

**Kaufman County
Laura Hughes
County Clerk**
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**STATE OF TEXAS
COUNTY OF KAUFMAN**

I hereby certify that this instrument was filed on the date and time stamped hereon by me
and was duly recorded in the Official Public Records of Kaufman County, Texas.

Laura A. Hughes

Laura Hughes, County Clerk

Recorded By: Jennifer Holbrook, Deputy

**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.**

Record and Return To:

WINSTEAD PC - AUSTIN
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After Recording Return To:

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Winstead PC
401 Congress Ave., Suite 2100
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HIGHBRIDGE

CRANDALL + TEXAS

KINGSBOROUGH SOUTH DEVELOPMENT AREA
DECLARATION
[RESIDENTIAL]
HIGHBRIDGE

Kaufman County, Texas

DECLARANT: LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a
Texas limited partnership

Cross reference to (i) Kingsborough South Master Covenant [Residential], recorded as Document No. 2018-0011925 in the Official Public Records of Kaufman County, Texas, as the same may be amended; (ii) Kingsborough South Community Enhancement Covenants [Residential], recorded as Document No. 2018-0021457 in the Official Public Records of Kaufman County, Texas, as the same may be amended; and (iii) Partial Assignment of Declarant Rights, recorded as Document No. 2018-0021458 in the Official Public Records of Kaufman County, Texas.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS	2
ARTICLE 2 USE RESTRICTIONS	4
2.1 Single Family Use Restrictions	4
2.2 Rentals	5
2.3 Rubbish and Debris	5
2.4 Trash Containers	5
2.5 Unsightly Articles; Vehicles	6
2.6 Outside Burning	6
2.7 Subdividing	6
2.8 Hazardous Activities	6
2.9 Noise	7
2.10 Animals - Household Pets	7
2.11 Maintenance	7
2.12 Antennas	8
2.13 Location of Permitted Antennas	9
2.14 Signs	9
2.15 Flags	10
2.16 Tanks	12
2.17 Temporary Structures	12
2.18 Outside Storage Buildings	12
2.19 Mobile Homes, Travel Trailers and Recreational Vehicles	12
2.20 Basketball Goals; Permanent and Portable	12
2.21 Party Walls	13
2.22 Playscapes and Sports Courts	14
2.23 Decorations and Lighting	14
2.24 Water Quality Facilities, Drainage Facilities and Drainage Ponds	15
2.25 No Warranty of Enforceability	15
2.26 Owner's Obligation to Maintain Street Landscape	15
2.27 Compliance with Documents and Highbridge Documents	16
2.28 Insurance Rates	17
2.29 Mining and Drilling	17
2.30 Release	17
2.31 Notice of Development Agreement	18
ARTICLE 3 HIGHBRIDGE HOMEOWNERS ASSOCIATION, INC.	18
3.1 Organization	18
3.2 Membership	18
3.3 Governance	18

TABLE OF CONTENTS (Continued)

	<u>Page</u>
3.4 Voting.....	19
3.5 Voting Allocation.....	19
3.6 Powers	20
3.7 Indemnification	22
3.8 Insurance.....	23
3.9 Bulk Rate Contracts	23
3.10 Protection of Declarant's Interests	24
3.11 Right of Action by Highbridge Association or Master Association.....	24
ARTICLE 4 CONSTRUCTION RESTRICTIONS	24
4.1 Construction of Improvements.....	24
4.2 Utility Lines.....	25
4.3 Garages.....	25
4.4 Clotheslines; Window Air Conditioners	25
4.5 Fences	25
4.6 Driveways	25
4.7 Roofing.....	25
4.8 HVAC Location.....	26
4.9 Solar Energy Device.....	26
4.10 Rainwater Harvesting Systems.....	27
4.11 Xeriscaping.....	29
4.12 Flood Zone.....	30
ARTICLE 5 COVENANT FOR HIGHBRIDGE ASSESSMENTS	30
5.1 Purpose of Highbridge Assessments.....	30
5.2 Highbridge Assessments	31
5.3 Maintenance Fund	31
5.4 Regular Highbridge Assessments.....	31
5.5 Highbridge Working Capital Assessment	32
5.6 Special Highbridge Assessments	33
5.7 Individual Highbridge Assessments.....	33
5.8 Amount of Assessment	33
5.9 Late Charges	34
5.10 Owner's Personal Obligation for Payment of Highbridge Assessments	34
5.11 Highbridge Assessment Lien and Foreclosure	34
5.12 Exempt Property	36
5.13 Fines and Damages Highbridge Assessment	36
5.14 Collection of Master Assessments Levied Pursuant to the Covenant.....	37
5.15 Lien Rights under the Covenant	37
ARTICLE 6 DEVELOPMENT	37

