

**2024 AMENDED and RESTATED
DECLARATION**

of

**COVENANTS, CONDITIONS
AND RESTRICTIONS**

on and for the

**HACKBERRY CREEK
RESIDENTIAL COMMUNITY**

within

**LAS COLINAS
IRVING, DALLAS COUNTY, TEXAS**

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| PREAMBLE | 1 |
| ARTICLE I – CONCEPTS AND DEFINITIONS | 3 |
| ARTICLE II – PROPERTY SUBJECT TO THIS DECLARATION | 9 |
| Section 2.01. Existing Property | 9 |
| Section 2.02. Additions to Existing Property | 9 |
| ARTICLE III – MEMBERSHIP AND VOTING | |
| RIGHTS IN THE ASSOCIATION | 10 |
| Section 3.01. Membership | 10 |
| Section 3.02. Voting Rights | 10 |
| Section 3.03. Board of Directors | 11 |
| Section 3.04. Notice and Voting Procedures | 11 |
| ARTICLE IV – RIGHTS OF ENJOYMENT | |
| IN THE COMMON PROPERTIES | 11 |
| Section 4.01. Easement | 11 |
| Section 4.02. Extend of Members' Easements | 11 |
| Section 4.03. Restricted Actions by Members | 12 |
| Section 4.04. Damage to the Common Properties | 12 |
| Section 4.05. Rules of the Board | 12 |
| Section 4.06. Use of Common Properties | 13 |
| Section 4.07. User Fees and Charges | 13 |
| Section 4.08. Encroachments | 13 |
| Section 4.09. Private Streets | 13 |
| Section 4.10. Disclaimer of Liability for Use of the Common Properties... | 14 |
| ARTICLE V – COVENANTS FOR ASSESSMENTS | 15 |
| Section 5.01. Creation of the Lien and Personal Obligation of Assessments | 15 |
| Section 5.02. Purposes of Assessments | 15 |
| Section 5.03. Annual Assessments | 15 |
| Section 5.04. Special Assessments | 16 |
| Section 5.05. Duties of the Board of Directors with Respect to Assessments | 17 |
| Section 5.06. Effect of Non-Payment of Assessment; Personal Obligation of the Owner; the Lien; and Remedies of Association | 17 |
| Section 5.07. Power of Sale | 19 |
| Section 5.08. Subordination of the Lien | 21 |
| Section 5.09. Exemptions | 22 |

**ARTICLE VI – GENERAL POWERS AND DUTIES OF
THE BOARD OF DIRECTORS OF THE ASSOCIATION22**

Section 6.01. Powers and Duties 22

Section 6.02. Liability Limitations 24

Section 6.03. Reserve Funds25

Section 6.04. Bulk Service Contracts 25

**ARTICLE VII – INSURANCE; REPAIR; RESTORATION;
COMMUNITY SERVICES ARRANGEMENTS26**

Section 7.01. Right to Purchase Insurance 26

Section 7.02. Insurance and Condemnation Proceeds 26

Section 7.03. Insufficient Proceeds26

Section 7.04. Community Services Arrangements26

ARTICLE VIII – ARCHITECTURAL CONTROL28

Section 8.01. Architectural Control28

Section 8.02. MACC and VACC Jurisdiction28

Section 8.03. Failure to Act29

Section 8.04. Limitation of Liability30

**ARTICLE IX – USE OF LOTS IN HACKBERRY CREEK;
PROTECTIVE COVENANTS31**

Section 9.01. Residential Lots31

Section 9.02. Minimum Floor Space; Alarms31

Section 9.03. Garages; Parking32

Section 9.04. Setback Requirements 32

Section 9.05. Height Limitations; Elevations 32

Section 9.06. Fences; Signs 32

Section 9.07. Easements; Utilities 34

Section 9.08. Temporary Structures and Vehicles35

Section 9.09. Offensive Activities; Pets35

Section 9.10. Exterior Surfaces 36

Section 9.11. Site Maintenance; Garbage and Trash Collection 36

Section 9.12. Landscaping 37

Section 9.13. Maintenance Self-Help 38

ARTICLE X- EASEMENTS AND TELECOMMUNICATION SERVICES 38

Section 10.01. Utility Easements38

Section 10.02. Sign Easements 38

Section 10.03. Ingress, Egress and Maintenance by the Association39

Section 10.04. Telecommunication Services39

ARTICLE XI – GENERAL PROVISIONS39

| | | |
|----------------|--|----|
| Section 11.01. | Registration with Association | 39 |
| Section 11.02. | Power of Attorney | 40 |
| Section 11.03. | Duration | 40 |
| Section 11.04. | Amendments | 40 |
| Section 11.05. | Enforcement..... | 40 |
| Section 11.06. | Validity | 41 |
| Section 11.07. | Proposals of Association | 41 |
| Section 11.08. | Service Mark | 41 |
| Section 11.09. | Headings | 41 |
| Section 11.10. | Notices to Resident/Member/Owner | 41 |
| Section 11.11. | Notices to Mortgagees..... | 42 |
| Section 11.12. | Disputes | 42 |

- - - -
INTRODUCTION
- - - -

THIS 2024 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ON AND FOR HACKBERRY CREEK RESIDENTIAL COMMUNITY (the "**Consolidated CC&Rs**") is made this ____ day of October, 2024, by the Members of the Hackberry Creek Home Owners Association, Inc. a Texas non-profit corporation ("**Hackberry Creek**"),

The Amended and Consolidated Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community was filed of record on October 30, 1996, and is recorded in Volume 96213, Page 3823 of the Official Public Records of Dallas County, Texas (the "**1996 Declaration**"). The 1996 Declaration was amended by virtue of certain instruments filed in the Official Public Records of Dallas County, Texas, to wit: (i) in Volume 98020, Page 1194; (ii) in Volume 2003196, Page 08123; (iii) in Volume 2004185, Page 00148; (iv) in Volume 2004185, Page 00131; (v) as Instrument No. 20080350914; (vi) as Instrument No. 201500322578; (vii) as Instrument No. 201600163783; (viii) as Instrument No. 202000005502; and (ix) as Instrument No. 2021-202100024776 (collectively, the "**Amendments**").

The Declaration and the Amendments are referred to, collectively, as the "**Amended Declaration.**"

The Amended Declaration was formally consolidated into a single instrument filed on April 3, 2023, and recorded as Instrument No. 2023-202300063324 in the Official Public Records of Dallas County, Texas (the "**Consolidated Declaration**").

The Amended Declaration and Consolidated Declaration affect those certain tracts or parcels of real property in the City of Irving, Dallas County, Texas, which are more particularly described on Exhibit "A" attached hereto (the "**Properties**").

This 2024 Amended and Restated Declaration of Covenants, Conditions and Restrictions on and for the Hackberry Creek Residential Community within Las Colinas (the "**CC&Rs**") is intended to ensure the attractiveness of the Properties, including the residences and other improvements constructed on it; to prevent any future impairment of the Properties and to guard against the construction on the Properties of improvements of improper or unsuitable materials or with improper quality or methods of construction; to protect and enhance the values and amenities of the Properties; to provide for the operation, administration, use and maintenance of the common areas within the Properties; to preserve, protect and enhance the values and amenities of the Properties; and to promote the health and welfare of the owners of property subject to the CC&Rs.

No less than a majority of the total votes of the membership of the Association (in person or by proxy) desire to amend and restate the Amended Declaration and the Consolidated

Declaration, after written notice of a meeting called for such purpose was given to all Members at least thirty (30) days in advance of such meeting, with the intent that CCRs shall constitute the complete declaration of covenants, conditions, restrictions, easements, charges and liens on and for the Properties and, except as substantially consolidated and restated herein, the Amended Declaration and the Consolidated Declaration shall be of no further force or effect.

The Properties shall be held, sold, occupied and conveyed subject to the following easements, restrictions, covenants, conditions and liens, all of which are for the purpose of protecting the value, desirability and attractiveness of the Properties. These easements, restrictions, covenants, conditions and liens shall run with title to the Properties and are binding on all parties having or acquiring any right, title or interest in the Properties or any part thereof, including their heirs, successors, transferees and assigns, and shall inure to the benefit of each owner thereof.

THE 2024 AMENDED AND RESTATED CC&Rs

ARTICLE I -- CONCEPTS AND DEFINITIONS

The following words, when used in the CC&Rs unless the context shall otherwise clearly indicate or prohibit), shall have the following respective concepts and meanings:

"Amended Declaration" shall mean and refer to each and every instrument subsequently recorded in the Official Public Records of Dallas County, Texas which amends, supplements, modifies, clarifies or restates some or all of the terms and provisions of this 1996 Consolidated Declaration.

"Annual Assessment" shall have the meaning specified in Article V below.

"Articles" shall mean and refer to the Articles of Incorporation (and any and all amendments thereto and restatements thereof) of the Association on file in the Office of the Secretary of State of the State of Texas, Austin, Texas.

"Assessable Property" shall mean and refer to each and every lot, parcel and tract within the Properties which: (i) has been subjected to and has been impressed with a set of restrictive covenants calling for, inter alia, the payment of an Annual Assessment to the Association; (ii) may have been or will be given a separately identifiable tax or parcel number by the Dallas County Central Appraisal District ("DCAD") or a similar governmental agency; (iii) is not designated an "open space" or otherwise a portion of the Common Properties. The Association proposes that each residential Lot and Parcel within the Properties shall constitute an Assessable Property; however, the Association reserves the right and discretion to include or exclude any non-residential Lot or Parcel from the concept of "Assessable Property" and/or to prescribe a different assessment and/or valuation scheme(s) for any non-residential Lot or Parcel which is subjected to covenants which require the payment of assessments to the Association.

"Association" shall mean and refer to the Hackberry Creek Home Owners Association, Inc., an existing non-profit Texas corporation which has the power, duty and responsibility of maintaining and administering certain portions of the Properties and all of the Common Properties, administering and enforcing the CC&Rs, and otherwise maintaining and enhancing the quality of life within the Hackberry Creek single-family residential community. [The Hackberry Creek Home Owners Association, Inc. is a separate and distinct incorporated village association entity and is contra-distinguished from the Las Colinas Association (which is sometimes referred to herein as the "Master Association"). The Master Association's jurisdiction covers all properties (including each of the 150+

separate tracts, of which the Hackberry Creek single-family land use areas L [50], LXV [65], LXVI [66], LXVII [67], LXXI [71] and LXXII [72] are a small portion) within Las Colinas.]

"Board" shall mean and refer to the Board of Directors of the Association.

"Bylaws" shall mean and refer to the Bylaws of the Association, as adapted and amended from time to time in accordance with the applicable provisions of the Texas Non-Profit Corporation Act and this Declaration.

"Common Properties" shall mean and refer to any and all areas of land within or adjacent to the Properties which are known, described or designated as common green, common areas, private streets, street medians, parkways, gate house and gate apparatus, parks, recreational areas, perimeter fences and columns, off-site monuments and directional signs, landscape easements, greenbelts, open spaces and the like, including without limitation those shown on any recorded subdivision plat of portions of the Properties as well as those not shown on a recorded subdivision plat but which are intended for or devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or that may hereafter be constructed thereon. The concept of Common Properties will also include: (i) any and all public right-of-way lands for which the City of Irving has required that the Association expend private, non-reimbursable time and monies to care for and maintain, such as but not limited to: street medians, streetscape, and quasi-governmental service facilities; and (ii) any and all facilities provided by the Master Association and/or the Association to or for the benefit of the local police, fire and similar governmental departments for which no reimbursement via public funds is requested or anticipated. One or more portions of the Common Properties may from time to time be reasonably limited to private functions, and conversely, one or more portions of otherwise private property may (with the permission of the applicable owner[s]) be utilized for Association functions and activities. The Association shall at all times have and retain the right to effect minor redesigns or minor reconfigurations of the Common Properties (particularly along the edges) and to execute any open space declarations applicable to the Common Properties which may be permitted in order to reduce property taxes, and to take whatever steps may be appropriate to lawfully avoid or minimize the imposition of federal and state ad valorem and/or income taxes.

"Covenants" shall mean and refer to all covenants, conditions, restrictions, easements, charges and liens set forth within the CC&Rs and the entire ensemble of previously recorded restrictive covenants described within Exhibit "A".

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

"Declaration" shall mean and refer to this particular instrument entitled "Amended and Consolidated Declaration of Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community" (sometimes also referred to herein as the "1996 Consolidated Declaration") together with any and all amendments or supplements hereto.

