstable position such that the weight vector of the component part falls outside the middle third of its bearing area. Calculations of overall tilt shall be based upon the change in elevation at the respective edge for which an Original Construction Elevation was taken.
- (2) If measurements and associated symptoms of distress show that a slab foundation does not meet the deflection or tilt standards stated in this subsection, the recommendations of a Texas licensed Professional Engineer shall be implemented, which shall be based on the appropriate remedial measures as described in Section 7 of the ASCE Guidelines. Localized measurements of deflection that are claimed to be outside of performance standards, Code or tolerances are not warranted and there is no responsibility for correction or otherwise. By definition, tilt is a global mechanism of planar rotation across the entire foundation, edge-to-edge; therefore, local tilt does not exist and cannot be analyzed.

**(B) PERFORMANCE STANDARDS FOR RAISED-FLOOR FOUNDATIONS (I.E. PIER-AND-BEAM, ELEVATED CONCRETE SLABS ON FORMS, ETC.).**

- (1) Raised-floor foundations should not move differentially after they are constructed, such that a tilt or deflection in the floor surface in excess of the standards defined below arises from actual post-construction movement. The protocol and standards for evaluating raised-floor foundations shall follow the ASCE Guidelines with the following modifications:
  - (a) A raised-floor foundation shall not deflect more than  $L/360$  from original construction and have that movement create actual observable physical damage to the components of the Home identifiable in Section 5.3 of the ASCE Guidelines. L shall be defined as the edge-to-edge distance across any foundation cross-section for which overall deflection is calculated. Calculations of overall deflection shall be based upon the change in elevation at each point for which an Original Construction Elevation was taken. A deflection analysis must be based upon a minimum of three co-planar relative elevation data points – two end points that form a straight reference line along the evaluated section and a third point anywhere along the deformed surface that reflects a deviation of the floor surface from the reference line. The distance from the deformed surface to the reference line shall be measured perpendicular to the reference line.
  - (b) A raised-floor foundation shall not tilt after construction in excess of one percent across any edge-to-edge dimension of the Improvements or cause structural component(s) or masonry veneer to rotate into a structurally unstable position such that the weight vector of the component part falls outside the middle third of its bearing area. Calculations of overall tilt shall be based upon the change in elevation at the respective perimeter points for which an Original Construction Elevation was taken.
  - (c) If a raised-floor foundation deflects more than  $L/360$  from its original construction elevation and the movement has created actual observable physical damage to the components of a home identifiable in Section 5.3 of the ASCE Guidelines, the recommendations of a Texas licensed Professional Engineer shall be implemented, which shall be based on applicable remedial measures as described in Section 7 of the ASCE Guidelines.

- (2) If measurements and associated symptoms of distress show that a raised floor foundation does not meet the deflection or tilt standards stated in paragraph (1) of this subsection, recommendations of a Texas licensed professional engineer shall be implemented, which shall be based on the appropriate remedial measures as described in Section 7 of the ASCE Guidelines. Localized measurements of defection that are claimed to be outside of performance standards, Code or tolerances are not warranted and there is no responsibility for correction or otherwise. Attempted measurements of tilt in which L is not an edge-to-edge distance across the foundation cross-section are actually measurements of localized slopes, not tilt, which are not warranted, and there is no responsibility for correction or otherwise.

**(C) MAJOR STRUCTURAL COMPONENTS OTHER THAN SLAB-ON-GROUND FOUNDATIONS AND RAISED FLOOR FOUNDATIONS**

- (1) A defined structural component, other than the concrete elements of a slab-on-ground foundation or a raised floor foundation, shall not crack, bow, become distorted or deteriorate, such that it compromises the structural integrity of the Home or the performance of a structural system of the Home resulting in actual observable physical damage to a component of the Home.
- (2) If a structural component of the Home, other than the concrete elements of a slab-on-ground foundation or a raised floor foundation, cracks, bows, is distorted or deteriorates such that it results in actual observable physical damage to a component of the Home, such action shall be taken as is necessary to repair, reinforce or replace such structural component to restore the structural integrity of the Home or the performance of the affected structural system.
- (3) Deflected structural components.
- (a) A structural component, other than the foundation, shall not deflect more than the ratios allowed by The Code.
- (b) If a structural component of the home, other than the foundation, is deflected more than the ratios allowed by the Code, then such action shall be to repair, reinforce or replace such structural component to restore the structural integrity of the home or the performance of the affected structural system.
- (4) Damaged structural components.
- (a) A structural component, other than the foundation, shall not be so damaged that it compromises the structural integrity or performance of the affected structural system.
- (b) If a structural component, other than the foundation, is so damaged that it compromises the structural integrity or performance of a structural system of the Home, such action shall be taken as is necessary to repair, reinforce or replace such structural component to restore the structural integrity of the Home or the performance of the affected structural system.
- (5) Separated structural components.
- (a) A structural component, other than the foundation, shall not separate from a supporting member more than 3/4 of an inch or such that it compromises the structural integrity or performance of the system.
- (b) If a structural component, other than the foundation, is separated from a supporting member more than 3/4 of an inch or separated such that it compromises the structural integrity or performance of a structural system of the Home, the such action shall be taken as necessary to repair, reinforce or replace such structural component to re-establish the connection between the structural component and the supporting member, to restore the structural integrity of the Home and the performance of the affected structural system.
- (6) Non-performing structural components:
- (a) A structural component, other than the foundation, shall function as required by the Code.