TABLE OF CONTENTS (Continued)

	<u>Page</u>
6.1 Notice of Applicability.....	37
6.2 Withdrawal of Land.....	38
6.3 Assignment of Declarant's Rights	38
6.4 Disputes	38
ARTICLE 7 GENERAL PROVISIONS	39
7.1 Term.....	39
7.2 Amendment.....	39
7.3 Interpretation	40
7.4 Gender.....	40
7.5 Enforcement and Non-waiver.....	40
7.6 Severability	40
7.7 Captions	40
7.8 Conflicts.....	40
7.9 Higher Authority	41
7.10 Acceptance by Owners	41
ARTICLE 8 DISPUTE RESOLUTION	41
8.1 Introduction and Definitions.....	41
8.2 Mandatory Procedures	42
8.3 Claim Affecting Common Areas	42
8.4 Claim by Lot Owners.....	47
8.5 Notice.....	48
8.6 Negotiation.....	48
8.7 Mediation.....	49
8.8 Binding Arbitration-Claims	49
8.9 Allocation of Costs.....	51
8.10 General Provisions.....	51
8.12 Funding the Resolution of Claims.....	52

KINGSBOROUGH SOUTH

DEVELOPMENT AREA DECLARATION

[RESIDENTIAL]

(HIGHBRIDGE)

This Development Area Declaration for Kingsborough South [Residential] (Highbridge) (this "Development Area Declaration") is made by **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.**, a Texas limited partnership (the "Declarant"), and is as follows:

RECITALS:

A. JLM 786 Kaufman County, LLC, a Texas limited liability company ("JLM"), previously Recorded that certain Kingsborough South Master Covenant, recorded as Document No. 2018-0011925 in the Official Public Records of Kaufman County, as amended (the "Covenant").

B. JLM assigned, transferred and conveyed certain of its rights as 'Declarant' under the Master Covenant to Declarant pursuant to that certain Partial Assignment of Declarant Rights, dated August 24, 2018 and recorded as Document No. 2018-0021458 in the Official Public Records of Kaufman County, Texas.

C. Pursuant to the Covenant, Declarant served notice that portions of the Property may be made subject to one or more Development Area Declarations upon the Recording of one or more Notices of Applicability in accordance with *Section 9.5* of the Covenant, and once such Notices of Applicability have been Recorded, the portions of the Property described therein will constitute the Development Area and will be governed by and fully subject to this Development Area Declaration in addition to the Covenant.

A Development Area is a portion of Kingsborough South which is subject to the terms and provisions of the Covenant. A Development Area Declaration includes specific restrictions which apply to the Development Area, in addition to the terms and provisions of the Covenant.

D. Upon the further Recording of one or more Notices of Applicability, portions of the Property identified in such notice or notices will be subject to the terms and provisions of this Development Area Declaration. The Property made subject to the terms and provisions of this Development Area Declaration will be referred to herein as the "Development Area."