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

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

"Dwelling Unit" shall mean and refer to any building or portion of a building situated upon the Properties which is designed and intended for use and occupancy as a single-family residence.

"Easement Area" shall mean and refer to those areas which may be covered by an easement specified in Article IX and in Article X below.

"Exempt Property" shall mean and refer to the following portions of the Properties: (i) all land and Improvements owned by any one or more of the United States of America, the State of Texas, Dallas County, the City of Irving, the Carrollton-Farmers Branch Independent School District, the Coppell Independent School District or any instrumentality, political subdivision or agency of any such governmental entity acting in a governmental (rather than a proprietary) capacity; (ii) all land and Improvements owned (including legal and beneficial ownership, whether now or in the future) by the Association or constituting a portion of the Common Properties; and (iii) all land and Improvements which are not only exempt from the payment of ad valorem real property taxes by the City of Irving, Dallas County, the Carrollton-Farmers Branch Independent School District, the Coppell Independent School District and the State of Texas, but also are exempt from the payment of any assessments hereunder as expressly determined by written resolution of the Association.

"Family" shall mean a person or group of persons living together and interrelated by blood, marriage or adoption, along with no more than two additional unrelated persons.

"Fiscal Year" shall mean each twelve (12) month period commencing on July 1 and ending on the following June 30, unless the Board shall otherwise select an alternative twelve month period.

"Greenway Frontage" shall mean and refer to green space, recreational facilities, golf course, and floodway easement areas, which are adjacent to rear or side yard Lot lines and/or clearly visible from streets, sidewalks and rights-of-way.

"Improvement" shall mean and include: (a) all buildings, roofed structures, parking areas, fences, walls, poles, driveways, swimming pools, tennis courts, signs, changes in any exterior color or shape, glazing or reglazing of exterior windows; and (b) any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or properties of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

"Institutional Mortgage" shall mean and refer to any bona-fide mortgage, lien or security interest held by a bank, trust company, insurance company, savings and loan association or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or their successors, or guaranteed or subsidized by the FHA and/or VA.

"Invitee" shall mean and refer to each and every individual not otherwise an Owner, Member or Resident who is within the Properties at the invitation of an Owner, Member, Resident or the Association, including without limitation: (i) friends and guests; (ii) third-party business invitees such as (but not limited to) homebuilders, builders, contractors, repairmen, servicemen, deliverymen and their respective employees, agents and representatives; and (iii) real estate brokers and their customers. EACH AND EVERY INVITEE IS EXPECTED TO PROPERLY OBSERVE AND COMPLY WITH THESE COVENANTS.

"Landscape" shall mean and include: (i) trees, shrubbery, hedges, grass, ground cover, plants and flowers; and (ii) any significant change in the grade of any Lot or Parcel from that existing at the time of initial approval by the Master Architectural Control Committee and/or Village Architectural Control Committee.

"Las Colinas Association" shall mean and refer to The Las Colinas Association, an existing Texas non-profit corporation (and the "Master Association" entity frequently mentioned throughout this Declaration) having the duties and responsibilities of administering the Master Restrictive Covenants.

"Lot" shall mean and refer to each separately identifiable portion of the Assessable Property which is platted, filed and recorded in the office of the County Clerk of Dallas County, Texas and which is assessed by any one or more of the Taxing Authorities and which is not intended to be an "open space" or a portion of the Common Properties.

"Master Architectural Control Committee" ("MACC") shall mean and refer to the Architectural Control Committee established by the Master Restrictive Covenants.

"Master Association" shall mean and refer to The Las Colinas Association.

"Master Restrictive Covenants" shall mean and refer to: (i) the restrictive covenants covering all of Las Colinas (including the Hackberry Creek single-family residential community) which are recorded in Volume 73166, Page 1001 et seq. of the Deed Records of Dallas County, Texas; (ii) all amendments and supplements thereto including (without limitation) the following documents .

| <u>Document</u> | Recorded in the Dallas County Deed Records at: <u>Volume</u> <u>Page:</u> |
|---------------------------|---|
| Correction to Declaration | 77154 1096 |
| Second Correction | 79122 749 |
| Third Correction | 82071 3244 |

and (iii) any and all other similar restrictive covenants which cover all, or substantially all, of the Las Colinas project. This particular instant "Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hackberry Creek" does not intend or purport to amend or revise any portion of the Master Restrictive Covenants, but instead attempts to coordinate with the Master Association and the Master Architectural Control Committee in working together for the best interests of Hackberry Creek.

"Member" shall mean and refer to each Owner who has filed a proper statement of residency with the Association and who has complied with all directives and requirements of the Association. Each and every Owner shall and must take such affirmative steps as are necessary to become a Member of the Association.

"Owner" shall mean and refer to the holder(s) of record title to the fee simple interest of any Lot or Parcel, whether or not such holder(s) actually reside(s) on any part of the Lot or Parcel.

"Parcel" shall mean and refer to each separate unplatted tract of land within Hackberry Creek which is intended or proposed for ultimate residential development but for which formal platting into Lots has not yet occurred.

"Payment and Performance Lien" shall mean and refer to the lien described within Article V hereinbelow.

"Properties" shall mean and refer to each and all land areas described within Exhibit "A" attached hereto.

"Resident" shall mean and refer to:

(a) each owner of the fee simple title to any Lot or Parcel within the Properties;

(b) each person residing on any part of the Assessable Property who is a bona-fide lessee (in compliance with the other provisions within this Declaration) pursuant to a legally cognizable lease agreement with an Owner; and

(c) each individual lawfully domiciled in a Dwelling Unit other than an Owner or bona-fide lessee (in compliance with the other provisions within this Declaration).

"Single-family dwelling" shall mean and refer to a dwelling which is designed and used to house a single family.

"Structure" shall mean and refer to: (i) any thing or device, other than Landscape, including but not limited to any building, garage, porch, shed, greenhouse or bathhouse, cabana, coop or cage, covered or uncovered patio, swimming pool, play apparatus, clothesline, fence, curbing, paving, wall, signboard or other temporary or permanent living quarters or any temporary or permanent Improvement to any Lot; (ii) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot or Parcel; and (iii) any enclosure or receptacle for the concealment, collection and/or disposition of garbage, trash or refuse.

"Subdivision" shall mean and refer to the Hackberry Creek single-family residential subdivisions of certain lands as described within Exhibit "A" attached hereto, in accordance with the maps and plats thereof filed or to-be-filed of record in the Map and Plat Records of Dallas County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto.

"Taxing Authorities" shall mean and refer to Dallas County, the Carrollton-Farmers Branch Independent School District, the Coppell Independent School District, the City of Irving and the State of Texas and any and all other governmental entities or agencies which have, or may in the future have, the power and authority to impose and collect ad valorem taxes on real property estates in accordance with the Texas Constitution and applicable statutes and codes.

"Trustee" shall mean and refer to that certain individual(s) or entity(ies) designated or appointed from time to time and at any time by the Association to perform the duties and responsibilities described within Article V below, and its successors and assigns.

"Village Architectural Control Committee" ("VACC") shall mean and refer to the Hackberry Creek Village Architectural Control Committee discussed in Article VIII below.

"Village Restrictive Covenants" shall mean and refer to this Declaration and each and all of the following recorded restrictive covenants pertaining to the Hackberry Creek residential community which are hereby amended and consolidated:

| Covenants | Applicable | Restrictive | |
|--|---------------|-------------------------------|--|
| | | Recorded in the Dallas County | |
| | | Deed Records at: | |
| <u>Hackberry Creek</u> <u>Land Area</u> | <u>Volume</u> | <u>Pages (et seq.)</u> | |
| L (50) | 83121 | 3049 | |
| L (50) | 83120 | 4159 | |
| L (50) | 83223 | 2864 | |
| LXV (65) | 84170 | 1891 | |
| LXV (65) | 84170 | 1904 | |
| LXV (65) | 85236 | 5809 | |
| LXV (65) | 85236 | 5820 | |
| LXVI (66) | 84236 | 414 | |
| LXVI (66) | 84236 | 427 | |
| LXVII (67) | 87203 | 4947 | |
| LXVII (67) | 87203 | 4958 | |
| LXXI (71) | 84202 | 914 | |
| LXXI (71) | 89203 | 2259 | |
| LXXII (72) | 84202 | 901 | |
| LXXII (72) | 87203 | 4936 | |

ARTICLE II -- PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Existing Property. The residential Lots and Parcels which are subject to this Declaration are more particularly described within Exhibit "A" attached hereto.

Section 2.02. Additions to Existing Property. Additional land(s) may become subject to the CC&Rs, or the general scheme envisioned by the CC&Rs, as follows:

(a) The Association may (without the joinder and consent of any person or entity) add or annex additional real property to the scheme of CC&Rs by filing of record an appropriate enabling declaration, generally similar to the CC&Rs, which may extend the scheme of the Village Restrictive Covenants to such property. Provided further however, such other declaration(s) may contain such complementary additions and modifications of these Village Restrictive Covenants as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept and purpose of the CC&Rs.

(b) In the event any person or entity other than the Association desires to add or annex additional Assessable Property and/or Common Property to the scheme of the CC&Rs, such annexation proposal must have the express approval of the Board.

Any additions made pursuant to this Section 2.02, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added and correspondingly subject the properties added to the covenants of the enabling declaration. Upon any merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law or by lawful articles or agreement of merger, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or by lawful articles or agreement of merger, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Covenants established by the CC&Rs, together with the covenants and restrictions established upon any other properties, as one scheme.

ARTICLE III -- MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.01. Membership. Each and every Owner of each and every Lot and Parcel which is subjected to these Covenants shall automatically be a Member of the Association.

Section 3.02. Voting Rights. There shall be only one (1) class of voting Members in the Association: The Owner(s) of each Lot or Parcel shall be entitled to one (1) vote for each one hundred dollars (\$100.00) or fraction thereof of value of that Lot or Parcel in accordance with the most recent appraisal by the DCAD and/or the Taxing Authorities. Where more than one (1) Owner owns and holds a record fee interest in a Lot or Parcel, such Owner(s) may divide and cast portions of the vote as they decide, but in no event shall any one (1) Lot or Parcel yield more than one (1) vote for each one hundred dollars (\$100.00) or fraction thereof of value of that Lot or Parcel in accordance with the most recent appraisal by the DCAD and/or the Taxing Authorities. The Board shall have the right to adopt and implement rules and regulations pertaining to: (i) the manner of counting votes from Lots and Parcels owned by two (2) or more individuals or entities in a manner consistent with Section 2.02 of the Bylaws; (ii) the appropriate utilization of preliminary and final appraisal numbers provided by DCAD (and the Board is authorized and permitted to use preliminary data by DCAD with appropriate subsequent adjustments corresponding with any subsequent adjustment by DCAD in achieving a final appraisal); (iii) proxy votes, absentee ballots and/or electronic ballots; (iv) intermediate vote counts; and (v) the post-vote retention of proxies and ballots.

The Board may make such rules and regulations, consistent with the terms of this Declaration and the Bylaws, as it deems advisable, for: any meeting of Members; proof of

membership in the Association; evidence of right to vote; the appointment and duties of examiners and inspectors of votes; the procedures for actual voting in person, or by proxy, by absentee ballot and/or electronic ballot; registration of Members for voting purposes; and such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

Section 3.03. Board of Directors. The affairs of the Association shall be managed by a board of individuals elected by the voting Members. The Articles and Bylaws of the Association may prescribe and control various matters pertaining to the Association Directors, including without limitation: nominations, terms, voting, vacancies, resignations and the like.

Section 3.04. Notice and Voting Procedures. Quorum, notice and voting requirements of and pertaining to the Association are set forth within the Articles and Bylaws, as either or both may be amended from time to time, and shall be in accordance with permitted Texas law, and are incorporated herein by reference for all purposes.

ARTICLE IV -- RIGHTS OF ENJOYMENT IN THE COMMON PROPERTIES

Section 4.01. Easement. Subject to the further provisions of this Article, each and every Owner shall have a non-exclusive right and easement of enjoyment in and to all Common Properties, and such easement shall be appurtenant to and shall pass with every Lot and Parcel, provided the conveyance and transfer is accomplished in accordance with this Declaration. All Members and Residents shall have a non-transferable, non-exclusive privilege to use and enjoy all Common Properties.