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# WARRANTY PROTECTION FOR HOMEBUYERS



StrucSure Home Warranty provides third-party, insurance-backed new-home warranties to builders across the United States. Those builders then include our warranty protection on the homes they sell to reinforce their commitment to quality and service, build buyer confidence, and offer peace-of-mind to homeowners. Like many types of insurance, the hope is you will never need it, but if a problem emerges, you'll be glad you're covered.

## 1, 2, & 10-YEAR WARRANTY

This multi-part warranty program includes the following components:

- The **one-year warranty** provides surety coverage and backs the builder's warranty on **defects in workmanship and materials**. Covered components of a home that do not meet established Performance Standards during the first year will be repaired, replaced, or paid for under our warranty in the event the builder is unwilling or unable to do so.
- The **two-year warranty** provides surety coverage and backs the builder's warranty on **defects in the wiring, piping, and ductwork in the electrical, plumbing, heating, cooling, ventilating, and mechanical systems**. Covered components of a home that do not meet the established Performance Standards during the first two years will be repaired, replaced, or paid for under our warranty in the event the builder is unwilling or unable to do so.
- The **10-year structural warranty** provides direct coverage from the day of closing for **major structural defects**. If a major structural defect occurs within the 10-year warranty term, it will be repaired, replaced, or paid for by StrucSure Home Warranty.

### COMPONENTS COVERED UNDER THE ONE-YEAR WORKMANSHIP & MATERIALS WARRANTY\*

1. Site work
2. Concrete
3. Masonry
4. Carpentry
5. Doors & windows
6. Siding & roofing
7. Finishes
8. Specialties (e.g., fireplaces)
9. Equipment (e.g., cabinets)
10. Mechanical systems (e.g., plumbing)
11. Heating, air conditioning, & ductwork
12. Electrical systems



### COMPONENTS COVERED UNDER THE TWO-YEAR WIRING, PIPING, AND DUCTWORK WARRANTY\*

1. Water supply system
2. Septic tank system
3. Plumbing
4. Electrical
5. Heating
6. Air conditioning

\*Please reference your Warranty Coverage Booklet for specific terms, conditions, and exclusions.



NAHB

StrucSure Home Warranty is a proud member of the National Association of Home Builders

# WARRANTY PROTECTION FOR HOMEBUYERS



## 10-YEAR WARRANTY

StrucSure's 10-year structural home warranty provides coverage for the following home components:

1. Load-bearing foundation systems, footings, and piers
2. Load-bearing floor framing systems
3. Load-bearing walls and partitions
4. Load-bearing roof framing systems
5. Load-bearing beams
6. Load-bearing headers
7. Load-bearing girders
8. Load-bearing lintels (other than those supporting veneers)
9. Load-bearing columns (other than those designed to be cosmetic)
10. Load-bearing masonry arches (other than those designed to be cosmetic)

Please reference your Warranty Coverage Booklet for specific terms, conditions, and exclusions.



StrucSure Home Warranty is a member of  
**STRUCSURE**  
RISK MANAGEMENT GROUP

At StrucSure Home Warranty, our goal is to support the American dream of home ownership, promote healthy builder/buyer relationships, and provide a worry-free experience for homeowners. Enjoy the benefits of warranty coverage by purchasing a home backed by a new-home warranty from StrucSure and sleep better at night knowing you're covered by one of the industry's leading warranty providers.



**CONTACT YOUR BUILDER OR STRUCSURE  
TO LEARN MORE ABOUT THE BENEFITS  
OF WARRANTY COVERAGE.**

**1.877.806.8777 | [www.strucsure.com](http://www.strucsure.com)**



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# STRUCSURE HOME WARRANTY

6825 E. Tennessee Ave., Suite #410 • Denver, CO 80224

Ph: 1.877.806.8777 • Fax: 303.806.9897 | E-Mail: [claims@strucsure.com](mailto:claims@strucsure.com) | [www.strucsure.com](http://www.strucsure.com)

## MAJOR STRUCTURAL DEFECT WARRANTY CLAIM FORM

Fill out this form completely, sign it and attach complete written details of the alleged defect(s) that form the basis of your claim. Be specific and include copies of any documents, pictures and any information you provided to your builder.