NOW, THEREFORE, it is hereby declared: (i) those portions of the Property as and when made subject to this Development Area Declaration by the filing of a Notice of

KINGSBOROUGH SOUTH
DEVELOPMENT AREA DECLARATION [RESIDENTIAL]
[HIGHBRIDGE]

Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; (ii) each contract or deed conveying those portions of the Property which are made subject to this Development Area Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Development Area Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Covenant.

ARTICLE 1 DEFINITIONS

Capitalized terms used but not defined in this Development Area Declaration shall have the meaning subscribed to such term in the Covenant. Unless the context otherwise specifies or requires, all other capitalized terms when used in this Development Area Declaration shall have the following meanings:

"Highbridge Assessments" means assessments the Highbridge Association may impose under this Development Area Declaration.

"Highbridge Association" means the Highbridge Homeowners Association, Inc., a Texas non-profit corporation, which will be created by the Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Development Area Declaration. The failure of the Highbridge Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Highbridge Association, which derives its authority from this Development Area Declaration, the Covenant, the Highbridge Certificate, the Highbridge Bylaws, and Applicable Law.

"Highbridge Board" means the Board of Directors of the Highbridge Association.

"Highbridge Bylaws" means the Bylaws of the Highbridge Association as adopted and as amended from time to time.

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

"Highbridge Community Manual" means the community manual, which may be initially adopted by the Declarant or the Highbridge Board and Recorded as part of the initial project documentation for the benefit of the Highbridge Association. The Highbridge Community Manual may include the Highbridge Bylaws, Highbridge Rules and other policies

governing the Highbridge Association. The Highbridge Community Manual may be amended or supplemented, from time to time, by the Declarant during the Development Period. Upon expiration or termination of the Development Period, the Highbridge Community Manual may be amended by a Majority of the Highbridge Board.

"Highbridge Documents" means, singularly or collectively, as the case may be, this Development Area Declaration, the Highbridge Certificate, Highbridge Bylaws, the Highbridge Community Manual, as each may be amended from time to time, and any Highbridge Rules promulgated by the Declarant or Highbridge Association, as applicable, pursuant to this Development Area Declaration, as adopted and amended from time to time.

"Highbridge Members" means every person or entity that holds membership privileges in the Highbridge Association.

"Highbridge Rules" means any instrument, however denominated, which the Declarant may adopt as part of the Highbridge Community Manual, or the Highbridge Board may subsequently adopt for the regulation and management of the Development Area, including any amendments to those instruments. Until expiration or termination of the Development Period, the Declarant must approve any amendment to the Highbridge Rules.

"Master Assessments" means any assessment levied by the Master Association, pursuant to the Covenant or other Applicable Law.

"Master Association" means the Kingsborough South Community Association, Inc., a Texas non-profit corporation.

"Master Board" means the Board of Directors of the Master Association.

"Maximum Number of Lots" means the maximum number of Lots that may be created and made subject to the terms and provisions of the Development Area Declaration. The Maximum Number of Lots for the purpose of the Development Area Declaration is seven hundred and fifty (750). Until expiration or termination of the Development Period, Declarant may unilaterally increase or decrease the Maximum Number of Lots by Recorded written instrument.

"Rainwater Harvesting System" means one or more rain barrels, tanks, or rainwater harvesting systems used to collect and store rainwater runoff from roofs or downspouts for later reuse.

"Solar Energy Device" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

Any other capitalized terms used but not defined in this Development Area Declaration will have the meanings given to such terms in the Covenant.

ARTICLE 2 USE RESTRICTIONS

All of the Development Area will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.1 Single Family Use Restrictions. The Development Area shall be used solely for single-family residential purposes. The Development Area may not be used for any other purposes without the prior written consent of the Declarant, which consent may be withheld by the Declarant in its sole and absolute discretion.