Section 4.02. Extent of Members' Easements. The rights and easements of access, use, recreation and enjoyment created hereby shall be subject to the following:

(a) The right of the Association to prescribe reasonable regulations (e.g. speed limits on the streets and limitations on parking on or in the streets) and policies governing access to and use of the Common Properties, and to charge reasonable expense reimbursements and/or deposits (e.g., key, access card and/or radio transmitter device deposits) related to the access, use, operation and maintenance of the Common Properties;

(b) Liens or mortgages placed against all or any portion of the Common Properties with respect to monies borrowed by the Association to improve or maintain the Common Properties;

(c) The right of the Association to enter into and execute contracts with any party (including, without limitation, the Master Association or its corporate affiliates) for the purpose of providing management, maintenance or such other materials or services consistent with the purposes of the Association and/or this Declaration;

(d) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure;

(e) The right of the Association to enter into and execute contracts with the owner-operators of any community antenna television system ("CATV") or other similar operations for the purpose of extending cable or utility or security service on, over or under the Common Properties to ultimately provide service to one or more of the Lots or Parcels;

(f) The right of the Association to suspend the right of any Owner or Resident to access, use or enjoy any of the Common Properties for any period during which any amount due the Association (including without limitation "fines") against a Parcel or Lot owned or resided upon by such Owner or Resident remains unpaid, whether or not such Owner or Resident is personally liable or obligated to pay such amounts, or during which non-compliance with this Declaration or the Design Guidelines exists, and otherwise for any period deemed reasonable by the Association for an infraction of the then-existing rules and regulations and/or Architectural Guidelines;

(g) The right of the Association to hold and sponsor, whether alone or in conjunction with the Hackberry Creek Country Club, municipal departments, the Master Association, or other non-profit groups and entities, events and activities within the Common Properties which are not necessarily limited only to Owners, Residents and Members, but which may also include selected invitees and/or the general public;

(h) The right of the Association to grant permits, licenses and easements over the Common Properties for utilities, roads and other purposes necessary for the proper operation of utilities and services reasonable and necessary for the enjoyment of the residential homeowners.

Section 4.03. Restricted Actions by Members. No Member shall permit anything to be done on or in the Common Properties which would violate any applicable public law or which would result in the cancellation of or the increase of premiums for any insurance carried by the Association, or which would be in violation of any law or any rule or regulation promulgated by the Board.

Section 4.04. Damage to the Common Properties. Each Member shall be liable to the Association for any damage to any portion of the Common Properties caused by the negligence or willful misconduct of the Member or his family, Residents, guests and Invitees.

Section 4.05. Rules of the Board. All Owners, Members, Residents and Invitees shall abide by any and all rules and regulations adopted by the Board. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner, Member, Resident or Invitee determined to

have violated said rules and regulations shall be liable to the Association for all damages and costs, including reasonable attorneys' fees.

Section 4.06. Use of Common Properties. The Board shall have the power and authority to prescribe rules and regulations applicable to the Common Properties. No person or entity shall use any portion of the Common Properties to:

- (a) solicit, promote or conduct business, religious, political or propaganda matters;
- (b) distribute handbills, newsletters, flyers, circulars or other printed materials,
- (c) display or install signs, flags or banners,

without the prior written consent of the Association (which consent may be withheld in its sole and absolute discretion).

Section 4.07. User Fees and Charges. The Board may levy and collect special charges and fees for any and all extraordinary operation and maintenance of the Common Properties and services which the Board determines to be necessary for the advancement, benefit and welfare of the Owners or Residents. Examples (by way of illustration, and not limitation) of these special charges and fees would include: additional gate and/or security personnel for parties or special events; valet parking arrangements; post-party trash pick-up and removal; extraordinary utility consumption; management overtime services; and additional insurance conditions or requirements. In establishing special user fees, the Board may formulate reasonable classifications of users. Such fees should be uniform within each class but need not be uniform from class to class. If an Owner shall fail to pay a charge or fee when due and payable, said unpaid charge or fee shall be delinquent and upon written notice to said Owner shall become a personal debt of said Owner and shall be secured by the Payment and Performance Lien described herein. Failure of any Owner to pay said fee and charge when due and payable, in addition, shall be a breach of these Covenants.

Section 4.08. Encroachments. If: (a) construction, reconstruction or repair activities which have been approved by the MACC or VACC; or (b) shifting, settlement or other movements of any portion of MACC or VACC-approved improvements, results either in the Common Properties encroaching (minimally, and in no event more than six (6) inches) on a Lot or Parcel or in a Lot or Parcel encroaching (minimally, and in no event more than six (6) inches) on the Common Properties or on another Lot or Parcel, and unless otherwise directed by the VACC, a valid easement shall then and there exist to permit the encroachment (minimally, and in no event more than six (6) inches) and reasonable and necessary maintenance activities related thereto.

Section 4.09. Private Streets. The entry gatehouses, streets, sidewalks and alley network within the Hackberry Creek residential community are "private" and constitute a

portion of the Common Properties which are subject to the jurisdiction and administration by the Association. In addition to the other provisions appearing within this Article, the Board of Directors of the Association is specifically authorized to recommend, adopt, implement and enforce rules, regulations, mechanisms and procedures governing use of the entry gatehouses, sidewalks, streets and alleys covering items such as (but not necessarily limited to):

(a) identification and entry programs for Owners, Residents, Members, their respective immediate families, their guests and invitees and vehicles owned or driven by any of them;

(b) speed limits, designated parking areas, restricted parking areas and no-parking areas;

(c) signs and graphics to provide announcements to unauthorized personnel concerning potential criminal trespass matters;

(d) a "fines" system through which the Association can levy and collect fines from its Members for violations of the applicable rules and regulations; and

(e) disclaimers of liability for any and all matters or occurrences on or related to the Common Properties.

Section 4.10. Disclaimer of Liability for Use of the Common Properties. Each Owner, by acceptance of a deed to a Parcel or Lot, on such Owner's behalf and on behalf of such Owner's family members, guests and any occupant of a Parcel or Lot, acknowledges that the use and enjoyment of Common Properties, including without limitation the private streets and sidewalks, involves risk of personal injury or damage to property.

Each Owner understands, and covenants to inform his or her family members, guests, tenants and other occupants of Owner's property, that the Association, the Board, the community manager, Association personnel and any committee of the Association, are not insurers of personal safety. EACH PERSON USING SUCH COMMON PROPERTIES OR ANY PORTION OF THE COMMON PROPERTIES ASSUMES ALL RISK OF PERSONAL INJURY, DEATH, AND LOSS OR DAMAGE TO PROPERTY, RESULTING FROM THE USE AND ENJOYMENT OF ANY PORTION OF THE COMMON PROPERTIES. Each Owner, on such Owner's behalf and on behalf of his or her family members, guests, tenants and other occupants of Owner's property, agrees that the Association, the Board, the community manager, Association personnel and any committee of the Association (the "Released Parties") shall not be liable to any person, claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury or death, destruction of property, trespass, loss of enjoyment, or any other wrong or entitlement to remedy based upon, due to, arising from, or otherwise relating to the use of any portion of the Common Properties, and hereby releases and discharges the Released Parties from any claim, cause of action or demand

for damages of any kind arising from personal injury or death, destruction of property, based upon, due to, arising from, or otherwise relating to the use of any portion of the Common Properties.

ARTICLE V -- COVENANTS FOR ASSESSMENTS

Section 5.01. Creation of the Lien and Personal Obligation of Assessments. The Owner of each Lot and/or Parcel hereby covenants and agrees, and each subsequent Owner of any Lot and/or Parcel, by acceptance of a Deed therefor, whether or not it shall be so expressed in any such Deed or other conveyance, shall be deemed to covenant and agree (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot and/or Parcel so as to have affected the purchase price) to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies) :

- (1) Annual Assessments as hereinafter provided for in Section 5.03
- (2) Special Assessments if, as and when established from time to time pursuant to the procedures set forth in Section 5.04 and which shall not be Annual Assessments.

Section 5.02. Purposes of Assessments. The assessments levied by the Association shall be used for the purposes of promoting the comfort, health, recreation, safety, convenience, welfare and quality of life of the Residents of the Properties.

Section 5.03. Annual Assessments. The Annual Assessment shall be sixty (60 cents) per one hundred dollars (\$100.00) of value of a Lot or Parcel as appraised by the DCAD and/or the Taxing Authorities. The Association's Board of Directors may use data published by the DCAD and/or the Taxing Authorities for the year immediately prior to the date any Annual Assessment becomes due or, in the alternative, use preliminary data for the current year developed by the DCAD, with a subsequent adjustment, if necessary, to fix and collect the Annual Assessment. The Association's Board of Directors may establish a time-price differential schedule for payment of the Annual Assessment.

The Annual Assessment may not be increased without the assent of a majority of the total eligible votes of the membership of the Association, voting in person, by proxy, absentee ballot or electronic ballot at a meeting called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance. The Board of Directors of the Association may fix the actual Annual Assessment for any year at a lesser amount. Annual Assessments must be fixed at a uniform rate per one hundred dollars (\$100.00) of value for all Lots and Parcels.

The Annual Assessment shall be due and payable in full in advance on the first day of each July and shall, if not paid within thirty (30) consecutive calendar days thereafter, automatically become delinquent. The Board shall use reasonable efforts to

provide each Owner with an invoice statement of the appropriate amount due, but any failure to provide such a notice shall not relieve any Owner of the obligation established by the preceding sentence. The Board may (but is not required to), however, prescribe time-price differential payment schedules which would permit the collection of an amount greater than the Annual Assessment on a semi-annual, quarterly or monthly basis provided that the creditworthiness of the Owner was acceptable to the Board and the inconvenience to the staff of the Association for additional invoicing and collection efforts was minimized or eliminated. The Board may further prescribe: (a) procedures for collecting advance Annual Assessments from new Owners, Members or Residents out of "closing transactions"; and (b) different procedures for collecting assessments from Owners who have had a recent history of being untimely in the payment(s) of assessments.

Annual Assessments, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot and/or Parcel against which each such assessment is made and shall also be the continuing personal obligation of the then-existing Owner of such Lot and/or Parcel at the time when the assessment fell due.

Section 5.04. Special Assessments. In addition to and separate from Annual Assessments, the Association may levy Special and Individual Assessments as provided for below:

(a) Special Group Assessments. The Association may levy Special Group Assessment(s) for purposes such as, but not limited to, capital improvements/replacements and reserve fund contributions; provided that any such Special Group Assessment(s) must be approved by a majority of the total eligible votes of the membership of the Association, voting in person, by proxy, absentee ballot or electronic ballot, at the annual meeting of Members, or at a special meeting called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance. Special Group Assessments must be fixed at a uniform rate per one hundred dollars (\$100.00) of value for all Lots and Parcels. Special Group Assessments are not Annual Assessments;

(b) [Special Telecommunication Assessments - Deleted - 6/1/2016]

(c) Special Individual Assessments. The Association may levy Special Individual Assessments against individual Owners to reimburse the Association for extra or unusual costs incurred for items such as (but not limited to): maintenance and repairs to portions of the Common Properties caused by the willful or negligent acts of the individual Owner, Member, Resident or their Invitee(s); the remedy, cure or minimizing of problems caused by, or as a result of, violations of these Covenants by an Owner, Member, Resident or their Invitee(s). Special Individual Assessments are not Annual Assessments;

(d) Individual Assessments. The Association may levy Individual Assessments and fines against an individual Owner, Member, Resident or their Invitee(s) for violations of rules and regulations pertaining to the Association and/or the Common Properties. Individual Assessments are not Annual Assessments;

Special Group, Special Individual and Individual Assessments and fines, together with such late charges, interest and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot and/or Parcel against which each such assessment is made and shall also be the continuing personal obligation of the then-existing Owner of such Lot and/or Parcel at the time when the assessment fell due. Each Owner of each Lot and/or Parcel shall be directly liable and responsible to the Association for the acts, conduct and omission of each and every Member, Resident and Invitee associated with such Owner's Lot and/or Parcel.

Section 5.05. Duties of the Board of Directors with Respect to Assessments.

(a) After each approval of an Annual Assessment by the Board of Directors of the Association, or the establishment of a Special Group Assessment by a vote of the membership of the Association, the Board shall fix the amount of the assessment against each Lot or Parcel, and the applicable due date(s) for each assessment, at least sixty (60) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Parcels and assessments applicable thereto which shall be kept in the office of the Association;

(b) Written notice of the applicable assessment shall be distributed or mailed (to the last known address) to every Owner subject thereto in accordance with the procedures then determined by the Board as being reasonable and economical; and

(c) The Board shall, upon reasonable request, furnish to any Owner originally liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificate.