**Mail OR E-mail to StrucSure at the address above. Keep a copy of all papers for your file.**

BUILDER NAME: \_\_\_\_\_ CERTIFICATE NUMBER: \_\_\_\_\_

HOMEOWNER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

SUBDIVISION: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

### CLAIM INFORMATION

1. DATE YOU FIRST NOTICED THE ALLEGED STRUCTURAL DEFECT: \_\_\_\_\_

2. HAVE YOU READ THE WARRANTY BOOK ON HOW TO MAKE A STRUCTURAL CLAIM? YES \_\_\_\_\_ NO \_\_\_\_\_

3. DO YOU THINK THE ALLEGED DEFECT RENDERS THE HOUSE UNLIVABLE? YES \_\_\_\_\_ NO \_\_\_\_\_

4. HAVE YOU OBTAINED AN ENGINEER'S EVALUATION AND/OR HAVE PICTURES REGARDING THE ALLEGED STRUCTURAL DEFECT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, ATTACH THE EVALUATION AND/OR PICTURES.

5. HAVE YOU INSTALLED AND/OR PUT IN PLACE ANY NEW IMPROVEMENTS TO THE HOME THAT MAY PROHIBIT OR INHIBIT THE REPAIRS TO THE ALLEGED STRUCTURAL DEFECT(S)? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, ATTACH DETAILS.

6. HAVE ANY PREVIOUS REPAIRS BEEN PERFORMED BY YOU OR SOMEONE UNDER YOUR DIRECTION? YES \_\_\_\_\_ NO \_\_\_\_\_

IF YES, ATTACH COMPLETE DETAILS AND DESCRIBE THE NATURE OF THE REPAIRS AND WHO MADE THEM.

SUBMITTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
PRINT NAME

SIGNATURE: \_\_\_\_\_

**REMINDER: ATTACH INFORMATION DETAILING ALLEGED DEFECT(S). Please note that the total claim and repair process may take 60 days to complete. If necessary, we may contact you for more information.**

*A person who knowingly submits a fraudulent claim is guilty of a crime.*



**STRUCSURE**  
HOME WARRANTY

6825 E. Tennessee Ave., Suite #410 • Denver, CO 80224

Ph: 1.877.806.8777 • Fax: 303.806.9897 | E-Mail: [claims@strucsure.com](mailto:claims@strucsure.com) | [www.strucsure.com](http://www.strucsure.com)

**WORKMANSHIP, MATERIALS OR SYSTEMS WARRANTY SERVICE REQUEST AND CLAIM FORM**

Before completing this form, you must report the alleged defect(s) to your builder first and provide them a reasonable opportunity to address the issue(s). If unsuccessful, fill out this form completely, sign it and attach complete written details of the defect(s) that form the basis of your claim. Be specific and include copies of any documents, pictures and any information you provided to your builder.

**Mail OR E-mail to StrucSure at the address above. Keep a copy of all papers for your file.**

BUILDER NAME: \_\_\_\_\_ CERTIFICATE NUMBER: \_\_\_\_\_

HOMEOWNER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

SUBDIVISION: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

HOME PHONE: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_ CELL PHONE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

**CLAIM INFORMATION**

1. DATE YOU FIRST NOTICED THE ALLEGED DEFECT(S): \_\_\_\_\_

2. DATE YOU REPORTED THE ALLEGED DEFECT(S) TO THE BUILDER: \_\_\_\_\_

3. HAS THE BUILDER ATTEMPTED TO CORRECT THE DEFECT(S)? YES \_\_\_\_ NO \_\_\_\_

IF YES, HOW MANY PREVIOUS ATTEMPTS HAS THE BUILDER MADE? \_\_\_\_\_

4. HAVE YOU REVIEWED THE WARRANTY COVERAGE PROVISIONS? YES \_\_\_\_ NO \_\_\_\_

ADDITIONAL COMMENTS (optional): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SUBMITTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

PRINT NAME

SIGNATURE: \_\_\_\_\_

**REMINDER: ATTACH INFORMATION DETAILING ALLEGED DEFECT(S). Please note that the total claim and repair process may take 60 days to complete. If necessary, we may contact you for more information.**

*A person who knowingly submits a fraudulent claim is guilty of a crime.*



# STRUCSURE

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H O M E   W A R R A N T Y

SAMPLE

**StrucSure Home Warranty, LLC**

6825 East Tennessee Avenue, Suite #410 | Denver, CO 80224 (Corporate Office)  
1.877.806.8777 (toll-free) | 303.806.8688 (office) | 1.877.906.0222 (toll-free fax)

[www.strucsure.com](http://www.strucsure.com)