No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Development Area, except an Owner or Occupant may conduct business activities within a residence so long as: (i) such activity complies with Applicable Law; (ii) participation in the business activity is limited to the Owner(s) or Occupant(s) of a residence; (iii) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business within the Development Area, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Development Area; (v) the business does not, in the Highbridge Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Development Area which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Development Area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Development Area as may be determined in the sole discretion of the Highbridge Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the residence nor the Lot will be considered open to the public. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required. Leasing of a residence shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

Notwithstanding any provision in this Development Area Declaration to the contrary, until the expiration or termination of the Development Period:

(i) Declarant and/or its licensees may construct and maintain upon portions of the Common Area, the Special Common Area, any Lot, or any portion of the Property owned by the Declarant such facilities and may conduct such activities which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single family residences constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its assignees shall have an easement over and across the Common Area and the Special Common Area for access and use of such facilities at no charge; and

(ii) Declarant and/or its licensees will have an access easement over and across the Common Area and the Special Common Area for the purpose of making, constructing and installing Improvements upon the Common Area and the Special Common Area.

2.2 Rentals. Nothing in this Development Area Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all rentals must be for terms of at least six (6) months. All leases shall be in writing and shall provide that the lessee and all Occupants of the leased Lot and the Improvements thereon shall be bound by the terms of the Documents and the Highbridge Documents. The Owner must provide to its lessee copies of the Documents and the Highbridge Documents and obtain written acknowledgement from lessee of the receipt of same. Notice of any lease, together with the name(s), age(s), email address, and phone number(s) of all Occupants and such additional information as may be required by the Highbridge Board, shall be remitted to the Highbridge Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. All leases must be for the entire residence. The Declarant, until the expiration or termination of the Development Period, and the Highbridge Board thereafter, may adopt Highbridge Rules related to the leasing of Lots and Improvements thereon.

2.3 Rubbish and Debris. As determined by the Kingsborough South Reviewer, no rubbish or debris of any kind may be placed or permitted to accumulate on or within the Development Area, and no odors will be permitted to arise therefrom so as to render all or any portion of the Development Area unsanitary, unsightly, offensive, or detrimental to any other property or Occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Highbridge Association.

2.4 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations: (i) inside the garage of the residence constructed on the Lot; or (ii) behind the single-family residence, retaining wall, or fence constructed on the Lot, or concealed

by landscaping, in such a manner that the trash container and recycling bin is not visible from any street, alley or adjacent Lot.

2.5 Unsightly Articles; Vehicles. No article deemed to be unsightly by the Highbridge Board will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden maintenance equipment shall be kept at all times except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash must be kept, stored, or allowed to accumulate on any portion of the Development Area except within enclosed structures or appropriately screened from view. No racing vehicles or any other vehicles (including, without limitation, motorcycles or motor scooters) that are inoperable or do not have a current license tag may be visible on any Lot or may be parked on any roadway within the Development Area. Motorcycles must be operated in a quiet manner.

Parking of commercial vehicles or equipment, recreational vehicles, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than: (i) in enclosed garages; and (ii) behind a fence so as to not be visible from any other portion of the Development Area is prohibited; provided, construction, service and delivery vehicles may be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a residence.

2.6 Outside Burning. No exterior fires are permitted with the exception of barbecues, outside fireplaces, braziers and incinerator fires that are contained within facilities or receptacles and in areas designated and approved by the Kingsborough South Reviewer. No Owner may permit any condition upon its portion of the Development Area which creates a fire hazard or violates Applicable Law.

2.7 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Kingsborough South Reviewer; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Kingsborough South Reviewer.

2.8 Hazardous Activities. No activities may be conducted on or within the Development Area and no Improvements may be constructed on or within any portion of the Development Area which, in the opinion of the Highbridge Board, are or might be unsafe or

hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Development Area unless discharged in conjunction with an event approved in advance by the Kingsborough South Reviewer and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Development Area may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.9 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its Residents.