Section 5.06. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner. the Lien: and Remedies of Association.

(a) There has existed and shall continue to exist a self-executing and continuing contract Payment and Performance Lien and equitable charge on each Lot and Parcel to secure the full and timely payment of Annual, Special Group, Special Telecommunications, Special Individual and Individual Assessments and fines and all other charges and monetary amounts and performance obligations due hereunder. Such lien shall be at all times superior to any claim of homestead by or in any Owner. If any such assessment, charge or fine or any part thereof is not paid on the date(s) when due,

then the unpaid amount of such assessment, charge or fine shall (after the passage of any stated grace period) be considered delinquent and shall, together with any late charge and interest thereon at the highest lawful rate of interest per annum and costs of collection thereof, become a continuing debt secured by the self-executing Payment and Performance Lien on the Lot and/or Parcel of the non-paying Owner which shall bind such Lot and/or Parcel in the hands of the Owner and Owner's heirs, executors, administrators, devisees, personal representatives, successors and assigns. The Association shall have the right to reject partial payments of an unpaid assessment or other monetary obligation and demand the full payment thereof. Each Owner, and each prospective Owner, is hereby placed on notice that the covenant to pay any assessment provided for herein, and any other charge levied pursuant to this Declaration, shall operate to place upon him or her the responsibility for payment of any assessment or other amount due the Association which arose prior to the date of conveyance. Whether by voluntary or involuntary conveyance, the purchasing Owner ("Grantee") shall be jointly and severally liable with the selling Owner ("Grantor") for all unpaid assessments or amounts levied by the Association against Grantor or his/her Lot prior to conveyance of such Lot, without prejudice to Grantee's right to obtain reimbursement from Grantor. Any prospective purchaser may request and is entitled to a statement from the Association stating the amount of unpaid assessments and other charges owed by Grantor or his/her Lot. The lien for unpaid assessments shall, except as provided in Section 5.08, be unaffected by any sale or assignment of a Lot and/or Parcel and shall continue in full force and effect. No Owner may waive or otherwise escape liability for any assessment provided herein by non-use of the Common Properties or abandonment of the Lot and/or Parcel. 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 to perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of improvements or repairs 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, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

(b) The Association may also give written notification to the holder(s) of any mortgage on the Lot and/or Parcel of the non-paying Owner of such Owner's default in paying any assessment, charge or fine, particularly where the Association has theretofore been furnished in writing with the correct name and address of the holder(s) of such mortgage, a reasonable supply of self-addressed postage prepaid envelopes, and a written request to receive such notification;

(c) If any assessment, charge or fine or part thereof is not paid when due, the Association shall have the right and option to impose a late charge as determined by the Board to cover the additional administration involved in handling the account and/or to reflect any interest assessment schedule adopted by the Association. The unpaid amount of any such delinquent assessment, charge or fine shall bear interest from and after the date when due at the highest lawful rate of interest per annum until fully paid; however, the

Association may, as a goodwill gesture, actually collect a lesser amount of interest as it deems appropriate. If applicable state law provides or requires an alternate ceiling under Chapter 303, Texas Finance Code, then that ceiling shall be the indicated rate ceiling. The Association may, at its election, retain the services of an attorney to review, monitor and/or collect unpaid assessments, charges, fines and delinquent accounts, and there shall also be added to the amount of any unpaid assessment, charge, fine or any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association;

(d) The Association may, at its discretion but subject to all applicable debt collection statutes: (i) prepare and file a notice-of-lien in the public records of Dallas County, Texas which specifically identifies the unpaid assessments, charges or fines; and (ii) publish and post, within one or more locations within the Properties, a list of those individuals or entities who are delinquent and, if applicable, their suspended use and enjoyment of the Common Properties until and unless the delinquency has been cured to the reasonable satisfaction of the Association. Each Owner consents to these procedures and authorizes the Board to undertake such measures for the general benefit of the Association;

(e) All agreements between any Owner and the Association, whether now existing or hereafter arising and whether written or oral and whether implied or otherwise, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid, or agreed to be paid, to the Association or for the payment or performance of any covenant or obligation contained herein or in any other document exceed the maximum amount permissible under applicable law. If from any circumstance whatsoever fulfillment of any provision hereof or of such other document at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstance the Association should ever receive an amount deemed interest by applicable law which shall exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the actual assessment amount or principal amount owing hereunder and other indebtedness of the Owner to the Association and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of the actual Annual Assessment hereof and such other indebtedness, the excess shall be refunded to Owner. All sums paid or agreed to be paid by any Owner for the use, forbearance or detention of any indebtedness to the Association shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the interest charged, collected or received on account of such indebtedness is never more than the maximum amount permitted by applicable law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between any Owner and the Association.

Section 5.07. Power of Sale. The lien described within the preceding Section is and shall be a contract Payment and Performance Lien. Each Owner, for the purpose of better securing each and all monetary obligations described within these Covenants, and in

consideration of the benefits received and to be received by virtue of the ownership of real estate within the Properties, has granted, sold and conveyed and by these covenants does grant, sell and convey unto the Trustee with power of sale, such Owner's Lot and/or Parcel. To have and to hold such Lot and/or Parcel, together with the rights, privileges and appurtenances thereto belonging unto the said Trustee, and to its substitutes or successors, forever. And each Owner does hereby bind himself and/or herself, their heirs, executors, administrators and assigns to warrant and forever defend the Lot and/or Parcel unto the said Trustee, its substitutes or successors and assigns, forever, against the claim, or claims of all persons claiming or to claim the same or any part thereof.

This conveyance is made in trust to secure payment of each and all assessments and other obligations prescribed by these Covenants to and for the benefit of the Association as the Beneficiary. In the event of default in the payment of any obligation hereby secured (provided, however, that the Trustee and Beneficiary may not nonjudicially foreclose the lien for assessments or charges consisting solely of fines), in accordance with the terms thereof, then and in such event, Beneficiary may elect to declare the entire indebtedness hereby secured with all interest accrued thereon and all other sums hereby secured due and payable (subject, however, to Section 209.0092 of the Texas Property Code and, if applicable, to the notice and cure provisions set forth in Section 51.002 of the Texas Property Code), and in the event of default in the payment of said indebtedness when due or declared due, it shall thereupon, or at any time thereafter, be the duty of the Trustee, or his/her/its successor or substitute as hereinafter provided, at the request of Beneficiary (which request is hereby conclusively presumed), to enforce this trust; and after advertising the time, place and terms of the sale of the Lot and/or Parcel then subject to the lien hereof, and mailing and filing notices as required by Section 51.002, Texas Property Code, as then amended, and otherwise complying with that statute, the Trustee shall sell the Lot and/or Parcel, then subject to the lien hereof, at public auction in accordance with such notices on the first Tuesday in any month between the hours of ten o'clock A.M. and four o'clock P.M., to the highest bidder for cash, selling all of the Lot and/or Parcel as an entirety or in such parcels as the Trustee acting may elect, and make due conveyance to the Purchaser or Purchasers, with general warranty binding upon the Owner, his heirs and assigns; and out of the money arising from such sale, the Trustee acting shall pay first, all the expenses of advertising the sale and making the conveyance, and then to Beneficiary the full amount of principal, interest, attorney's fees, trustee's fees, and other charges due and unpaid on said indebtedness secured hereby, rendering the balance of the sales price, if any, to the Owner, his heirs or assigns and/or to any other lienholders (if so required by applicable law); and the recitals in the conveyance to the Purchaser or Purchasers shall be full and conclusive evidence of the truth of the matters therein stated, and all prerequisites to said sale shall be presumed to have been performed, and such sale and conveyance shall be conclusive against the Owner, his heirs and assigns.

Beneficiary may, in its discretion, elect to foreclose the **Payment and Performance Lien** under court judgment foreclosing the lien and ordering the sale, pursuant to Rules 309 and 646a, Texas Rules of Civil Procedure.

It is agreed that in the event a foreclosure hereunder should be commenced by the Trustee, or its substitute or successor, Beneficiary may at any time before the sale of said property direct the said Trustee to abandon the sale, and may then institute suit for the collection of said indebtedness, and for the foreclosure of this contract Payment and Performance Lien; it is further agreed that if Beneficiary should institute a suit for the collection thereof, and for a foreclosure of this contract lien, that it may at any time before the entry of a final judgment in said suit dismiss the same, and require the Trustee, its substitute or successor to sell the Lot and/or Parcel in accordance with the provisions of this section. Beneficiary, if it is the highest bidder, shall have the right to purchase at any sale of the Lot and/or Parcel, and to have the amount for which such Lot and/or Parcel is sold credited on the debt then owing. Beneficiary in any event is hereby authorized to appoint a substitute trustee, or a successor trustee, to act instead of the Trustee named herein without other formality than the designation in writing of a substitute or successor trustee; and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively until the indebtedness hereby secured has been paid in full, or until said Lot and/or Parcel is sold hereunder, and each substitute and successor trustee shall succeed to all of the rights and powers of the original trustee named herein. In the event any sale is made of the Lot and/or Parcel, or any portion thereof, under the terms of this section, the Owner, Members, Residents, and Owner's heirs and assigns, shall forthwith upon the making of such sale surrender and deliver possession of the property so sold to the Purchaser at such sale, and in the event of his/her/their failure to do so he/she/they shall thereupon from and after the making of such sale be and continue as tenants at will of such Purchaser, and in the event of his/her/their failure to surrender possession of said property upon demand, the Purchaser, his heirs or assigns, shall be entitled to institute and maintain an action for forcible detainer of said property in the Justice of the Peace Court in the Justice Precinct in which such property, or any part thereof, is situated. The foreclosure of the continuing contract lien on any one or more occasions shall not remove, replace, impair or extinguish the same continuing lien from securing all obligations arising from and after the date of foreclosure.

Section 5.08. Subordination of the Lien. The lien securing the payment of the assessments shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon any Lot or Parcel whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage or other instrument, except for:

(a) bona-fide first Institutional Mortgages;
 (b) liens for taxes or other public charges as are by applicable law made superior to the Association's lien; and

(c) such other liens about which the Board may, in the exercise of its reasonable discretion, elect to voluntarily subordinate the Association's lien;

The foregoing liens are hereinafter referred to, collectively, as the "Permitted Lien." The lien securing payment of assessments shall only be subordinate with respect to

assessments, interest, collection fees and costs of collection which were due and payable prior to the date of the foreclosure sale (whether public or private) of such Lot and/or Parcel pursuant to the terms and conditions of any Permitted Lien. The foreclosure of a Permitted Lien, however, shall not relieve the purchaser of a Lot or Parcel at such sale from the personal obligation to pay all assessments and other charges due the Association on the date of the sale as provided in Section 5.06 (a) hereof. Furthermore, the foreclosure of a Permitted Lien shall not relieve such Lot and/or Parcel from liability for the payment of any assessment, interest, collection fees and costs of collection becoming due and payable after the date of the foreclosure sale nor from any lien securing payment of such amounts. The subordination shall not apply where a Permitted Lien is used as a device, scheme or artifice to evade the obligation to pay assessments and/or hinder the Association in performing its functions hereunder. The Permitted Lien shall be expressly subordinate to any right of the Association to regulate the use of and access to the Common Properties under Article IV hereof and under no circumstances shall the foreclosure of a Permitted Lien operate to prevent the Association from exercising its rights under Article IV hereof in the event any amounts owed to the Association on the Lot and/or Parcel foreclosed upon (as of the date of the foreclosure) remain unpaid.

Section 5.09. Exemptions. The following property otherwise subject to this Declaration shall be exempted from any assessments, charge and lien created herein:

- (a) Common Properties; and
- (b) Exempt Property.

ARTICLE VI -- GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

Section 6.01. Powers and Duties. The affairs of the Association shall be conducted by its Board. The Board, for the benefit of the Association, the Properties, the Owners and the Members and Residents, may provide and may pay for, out of the assessment fund(s) provided for in Article V above, one or more of the following:

- (a) Care, preservation and maintenance of the Common Properties (including without limitation the proper maintenance of the private streets) and the furnishing and upkeep of any desired personal property for use in or on the Common Properties;
- (b) Recreational and social programs and activities for the general benefit of the Residents and programs which are designed only for separately identifiable sub-groups of Residents, such as (but not limited to) infants, adolescents, teenagers, students, fathers, mothers and senior citizens;

(c) Supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Properties traditionally provided by local governmental agencies;

(d) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Properties;

(e) The services of any person or firm (including the Master Association and any affiliates of the Master Association) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees. The Board is specifically authorized to engage personnel (such as ad valorem tax consultants and computer operators) and equipment (such as computers, software and electronic communication and transmission devices) for the administration of the collection of assessments described within the preceding Article V;

(f) Legal and accounting services, and all costs and expenses reasonably incurred by the Village Architectural Control Committee; and

(g) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board shall have the following additional rights, powers and duties:

(h) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Properties owned by the Association;

(i) To enter into agreements or contracts with insurance companies, Taxing Authorities, the holders of first mortgage liens on the individual Lots and utility companies with respect to: (i) any taxes on the Common Properties; (ii) monthly escrow and impound payments by a mortgagee regarding the assessment, collection and disbursement process envisioned by Article V hereinabove; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the Annual Assessment applicable to any Lot or Parcel;

(j) To borrow funds (including, without limitation, the borrowing of funds from the Master Association and/or its affiliates) to pay costs of operation, secured by such assets of the Association as deemed appropriate by the lender and the Association;

(k) To enter into contracts, maintain one or more bank accounts, purchase or invest in certificates of deposit, money market certificates, bonds and the like and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(l) To protect or defend the Common Properties from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(m) To make reasonable rules and regulations for the operation of the Common Properties and to amend them from time to time;

(n) To prepare an annual operating budget and to make available for review by each Owner at the Association offices, within ninety (90) days after the end of each Fiscal Year, along with an annual audit;

(o) Pursuant to Article VII herein, to adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;

(p) To purchase and/or lease any one or more real or personal properties, if deemed reasonable and appropriate by the Board (but purchases and/or leases of properties which require an expenditure greater than can be reasonably included in the current year operating budget shall require a vote of the members);

(q) To contract with any Owner, Member or Resident for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interests of the Association;

(r) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner, Resident, Member or Invitee for violation of such provisions or rules. The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary "fines" system which shall include a due process hearing (as more specifically described in the Association Bylaws) and a flat rate or discretionary range or geometric progression of fine amounts, which, if, as and when pronounced, shall constitute a permitted individual assessment secured by the continuing Payment and Performance Lien herein described.

Section 6.02. Liability Limitations. Neither any Owner/Member/Resident nor the directors and officers and managers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association. Neither the Association nor its directors, officers, managers, agents or employees shall be liable for any actual, incidental

or consequential damages for failure to inspect any private premises, private improvements or portion(s) thereof or for failure to repair or maintain the same.

Section 6.03. Reserve Funds. The Board may establish reserve funds which may be maintained and/or accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts or any other recognized bookkeeping or tax procedures in order to better demonstrate that the amounts deposited therein are capital contributions and not net or taxable income to the Association.

Section 6.04. Bulk Service Contracts.

(a) The Board, on behalf of the Association, has the authority to negotiate and enter into group or bulk purchase agreements (a "Service Package") for services which may benefit those Members who wish to accept such services. A Service Package made available to Members may include, but is not limited to, the following services: television, internet access, telephone (Internet Protocol based and/or mobile), utilities, landscaping, pest control, etc. The preceding list represents an example of the services that may be offered on behalf of service providers and is not intended to be limiting in nature. The Service Package presented by the Association to its Members is intended to allow individual Members the opportunity to benefit from the services they elect to receive. The Association does not provide the services but makes them available to those Members who wish to receive the services from the provider. Such services never have been traditionally paid for out of the Annual Assessment.

(b) Once a Service Package has been selected by the Board, the Service Package will be made available by the Association to all Members. Those Members who wish to receive and obtain the benefit of a Service Package must request the Service Package by delivering a written election to participate to the Association. Members are not required to participate in any offered Service Package.

(c) Once a Member has elected to receive a Service Package, the Association shall administer the Service Package by billing the electing Members and remitting payment to the service provider. A Member's cost for the Service Package shall be in the amount and on the terms listed in the offered Service Package. All sums due the Association by a Member under a Service Package shall be secured by the lien against the Lot of such Member, such lien having been created and established under Article V hereof. A Member's failure to timely pay any charge pursuant to a Service Package shall subject a Member's account to the imposition of late fees, interest, and costs of collection, including reasonable and necessary attorney's fees, all as provided in and secured pursuant to Article V hereof. Any Service Package may require individual Members to execute separate agreements directly with the providers in order to gain access to or obtain specified services. Any such agreement may provide for the interruption or termination of services in the event of a violation of the terms thereof. Notwithstanding any such termination, the Member shall remain obligated for all charges which become due under the terms of the Service Package selected by the Member.

**ARTICLE VII -- INSURANCE; REPAIR; RESTORATION;
COMMUNITY SERVICES ARRANGEMENTS**

Section 7.01. Right to Purchase Insurance. The Association shall have the right and option to purchase, carry and maintain in force insurance covering any or all portions of the Common Properties, any improvements thereon or appurtenant thereto, for the interest of the Association, its Board of Directors, officers, managers, agents and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as shall be deemed appropriate by the Board. Such insurance shall include, but need not be limited to:

(a) Insurance against loss or damage by fire and hazards covered by a standard extended coverage endorsement in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs;

(b) Comprehensive public liability and property damage insurance on a broad form basis, including coverage of personal liability (if any) of the Board, Owners, Residents and Members with respect to the Common Properties;

(c) Fidelity bonds for all officers and employees of the Association having control over the receipt or disbursement of funds; and

(d) Liability insurance regarding the errors and omissions of directors, officers, managers, employees and representatives of the Association.

Section 7.02. Insurance and Condemnation Proceeds. Any proceedings, negotiations, settlements or agreements concerning insurance or condemnation relating to the Common Properties shall be handled by the Association. The Association may use the net insurance or condemnation proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance or condemnation. Any balance from the proceeds of insurance or condemnation paid to the Association, remaining after satisfactory completion of repair and replacement or after the Board has elected to waive the repair, restoration or replacement, shall be retained by the Association as part of a general reserve fund for subsequent repair and replacement of the Common Properties.

Section 7.03. Insufficient Proceeds. If the insurance or condemnation proceeds are insufficient to repair or replace any loss or damage to the Common Properties, the Association may levy a special group assessment as provided for in Article V of this Declaration to cover the deficiency.

Section 7.04. Community Services Arrangements. The Association has arranged for the employment and utilization of a mechanical crossing gate and/or unarmed community services personnel generally stationed at the gatehouse entry points to the Properties. The Association intends that the gatehouse and private streets concept will

discourage undesired and unauthorized vehicular traffic within the Properties and foster a higher degree of peace and tranquility. However, the Properties are not entirely encompassed by a fence nor are there any plans for such an enclosure. Also, the gatehouse program is not designed to completely restrict or impede pedestrian traffic into, within or out of the Properties.

Although the Association reasonably believes that the existence and visibility of community services personnel and controlled access points may discourage the commission of criminal acts (e.g., burglary, theft, etc.) within the Properties, nevertheless the Association does not warrant or guarantee that: (a) the community services personnel and/or gate arrangements are sufficient and adequate to diminish or eliminate the commission of crimes against persons or property; and (b) such acts will not be attempted or actually occur within the Properties. These community services arrangements are not designed or intended to replace the conventional police and fire protection and paramedical services available from the City of Irving.

The Association will seek to carry public liability insurance generally covering bodily injury and property damage arising out of negligent acts by employees, members or authorized representatives of the Association. The Association will not carry any insurance pertaining to, nor does it assume any liability or responsibility for, the real or personal property of the Owners, Residents and Members (and their respective family members, guests and invitees).

Each Owner, Resident and Member expressly understands, covenants and agrees with the Master Association and the Association that:

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

(b) Each Owner, Resident and Member should, from time to time and at various times, consult with reputable insurance industry representatives of each Owner's, Resident's and Member's own selection to consider, purchase, obtain and maintain appropriate insurance providing the amount, type and kind of insurance deemed satisfactory to each Owner, Resident and Member covering his or her real and personal property;

(c) Each Owner, Resident and Member releases and holds the Association harmless from any uninsured liability, claims, causes of action or damages of any kind or character whatsoever arising out of or related (directly or indirectly) to any and all aspects of the community services system and private streets within the Properties, including, without limitation:

(1) the interviewing, hiring, training, licensing (if any), bonding (if any) and employment of community services personnel.

- (2) the instructions, directions and guidelines issued to or by the community services personnel; and
- (3) the duties, performance, actions, inactions or omission of or by the community services personnel.

(d) Each Owner, Resident, Member and Invitee will cooperate with the Association in connection with the establishment, evolution and maintenance of reasonable controls on the pedestrian and vehicular traffic into and within the Properties and abide by any and all rules and regulations of the Association, as adopted and promulgated from time to time, related to the entry upon and use of any private streets and other Common Properties within the Properties.

ARTICLE VIII -- ARCHITECTURAL CONTROL

Section 8.01. Architectural Control. Architectural Control within the Properties shall be administered: (a) by the MACC; and (b) by the Village Architectural Control Committee ("VACC"), a committee of individuals appointed by the Board to assist in the creation, development, improvement, revision, supervision, oversight and implementation of special and particular architectural standards for the Properties. Unless otherwise allowed by law, members of the Board, spouses of Board members, and persons residing with a Board member may not serve on the VACC. The Board and the VACC shall have the power and authority, exercisable at any time and from time to time, to delegate, on a temporary basis, the duties and responsibilities of the VACC to the MACC.

Section 8.02. MACC and VACC Jurisdiction. No building, structure, fence, wall or improvement of any kind or nature shall be erected, placed or altered on any Lot or Parcel until all plans and specifications have been submitted to and approved in writing by the MACC and by the VACC, or by a majority of the members of each respective committee, as to:

- (vi) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, proper facing of main elevation with respect to nearby streets in accordance with this Declaration and/or the Design Guidelines and/or bulletins;
- (ii) minimum finished floor elevation and proposed footprint of the dwelling;
- (iii) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping;
- (iv) drainage solutions;

(v) the observance of and compliance with applicable setback lines and easement areas and the enhancement of aesthetic views and visual corridors to and from the Common Properties; and

(vi) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within the Design Guidelines, bulletins promulgated by the VACC or matters in which the VACC has been vested with the authority to render a final interpretation and decision.

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

| | | |
|---|--|---|
| * | PRIOR TO ACQUIRING ANY INTEREST IN A LOT | * |
| * | OR PARCEL, EACH PROSPECTIVE PURCHASER, | * |
| * | TRANSFeree, MORTGAGEE AND OWNER OF ANY LOT | * |
| * | OR PARCEL IN HACKBERRY CREEK IS STRONGLY | * |
| * | ENCOURAGED TO CONTACT THE ASSOCIATION | * |
| * | AND THE VACC TO OBTAIN AND | * |
| * | REVIEW THE MOST RECENT DESIGN GUIDELINES | * |
| * | WHICH WILL CONTROL DEVELOPMENT, | * |
| * | CONSTRUCTION AND USE OF THE LOT OR PARCEL. | * |

Section 8.03. Appeal Following Denial by VACC. A decision by the VACC denying an application or request by an Owner for the construction of a building, structure, fence, wall or improvement of any kind or nature may be appealed to the Board. A written notice of denial by the VACC must be provided to the Owner by certified mail, hand delivery, or electronic delivery (the "Notice"). The Notice must:

- (1) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and
- (2) inform the Owner that the Owner may request a hearing before the Board on or before the 30th day after the date the notice was mailed to the Owner.

The Board shall hold a hearing under this Section 8.03 not later than the 30th day after the date the manager receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required under Section 8.03. The Board or the Owner may request a postponement of the hearing. If requested, a postponement of the hearing shall

be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties.

During a hearing, the Board or the designated representative of the Board and the Owner or the Owner's designated representative will each be provided the opportunity to discuss, verify facts, and resolve the denial of the Owner's application or request for the construction of improvements, and the changes, if any, requested by the VACC in the Notice. The Board may affirm, modify, or reverse, in whole or in part, any decision of the VACC as consistent with the Declaration or the Design Guidelines.