2.10 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Development Area (as used in this paragraph, the term "domestic household pet" does not mean or include non-traditional pets such as pot-bellied pigs, miniature horses, chickens, exotic snakes or lizards, ferrets, monkeys or other exotic animals). The Highbridge Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner or Occupant may keep on a Lot more than three (3) cats and dogs, in the aggregate, without prior written consent of the Highbridge Board. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Development Area other than within the residence, or the fenced yard space associated therewith, unless confined to a leash. The Highbridge Board may restrict pets to certain areas on the Development Area. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Development Area, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside areas of the Lot. All pet waste will be removed and appropriately disposed of by the owner of the pet in a timely manner. All pets must be registered, licensed and inoculated as required by Applicable Law. All pets not confined to a residence must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. If, in the opinion of the Highbridge Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Development Area.

2.11 Maintenance. The Owners of each Lot will jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. The Highbridge Board, in its sole discretion, will determine whether a

violation of the maintenance obligations set forth in this Section has occurred. Such maintenance includes, but is not limited to the following, which must be performed in a timely manner, as determined by the Highbridge Board, in its sole discretion:

- (i) Prompt removal of all litter, trash, refuse, and wastes.
- (ii) Lawn mowing and edging.
- (iii) Tree and shrub pruning.
- (iv) Watering of lawn and landscaping.
- (v) Keeping exterior lighting and mechanical facilities in working order.
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (vii) Keeping planting beds free of turf grass.
- (viii) Keeping sidewalks and driveways in good repair.
- (ix) Complying with Applicable Law.
- (x) Repainting of Improvements.
- (xi) Repair of exterior damage, and wear and tear to Improvements.

2.12 Antennas. Except as expressly provided below, no exterior radio or television antennas or aerial or satellite dish or disc, nor any Solar Energy Device, may be erected, maintained or placed on a Lot without the prior written approval of the Kingsborough South Reviewer; provided, however, that:

- (i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or
- (ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
- (iii) an antenna that is designed to receive television broadcast signals;

(collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**") may be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Kingsborough South Reviewer, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Mater Association will have the right, but not the obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development Area.

2.13 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot. Neither the Permitted Antenna nor any of its equipment may encroach upon any street, easement, Common Area, Special Common Area, or any other portion of the Development Area. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Development Area, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Kingsborough South Reviewer are as follows:

- (i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then
- (ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Kingsborough South Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, *e.g.*, DirecTV or Dish satellite dishes, are permitted; **HOWEVER**, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Kingsborough South Reviewer from time to time. Please contact the Kingsborough South Reviewer for the current rules regarding installation and placement.

2.14 Signs. Unless otherwise permitted by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the Kingsborough South Reviewer, except for:

- (i) signs which are expressly permitted pursuant to the Design Guidelines or Rules and Regulations;

(ii) signs which are part of Declarant or Homebuilder's overall marketing, sale, or construction plans or activities for the Property;

(iii) one (1) temporary "For Sale" sign placed on the Lot. The sign must be professionally made and shall be limited to a maximum face area of five (5) square feet on each visible side and, if free standing, is mounted on a single or frame post. The overall height of the sign from the finished grade of the Lot at the spot where the sign is located may not exceed four (4) feet. The sign must be removed within two (2) business days following the sale of the Lot;

(iv) candidate or measure signs may be erected provided the sign: (a) is erected no earlier than the 90th day before the date of the election to which the sign relates; (b) is removed no later than the 10th day after the date of the election to which the sign relates; and (c) is ground-mounted. Only one sign may be erected for each candidate or measure. In addition, signs which include any of the components or characteristics described in Section 202.009(c) of the Texas Property Code are prohibited;

(v) a religious item on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame), provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches;

(vi) permits as may be required by legal proceedings;

(vii) permits as may be required by any governmental entity; and

(viii) a "no soliciting" and/or a "security warning" sign near or on the front door of a residence, provided that the sign may not exceed twenty-five (25) square inches.

No "For Rent" or "For Lease" or similar sign advertising a Lot for lease may be placed on any Lot or any portion of the Development Area without the prior written consent of the Kingsborough South Reviewer.