Section 8.04. Failure to Act. If the MACC and/or VACC fails to approve or disapprove such plans and specifications, or to reject them as being inadequate, within sixty (60) days after submittal thereof, it shall be conclusively presumed that such committee has approved such plans and specifications; except, however, that the MACC and the VACC have no right or power, either by action or failure to act, to waive or grant any variances specifically reserved to the Declarant under the terms and provisions of the Master Restrictive Covenants. If plans and specifications are not sufficiently complete or are otherwise inadequate, the MACC and/or VACC may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

Section 8.05. Limitation of Liability. No approval of plans and specifications and no publication of requirements or guidelines herein or in the Design Guidelines or otherwise by the Association, the MACC and/or the VACC can or should be construed as representing or implying that the improvements built in accordance therewith will be free of defects. Any approvals and observations incident thereto by the MACC and/or VACC shall generally concern matters of an aesthetic nature. Such approvals and guidelines shall in no event be construed as representing or guaranteeing that any improvements built in accordance therewith will be designed in a good and workmanlike manner. Neither the Association, the respective directors, officers, employees and agents, the MACC, the VACC, nor any member of the MACC or VACC shall be responsible or liable for damages or otherwise to anyone submitting plans and specifications for approval or to any owner of land subject to the Declaration for any defects in any plans and specifications submitted, revised, or approved, or for any loss or damages to any person arising out of approval or disapproval or failure to approve or disapprove any plans or specifications, any loss or damage arising from the non-compliance of such plans or specifications with any governmental ordinance or regulation, nor any defects in construction undertaken pursuant to such plans and specifications. Approval of plans and specifications by the MACC and/or VACC is not to be construed as approval by the City of Irving, Texas, as the approval processes are mutually exclusive. Unconditional approval of a complete set of plans and specifications by the MACC and the VACC shall satisfy the requirements of all applicable provisions of this Declaration which require written approval by the MACC and VACC for such plans and specifications.

**ARTICLE IX -- USE OF LOTS IN HACKBERRY CREEK;
PROTECTIVE COVENANTS**

The Hackberry Creek subdivision (and each Lot and Parcel situated therein) shall be constructed, developed, occupied and used as follows:

Section 9.01. Residential Lots. All Lots within the Subdivision shall be used, known and described as residential Lots, unless otherwise indicated on the Subdivision plat. Lots shall not be further subdivided and, except for the powers and privileges herein reserved by the Association and VACC, the boundaries between Lots shall not be relocated without the prior express written consent of the VACC. No building or structure shall be erected, altered, placed or permitted to remain on any residential Lot or Parcel other than one (1) single-family dwelling and, if any, its customary and usual accessory structures (unless otherwise prohibited herein). No building or structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on such premises, or any part hereof, save and except those related to development, construction and sales purposes of a bona-fide homebuilder, the Master Association or the Association. No Owner, Resident or Member shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any Lot or Parcel or within any Dwelling Unit which would: (i) attract automobile, vehicular or pedestrian traffic to the Lot or Parcel; (ii) involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Subdivision. The restrictions on use herein contained shall be cumulative of, and in addition to, such restrictions on usage as may from time to time be applicable under and pursuant to the statutes, rules, regulations and ordinances of the City of Irving, Texas or any other governmental authority having jurisdiction over the Subdivision.

Section 9.02. Minimum Floor Space; Alarms. Each one (1) story dwelling and each one-and-one half (1.5) and two (2) story dwelling constructed on any Lot shall contain such minimum square feet of air-conditioned floor area (exclusive of all porches, garages or breezeways attached to the main dwelling) as may be specified by the Design Guidelines and/or the VACC generally consistent with the following chart:

| <u>Lot Location</u> | <u>Adjacent to Golf Course</u> | | <u>Other Lots</u> | |
|---------------------|---------------------------------------|---|---------------------------------------|---|
| | <u>Minimum Square Feet- One Story</u> | <u>Minimum Square Feet- 1½ or 2 Stories</u> | <u>Minimum Square Feet- One Story</u> | <u>Minimum Square Feet- 1½ or 2 Stories</u> |
| Area L (50) | 2700 | 3000 | 2400 | 2700 |
| Area LXV (65) | 1600 | 1800 | 1200 | 1400 |
| Area LXVI (66) | 2700 | 3000 | 2400 | 2700 |
| Area LXVII (67) | 2000 | 2200 | 1700 | 2000 |
| Area LXXI (71) | 2700 | 3000 | 2400 | 2700 |
| Area LXXII (72) | 2700 | 3000 | 2400 | 2700 |

Section 9.03. Garages; Parking. Each single-family residential dwelling erected on any Lot shall provide garage space for a minimum of two (2) but not more than four (4) conventional automobiles, unless otherwise specifically approved by the VACC. Any and all proposed garage plans and specifications must be submitted to the VACC for review and approval. No garage door may be left open for any extended period of time. Each Owner, Member and Resident shall use their respective best efforts to park and store their vehicles within their garage and shall use their respective best efforts to refrain from parking any vehicle on the streets - such best efforts being defined as fully utilizing all garages and driveways to park and store the number of vehicles for which they were designed (garages) or capable of holding (driveways). The parking of Owners, Member or Resident vehicles on the street is only allowed where Owners, Members or Residents have exhausted all parking options available through the full use of garages and driveways. The Board may adopt reasonable rules authorizing and regulating on street parking for resident and visitor vehicles.

No Owner, Resident or Member shall perform, permit or allow repair or maintenance work to any automobile or other vehicle outside the garage and visible to the abutting street(s), golf course or any neighbor's property. Under no circumstances or conditions shall any automobile or other vehicle be parked on a non-paved portion of any Lot.

Section 9.04. Setback Requirements. Setback requirements may be prescribed within the Design Guidelines. In order to allow flexibility for: (i) implementation of state-of-the-art construction designs, and (ii) any consolidation of two (2) or more Lots to accommodate the construction of a lesser number of dwellings thereon, the VACC shall also have the authority to develop and refine rear and side yard setback requirements. Within the setback areas for each Lot and subject to the construction or installation of any other items otherwise permitted, a non-exclusive surface easement and right-of-way is reserved for the Association in order to properly facilitate and carry out its duties and responsibilities under this Declaration.

Section 9.05. Height Limitations; Elevations. No building or structure on any Lot or Parcel shall exceed the height limit specified by the Design Guidelines or the VACC. In order to create a desired architectural appearance and mix of one (1) and two (2) story structure heights, the VACC may prescribe inter-related height and setback requirements.

Section 9.06. Fences; Signs. No fence, wall or hedge (which serves as a barrier) shall be erected, placed or altered on any Lot or Parcel nearer to any street than the minimum building setback line as established by the Design Guidelines or the VACC. All exterior mechanical or service equipment must be enclosed within fences, walls or landscaping so as not to be visible from the immediate residential street and/or golf course. No fence, wall or hedge (which is not within three (3') feet of the Dwelling Unit walls) shall be erected, placed or altered on any Lot or Parcel without the approval of the VACC. No signs, banners or flags (except for those placed by the Association) shall be placed on walls, fences, trees, parkways, medians or the Common Properties at any time. No sign

shall be more than five (5) square feet in size, unless otherwise noted below. All political signs must be ground mounted. No more than two signs related to an individual candidate or ballot item may be placed on any Lot or Parcel. Except as identified below or otherwise limited or restricted by State or Federal law, which limitations or restrictions are incorporated herein by reference, including, but not limited to, Section 259.002 of the Texas Election Code, the only sign or signs which are allowed to be displayed to the public view on any Lot or Parcel is a maximum of three (3) of any of the following:

a) any bona-fide homebuilder, during the applicable initial construction and sales period, may utilize one (1) professional sign [of not more than twenty-five (25) square feet in size], at a location approved by the Village Architectural Control Committee, for model home advertising and sales purposes;

(b) thereafter, a dignified "For Sale" or "For Lease" sign (of not more than five (5) square feet in size including toppers and hangers) may be utilized by the Owner of the respective residential Lot (or the Owner's Agent) for the applicable sale or lease situation as long as the sign is: (1) Placed parallel to the primary street on which the house is located (or on the side street if the front of the house faces the side street); (2) Centered on the front elevation of the house; (3) No closer to the sidewalk than half the distance (or as close to half the distance as practical) between the sidewalk and the house. For houses located adjacent to the golf course, a second "For Sale" sign may be placed in the rear yard facing the golf course. "For Sale" signs on vacant Lots shall be placed in the front portion of the Lot, parallel to, and at least twenty-five (25) feet from the curb.

Open House signs shall not be placed on the parkways or any other Common Property in the Village.

(c) Job Sign Size and Location - Each contractor shall install one (1) job site sign to be located within the property lines of the Lot or Property on which new construction is to be performed. The sign shall contain a maximum of six (6) square feet of surface area and shall be placed parallel to the street named in the address of the property. The sign shall be constructed from either wood or metal.

The Job Site Sign shall contain the following:

- (1) The street address of the property in letters which are a minimum of three (3) inches high and fully visible from the street;
- (2) A listing of the Contractor's name, address & telephone number;
- (3) A copy of the Architectural Control Committee Approval letter affixed to the sign in a weather proofed container;
- (4) A copy of the City of Irving Building Permit (if issued for the work) affixed to the sign in a weather proofed container.

"For Sale" or "For Lease" signs may not be placed on property owned by Hackberry Creek Country Club.

Temporary signs advertising remodeling contractors, roofers, pool contractors, landscapers, upcoming events, etc. may not be placed on any Lot. No signs of any kind shall be placed on the parkway (land between the sidewalk and curb), medians or the Common Properties.

Temporary signs (not over five (5) square feet in size) related to a scheduled national or local election may be placed on a Lot no more than ninety (90) days prior to the scheduled election date and must be removed no later than ten (10) days after the election. No political signs shall be placed on walls, fences, trees, parkways, medians or the Common Properties at any time. No more than two (2) signs related to an individual candidate or ballot item may be placed on any Lot or Parcel.

A permanent sign (not over one (1) square foot in size) identifying the security service that monitors the intrusion/fire alarm at the Property may be placed on the property. Security signs shall be placed close to the house, preferably in the landscaped beds adjacent to the house.

School Spirit signs (Band Member, Cheerleader, Athlete, Student, etc.) may be placed on a Lot during the school year. School Spirit signs shall be limited to a size that is traditional for such signs and must be placed within ten (10) feet of the front of the home.

Birth Announcement signs may be placed on a Lot for up to one (1) week to announce the arrival of a new Resident to the Village.

Section 9.07. Easements; Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded subdivision plats. Utility service may be installed along or near the front and/or side and/or rear Lot lines and each Lot Owner shall have the task and responsibility of determining the specific location of all such utilities. Except as may be otherwise permitted by the VACC (e.g. fencing, flatwork, landscaping, etc. but the VACC does not guarantee the right and opportunity of such uses), no Owner shall erect, construct or permit any obstructions or permanent improvements of any type or kind to exist within any easement area, nor shall anything be done or permitted within an easement area which would restrict or adversely affect drainage. Electrical (and possibly other utility) easements are likely to be located at or near or along the rear lot line(s), and each Lot Owner assumes full, complete and exclusive liability and responsibility for all cost and expense related to damage, repair, relocation and restoration of such improvements or fence. Except as to special street lighting or other aerial facilities which may be required by the City of Irving or which may be required by the franchise of any utility company or which may be installed by the Association pursuant to its development plan, no above-ground utility facilities of any type (except meters, risers, service pedestals and other surface installations necessary to maintain or operate appropriate underground facilities) shall be erected or installed within the Subdivision whether upon individual Lots, Parcels, easements, streets or rights-of-way of any type, either by the utility company or any other person or entity, including, but not limited to, any person owning or acquiring any part of the Subdivision, and all utility service facilities

(including, but not limited to, water, sewer, gas, electricity and telephone) shall be buried underground unless otherwise required by a public utility. All utility meters, equipment, air conditioning compressors and similar items must be visually screened and located in areas designated by the VACC. The Association or the VACC shall have the right and privilege to designate the underground location of any CATV-related cable.

Each Owner shall assume full and complete responsibility for all costs and expenses arising out of or related to the repair, replacement or restoration of any utility equipment damaged or destroyed as a result of the negligence or mischief of any Resident or Invitee of the Owner. Each Owner agrees to provide, at the sole cost and expense of each Owner, such land and equipment and apparatus as are necessary and appropriate to install and maintain additional lighting and security-related measures which become technologically provident in the future.

Section 9.08. Temporary Structures and Vehicles. No temporary structure of any kind (excluding children's play equipment) shall be erected or placed upon any Lot or Parcel. Temporary structures shall include, but not be limited to, any garage, servant's house or other improvement erected more than one hundred twenty (120) days prior to the completion of the main portion of the single-family dwelling.

Any commercial vehicle, vehicle displaying a conspicuous sign, truck (over 3/4 ton but excluding conventional vans, sport utility vehicles and pickups), bus, boat, boat trailer, trailer, mobile home, golf cart, motorcycle, recreational vehicle, camp mobile, camper and any vehicle other than a conventional automobile shall, if brought within the Subdivision by or on behalf of any Owner, Member or Resident, be stored, placed or parked within the enclosed garage on the appropriate Lot.

Section 9.09. Offensive Activities; Pets. No noxious or offensive activity or pollution emitting sight/sound/smell, as determined by the Association, shall be conducted or permitted on any portion of the Properties. No direct sales activities (excluding, however, activities of bona-fide homebuilders and community activities specifically approved by the Board), garage sales, yard sales, patio sales, flea markets, bazaars, sample sales, promotional dinner parties or similar activities shall be conducted on any portion of the Properties.

Any noise or odor emitted by, and any discharge or waste from, any animal (including without limitation dogs and cats) which can be seen, heard or smelled outside the perimeter of the subject Owner's (or Member's or Resident's) Lot or Parcel shall be deemed noxious and offensive and is therefore prohibited. No animals, livestock or poultry of any kind shall be raised, bred or kept on any residential Lot or Parcel, except that dogs, cats or other household pets may be kept (in accordance with applicable municipal law), provided that they are not kept, bred or maintained for commercial purposes and they are not noxious, offensive, vicious or dangerous. Any outside pen, cage, kennel, shelter, concrete pet pad, run, track or other building, structure or device directly or indirectly related to animals which can be seen, heard or smelled by anyone other than the subject Lot or

Parcel Owner must be approved by the Board in its sole and absolute discretion. Each and every dog, cat or other household pet, if not kept and confined within a portion of the Owner's/Resident's/Member's Lot or Parcel, must be leashed and accompanied by its corresponding Owner/Resident/Member, particularly when traveling beyond the perimeter of the Owner's/Resident's/Member's Lot or Parcel, and such Owner/Resident/Member shall promptly clean and remove the discharge and waste of any pet.

Section 9.10. Exterior Surfaces. All roofs shall be constructed of wood shingle, wood shake, slate, tile, metal, composition, built-up roof or other materials approved by the VACC taking into account harmony, conformity, color, appearance, quality and similar considerations. The exterior surface of all residential dwellings shall be constructed of glass, brick, stone or other materials approved by the VACC. However, every effort should be made to achieve a compatible street scene with little duplication of look from house to house. The VACC is specifically authorized to require a continuous, uniform appearance with respect to all improvements (e.g. a wrought-iron fence) which directly face perimeter common green area or adjoin any Greenway Frontage. Installation of all types of exterior items and surfaces such as address numbers or external ornamentation, outdoor illumination, lights, mail chutes, exterior paint or stain and the like shall be subject to the prior approval of the VACC. Each Owner shall keep and maintain the quality and appearance of all exterior surfaces, particularly those areas covered by an approved paint or stain, in good repair, condition and appearance.

Reference is made to the following types of antennae:

- (a) an antenna that is designed to receive direct broadcast satellite service (including direct-to-home satellite services) ("DBS"); and
- (b) an antenna that is designed to receive programming service via multipoint distribution services (including multichannel multipoint distribution services, instructional television fixed services and local multipoint distribution services) ("MMDS").

Any and all: (i) DBS and/or MMDS antennas which is/are more than one meter in diameter or diagonal measurement; and (ii) antenna and devices designed to transmit signals and programming, must be installed so that they are not visible from any street or golf course. Any and all DBS and/or MMDS antennas which are one meter or less in diameter or diagonal measurement should be installed so that they are not visible from any street or golf course, but in the event that such placement does not permit reception of an acceptable quality signal then such antenna may be otherwise located provided that it is reasonably painted in a fashion so that it blends into the background against which it is mounted.

Section 9.11. Site Maintenance; Garbage and Trash Collection. Lot and Parcel Owners and Invitees (particularly homebuilders) shall have the duty and responsibility to keep construction sites (and adjacent lots, parcels and common areas if their rubbish shall be blown, carried or left in these locations) free of rubbish on a daily basis with adjacent

streets (to the crown) scraped clear of any mud accumulation. Lot and Parcel Owners and Invitees (particularly homebuilders) will not be allowed to store any excavation of soil on streets or adjacent sites. Soil runoff due to rain or irrigation must be removed promptly from streets and sidewalks by the Lot and Parcel Owner and Invitees (particularly homebuilders).

All garbage and trash shall be kept in plastic bags or other containers required by (and meeting the specifications of) the City of Irving. Each Owner, Member and Resident shall observe and comply with any and all regulations or requirements promulgated by the Master Association and/or the Association and/or the City of Irving in connection with the storage and removal of trash and garbage, particularly where the collection point is in front of the residential Dwelling Units. No residential Lot or Parcel, or any portion of the Common Properties or any public right-of-way area, shall be used or maintained as a dumping ground for rubbish, trash or garbage. No Owner, Member or Resident shall dump grass clippings, landscape debris, garbage or trash of any kind on another Lot or Parcel. Each Owner, Member and Resident shall have the duty and responsibility, at their sole cost and expense, of keeping parking areas, driveways, mailboxes, private lamp posts, landscaping and sprinkler systems (if such improvements are located on or adjacent to the Lot or Parcel and were constructed by the homebuilder or homeowner of the Dwelling Unit) in good repair and appearance.

Section 9.12. Landscaping. Construction of each and every residential dwelling within the Properties shall include the installation and placement of appropriate landscaping. Each Lot on which a residential dwelling is constructed shall have and contain an underground water sprinkler system for the purpose of providing sufficient water (to preserve and maintain the landscaping in a healthy and attractive condition) to all yard areas. Each Owner, Member and Resident of any Lot or Parcel shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep and maintain the Lot or Parcel, and all improvements therein and thereon, in a well maintained, safe, clean, healthy and attractive condition at all times. Such maintenance shall include (without limitation):

- the proper seeding, fertilizing, consistent watering, mowing and edging of: (i) all lawns which can be seen from any street, golf course or any neighbor's house; and (ii) all median and parkway areas adjacent to each Lot;
- the appropriate pruning and cutting of all trees and shrubbery;
- prompt removal of all litter, trash, refuse and waste;
- watering of all landscape;
- keeping exterior lighting and mechanical facilities in working order;
- keeping lawn and garden areas alive, free of weeds and insects, and attractive;
- keeping driveways and medians in good repair and condition;
- promptly repairing any exterior damage;
- complying with all governmental health and police requirements,

all in a manner and with such frequency as is consistent with aesthetics, safety and good property management.

Section 9.13. Maintenance Self-Help. If more than five (5) days after prior written notice (but in no event shall the Association be required to issue more than two (2) such written notices per year, cumulative from year to year) an Owner shall fail to: (i) control weeds, grass and/or other unsightly growth; (ii) remove trash, rubble, building and construction debris; (iii) remove non-complying signs from a Lot or Parcel; or (iv) exercise reasonable care or conduct to prevent or remedy an unclean, untidy or unsightly condition, then the Master Association or the Association or the respective agents and subcontractors of either shall have the authority and right to go onto said Lot or Parcel (without any liability whatsoever for damages for wrongful entry, trespass or otherwise to any person or entity) for the purpose of taking such action as may be necessary to remedy or abate the violation or problem, including (without limitation) mowing, cleaning, chemical and/or manual treatment and removal of weeds, fertilizing, watering, removal of non-complying signs and otherwise maintaining said Lot or Parcel and shall have the authority and right to assess and collect from the Owner of said Lot or Parcel a reasonable charge for such maintenance on said Lot or Parcel on each respective occasion of such mowing, cleaning, edging, trimming shrubs, planting sod, watering grass, treating fire ant mounds, removing of non-complying signs or whatever other site-maintenance activity is deemed reasonable and appropriate. The Association shall have the right to operate each sprinkler, or require the Lot Owner to do so, in conjunction with an appropriate maintenance plan although the respective Lot Owner shall bear all costs and expenses related to the water consumption arising from its operation. The assessments, together with such interest thereon and costs of collection thereof, shall be a charge on the land and shall be secured by the continuing Payment and Performance Lien upon each Lot or Parcel against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the continuing personal obligation of the person who was the Owner of such Lot or Parcel at the time when the assessment occurred.

ARTICLE X -- EASEMENTS AND TELECOMMUNICATION SERVICES

Section 10.01. Utility Easements. If they do not otherwise exist, non-exclusive easements for installation, maintenance, repair and removal of utilities and drainage facilities over, under and across an area not less than two feet (2') nor more than five foot (5') wide perimeter of each Lot or Parcel are reserved by the Master Association, the Association, and all utility and CATV companies and their respective successors and assigns, serving the Properties.

Section 10.02. Sign Easements. The Association shall have the right, privilege, duty and responsibility to reasonably maintain and care for any and all signs, monuments, landscaping and the like installed or placed on any "sign easement area" depicted within the Hackberry Creek subdivision Plat(s).

Section 10.03. Ingress, Egress and Maintenance by the Association. Full rights of ingress and egress shall be had by the Association at all times over and upon the setback and sign easement areas applicable for each Lot and Parcel for the carrying out by the Association of its functions, duties and obligations hereunder; provided, however, that any such entry by the Association upon any Lot or Parcel shall be made with as little inconvenience to the Owner as practical, and any damage caused thereby shall be repaired by the Association at the expense of the Association's maintenance fund.

Section 10.04. Telecommunication Services. The Association, with the prior approval of the Board of Directors, may provide, either directly or by contracting with other parties, various telecommunication services to the Lots and Common Properties within the Properties. The Board of Directors of the Association shall have the sole discretion to determine whether or not such telecommunication services are provided, the types of services to be provided, the manner in which such services will be provided, the amounts to be charged, and the method of paying for such services.

ARTICLE XI -- GENERAL PROVISIONS

Section 11.01. Registration with the Association. In order that the Master Association and the Association can properly acquaint every Lot purchaser and every Owner, Resident and Member with these Covenants and the day-to-day matters within the Association's jurisdiction, no acquisition of any Lot or Parcel within the Subdivision shall become effective until and unless:

(a) the then-existing closing-related documents have been properly executed by the Association and the Purchaser/Transferee; and

(b) all directives by, and all obligations to, the Master Association and the Association have been properly and timely satisfied.

Each and every Owner, Member and Resident shall originally provide, and thereafter revise and update, within thirty (30) days after a material change has occurred, various items of information to the Association such as: (a) the full name and address of each Owner, Member and Resident; (b) the description and license plate number of each automobile owned or used by a Resident and brought within the Properties; (c) the name, address and telephone numbers of other local individuals who can be contacted (in the event the Resident cannot be located) in case of an emergency; and (d) such other information as may be reasonably requested from time to time by the Association. In the event any Owner, Member or Resident fails, neglects or refuses to so provide, revise and update such information, then the Association may, but is not required to, use whatever means it deems reasonable and appropriate to obtain such information and the offending Owner, Member and Resident shall become automatically jointly and severally liable to promptly reimburse the Association for all reasonable costs and expenses incurred in so doing.

Section 11.02. Power of Attorney. Each and every Owner, Member and Resident hereby makes, constitutes and appoints the Association as his/her true and lawful attorney-in-fact, coupled with an interest and irrevocable, for him/her and in his/her name, place and stead and for his/her use and benefit, to do the following:

(a) to sign, execute, acknowledge, deliver and record any and all instruments which make technical corrections to the terms within this Declaration as the Association shall deem necessary, proper and expedient under the circumstances and conditions as may be then existing; and

(b) to sign, execute, acknowledge, deliver and record any and all instruments which make technical corrections to the subdivision plat(s) of the Properties as the Association shall deem necessary, proper and expedient under the conditions as may then be existing.

Section 11.03. Duration. The Covenants of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for an original term coincident with that of the Master Restrictive Covenants, after which time these Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument is signed by the Owners of at least fifty-one percent (51%) of the appraised value of all Lots within the Properties and recorded in the Deed Records of Dallas County, Texas, which contains and sets forth an agreement to abolish these Covenants.

Section 11.04. Amendments. The Covenants set forth herein are expressly subject to change, modification and/or deletion by means of amendment at any time and from time to time with the consent of a majority of the total eligible votes of the membership of the Association, voting in person, by proxy, electronic ballot, or absentee ballot at a meeting called for such purpose, written notice of which shall be given to all Members at least thirty (30) days in advance. Any and all amendments shall be recorded in the Office of the County Clerk of Dallas County, Texas.

Section 11.05. Enforcement. Each Owner of each Lot and Parcel shall be deemed and held responsible and liable for the acts, conduct and omission of each and every Resident, Member, guest and invitee affiliated with such Lot or Parcel, and such liability and responsibility of each Owner shall be joint and several with their Resident(s), Member(s), guests and invitees. The Payment and Performance Lien shall extend to, cover and secure the proper payment and performance by each and every Resident, Member, guest and invitee affiliated with each Owner. Unless otherwise prohibited or modified by law, all parents shall be liable for any and all personal injuries and property damage proximately caused by the conduct of their children (under the age of 18 years) within the Properties. Enforcement of these Covenants may be initiated by any proceeding at law or in equity against any person or persons violating or attempting to violate them, whether the

relief sought is an injunction or recovery of damages, or both, or enforcement of any lien created by these Covenants; but failure by the Association or any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

Section 11.06. Validity. Violation of or failure to comply with these Covenants shall not affect the validity of any mortgage, bona fide lien or other similar security instrument which may then be existing on any Lot or Parcel. Invalidation of any one or more of these Covenants, or any portions thereof, by a judgment or court order shall not affect any of the other provisions or covenants herein contained, which shall remain in full force and effect. In the event any portion of these Covenants conflicts with mandatory provisions of any ordinance or regulation promulgated by the City of Irving or law of the State of Texas, then such municipal requirement or state law shall control.

Section 11.07. Proposals of Association. The proposals of the Association, as set forth in various provisions hereinabove, are mere proposals and expressions of the existing good faith intentions and plans of the Association and shall not be deemed or construed as promises, solicitations, inducements, contractual commitments or material representations by the Association upon which any person or entity can or should rely. The Association has no control over the development of land parcels adjoining the Properties and the Association makes no representations of any kind or character concerning those parcels. Each prospective Owner should make his/her own investigation concerning those parcels, and what impact, if any, same may have on the ownership, use and enjoyment of the Lots and Parcels.

Section 11.08. Service Mark. The Association is the exclusive owner and proprietor of a service mark for Hackberry Creek (referred to as the "Service Mark"). Unless and until a written license agreement has been sought and obtained from the Association (and in this connection the Association may withhold consent in its sole and absolute discretion), no person or entity may at any time and/or for any reason whatsoever use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Service Mark.

Section 11.09. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. Words of any gender used herein shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa, unless the context requires otherwise. Examples, illustrations, scenarios and hypothetical situations mentioned herein shall not constitute an exclusive, exhaustive or limiting list of what can or cannot be done.

Section 11.10. Notices to Resident/Member/Owner. Any notice required to be given to any Resident, Member or Owner under the provisions of this Declaration shall be deemed to have been properly delivered when: (i) deposited in the United States Mail,

postage prepaid, addressed to the last known address of the person who appears as the Resident, Member or Owner on the records of the Association at the time of such mailing; or when (ii) delivered by hand or by messenger to the last known address of such person within the Properties. The Board may prescribe, in certain extraordinary situations (specifically including notices relating to fines and intent to file a notice-of-lien), that additional notices be mailed by certified mail, return receipt requested.


Section 11.11. Notices to Mortgagees. The holder(s) of a mortgage may be furnished with written notification from the Association of any default by the respective mortgagor/Member/Owner in the performance of such mortgagor's/Member's/Owner's obligation(s) as established by this Declaration, provided that the Association has been theretofore furnished, in writing, with the correct name and address of such mortgage holder(s) and a request to receive such notification and a reasonable supply of self-addressed, stamped envelopes.

Section 11.12. Disputes. Matters of dispute or disagreement between Owners, Residents or Members with respect to interpretation or application of the provisions (excluding Article VIII architectural matters) of this Declaration or the Association Bylaws, shall be determined by the Board of Directors. Matters pertaining to Article VIII architectural matters shall be determined by the Village Architectural Control Committee. These respective determinations (absent arbitrary and capricious conduct or gross negligence) shall be final and binding upon all Owners, Residents and Members.

IN WITNESS WHEREOF, a duly authorized representative of the Association has executed this 2024 Amended and Restated Declaration of Covenants, Conditions and Restrictions on and for Hackberry Creek Residential Community.

EXECUTED on this the 16th day of October, 2024.

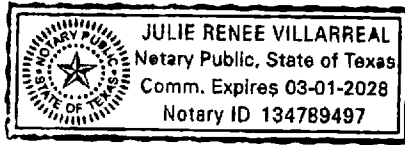
HACKBERRY CREEK
HOMEOWNERS ASSOCIATION

By: 
Henry Kirn, President

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Henry Kirn, President of Hackberry Creek Home Owners Association, known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that he executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this 16th day of October, 2024.



[Handwritten Signature]

Notary Public, State of Texas

CERTIFICATE OF APPROVAL OF THE 2024 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ON AND FOR HACKBERRY CREEK RESIDENTIAL COMMUNITY

I, Deborah Cunion, do hereby certify:

The Annual Meeting of the Hackberry Creek Home Owners Association, took place on October 16, 2024. At that time, I was the duly elected Secretary of the Hackberry Creek Home Owners Association. On that date the **2024 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ON AND FOR HACKBERRY CREEK RESIDENTIAL COMMUNITY** was approved by a majority of the total votes of the membership of the Association after written notice of the vote was given to all Members at least thirty (30) days in advance of October 16, 2024.

[Handwritten Signature: Deborah Cunion]

Deborah Cunion

EXHIBIT "A"

[A description of the land parcels included within, and the village-related restrictive covenants covering, the Hackberry Creek single-family residential community]

The Hackberry Creek single-family residential community generally consists of the six (6) separate land areas described as follows [and all references hereinbelow to recorded documents are to the Public Real Estate Records of Dallas County, Texas]:

1. Area L (50): Being a 51.511 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Declaration" filed and recorded in Volume 83121, Page 3049 et seq. (particularly within pages 3071-3074) of the Deed Records of Dallas County, Texas. Area L (50) has been platted as follows:

| Name of Plat | Plat Recording Data |
|--|---------------------|
| Final Plat Kinwest Sector 20 - Residential Phase I - First Installment | 82132/2416 |

and Area L (50) (as well as all the other Areas within Hackberry Creek) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|---|--------|------|
| Supplementary Declaration No. 50 | 83120 | 4159 |
| Declaration: Area L | 83121 | 3049 |
| Corrected Supplementary Declaration No. 50 | 83223 | 2864 |

2. Area LXV (65): Being a 32.938 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and being more particularly described by metes and bounds within that certain "Supplementary Declaration No. 65" filed and recorded in Volume 84170, Page 1891 et seq. (particularly within pages 1901-1902) of the Deed Records of Dallas County, Texas. Area LXV (65) has been platted as follows:

| Name of Plat | Plat Recording Data |
|--------------|---------------------|
|--------------|---------------------|

Preliminary Final Plat 85202/2561
 Hackberry Creek Village Phase IV
 32.938 acres

and Area LXV (65) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|---|--------|------|
| Supplementary Declaration No. 65 | 84170 | 1891 |
| Supplementary Declaration No. 1 | 84170 | 1904 |
| Corrected Supplementary Declaration No. 1 | 85236 | 5809 |
| Corrected Supplementary Declaration | 85236 | 5820 |

3. Area LXVI (66): Being a 84.241 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and being more particularly described by metes and bounds within that certain "Supplementary Declaration No. 66" filed and recorded in Volume 84236, Page 427 et seq. (particularly within pages 437-440) of the Deed Records of Dallas County, Texas. Area LXVI (66) has been platted as follows:

| Name of Plat | Plat Recording Data |
|---|---------------------|
| Hackberry Creek Village Phase II 47.245 acres | 86028/5072 |
| Hackberry Creek Village Phase III 37.393 acres | 89127/3693 |

and Area LXVI (66) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|----------------------------------|--------|------|
| Supplementary Declaration No. 2 | 84236 | 414 |
| Supplementary Declaration No. 66 | 84236 | 427 |

4. Area LXVII (67): Being a 104.371 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 196, I&G.N.R.R. Co. Survey, Abstract No. 1624, and the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and

more particularly described by metes and bounds within that certain "Supplementary Declaration No. 67" filed and recorded in Volume 87203, Page 4947 et seq. (particularly within pages 4954-4956) of the Deed Records of Dallas County, Texas. Area LXVII (67) has been platted as follows:

| Name of Plat | Plat Recording Data |
|---|---------------------|
| Amended Final Plat Hackberry Creek Estates Phase I 30.6120 acres | 88225/1607 |
| Amended/Preliminary Final Plat Hackberry Creek Estates Phase II 20.6589 acres | 88225/1623 |
| Preliminary/Final Plat Hackberry Creek Estates Phase III 25.0633 acres | 90016/4010 and 4011 |
| Final Plat Hackberry Creek Estates Phases IV, V 22.6828 acres | 91065/4537 |

and Area LXVII (67) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|----------------------------------|--------|------|
| Supplementary Declaration No. 67 | 87203 | 4947 |
| Supplementary Declaration No. 3 | 87203 | 4958 |

5. Area LXXI (71): Being: (i) a 71.27 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 196, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 71" filed and recorded in Volume 84202, Page 914 et seq. (particularly within pages 924-925) of the Deed Records of Dallas County, Texas; and (ii) being a 1.2127 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded in Volume 89203, Page 2259 et seq. (particularly within page 2272) of the Deed Records of Dallas County, Texas; and (iii) being a 0.1707 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded

in Volume 89203, Page 2259 et seq. (particularly within page 2273) of the Deed Records of Dallas County, Texas; and (iv) being a 0.4167 acre tract of land situated in the B.B.B. and C.R.R. Co. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 4" filed and recorded in Volume 89203, Page 2259 et seq. (particularly within page 2274) of the Deed Records of Dallas County, Texas. Some, but not all, of Area LXXI (71) has been platted as follows:

| Name of Plat | Plat Recording Data |
|--|---------------------|
| Final Plat of Hackberry Creek Village Phase VI 72 lots - 27.247 acres | 91165/3842 |
| Final Plat Hackberry Creek Village Phase VI, Section 1 7.252 acres 25 Lots | 94057/1946 |

and Area LXXI (71) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|----------------------------------|--------|------|
| Supplementary Declaration No. 71 | 84202 | 914 |
| Supplementary Declaration No. 4 | 89203 | 2259 |

6. Area LXXII (72): Being a 51.250 acre tract of land situated in the B.B.B. and C.R.R. Survey, Abstract No. 197, in the City of Irving, Dallas County, Texas and more particularly described by metes and bounds within that certain "Supplementary Declaration No. 72" filed and recorded in Volume 84202, Page 901 et seq. (particularly within pages 911-912) of the Deed Records of Dallas County, Texas. Some, but not all, of Area LXXII (72) has been platted as follows:

| Name of Plat | Plat Recording Data |
|--|---------------------|
| Final Plat Hackberry Creek Estates, Tract III - Phase I 26.6575 acres | 91196/4764 |

and Area LXXII (72) has been subjected to previously recorded restrictive covenants as follows:

| Instrument | Volume | Page |
|----------------------------------|--------|------|
| Supplementary Declaration No. 72 | 84202 | 901 |
| Supplementary Declaration No. 5 | 87203 | 4936 |

**Dallas County
John F. Warren
Dallas County Clerk**

Instrument Number: 202400226094

eRecording - Real Property

Recorded On: November 06, 2024 03:49 PM

Number of Pages: 53

" Examined and Charged as Follows: "

Total Recording: \$229.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 202400226094
Receipt Number: 20241106000788
Recorded Date/Time: November 06, 2024 03:49 PM
User: Tineka S
Station: Cc102

Record and Return To:

CSC Global



**STATE OF TEXAS
COUNTY OF DALLAS**

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Dallas County, Texas.

John F. Warren
Dallas County Clerk
Dallas County, TX

A handwritten signature in black ink, appearing to be "JFW", is written over the printed name of John F. Warren.