2.15 Flags. Owners are permitted to display certain flags on the Owner's Lot, as further set forth below.

2.15.1 Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university ("**Permitted Flag**") and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence

("Permitted Flagpole"). Only two (2) Permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Kingsborough South Reviewer. Approval by the Kingsborough South Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot ("**Freestanding Flagpole**").

2.15.2 Installation and Display. Unless otherwise approved in advance and in writing by the Kingsborough South Reviewer, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Highbridge Documents, must comply with the following:

- (i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;
- (ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;
- (iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3' x 5');
- (iv) The flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;
- (v) The display of a flag, or the location and construction of the flagpole must comply with Applicable Law, easements and setbacks of record;
- (vi) Any flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;
- (vii) A flag or a flagpole must be maintained in good condition and any deteriorated flag or deteriorated or structurally unsafe flagpole must be repaired, replaced or removed;
- (viii) Any flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which will not be aimed towards or directly affect any neighboring Lot. Such illumination will also comply with the outdoor lighting restrictions set forth in the Documents and the Highbridge Documents; and

(ix) Any external halyard of a flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the flagpole.

2.16 Tanks. The Kingsborough South Reviewer must approve any tank used or proposed in connection with a residence, including tanks for storage of fuel, water, oil, or liquid petroleum gas (LPG), and including swimming pool filter tanks. No elevated tanks of any kind may be erected, placed or permitted on any Lot within the Development Area without the advance written approval of the Kingsborough South Reviewer. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Kingsborough South Reviewer. This provision will not apply to a tank used to operate a standard residential gas grills, nor will it apply to barrels used as part of a Rainwater Harvesting Systems with a capacity of less than 50 gallons, so long as such barrels are actively being used for rainwater collection and storage.

2.17 Temporary Structures. No tent, shack, or other temporary building, Improvement, or structure must be placed upon the Development Area without the prior written approval of the Kingsborough South Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant, approval to include the nature, size, duration, and location of such structure.

2.18 Outside Storage Buildings. Outside storage buildings located in a fenced rear yard of a Lot are allowed with the prior written approval of the Kingsborough South Reviewer. One (1) permanent storage building will be permitted if: (i) the surface area of the pad on which the storage building is constructed is no more than one hundred (100) square feet; (ii) the height of the storage building, measured from the surface of the Lot, is no more than eight (8) feet; (iii) the exterior of the storage building is constructed of the same or substantially similar materials and of the same color as the principal residential structure constructed on the Lot; (iv) the roof of the storage building is the same material and color as the roof of the principal residential structure constructed on the Lot; and (v) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation.

2.19 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes, travel trailers or recreational vehicles may be parked or placed on any street, right of way, Lot or used as a residence, either temporary or permanent, at any time. However, such vehicles may be parked temporarily for a period not to exceed seventy-two (72) consecutive hours during each two (2) month period. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Kingsborough South Reviewer or allowed pursuant to *Section 9.2* of the Covenant will be permitted.

2.20 Basketball Goals; Permanent and Portable. Permanent basketball goals are permitted in the front of the residence on a Lot provided the basketball goal is located approximately twenty feet (20') from the street curb. Permanent basketball goals are not

permitted in any street right-of-way. The basketball goal backboard must be perpendicular to the street and mounted on a black metal pole permanently installed in the ground. Portable basketball goals are permitted but must be stored in the rear of the Lot or inside the garage from sundown to sunrise. Portable basketball goals are not permitted in any street right-of-way. Basketball goals must be properly maintained and painted, with the net in good repair. All basketball goals, whether permanent or portable, must be approved by the Kingsborough South Reviewer prior to being placed on any Lot.

2.21 Party Walls. A fence or wall located on or near the dividing line between two (2) Lots and intended to benefit both Lots constitutes a “Party Wall”. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions will apply thereto. Party Walls will also be subject to the following:

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

2.21.2 Right to Repair. If the Party Wall is damaged or destroyed from any cause, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition, and the other Owner or Owners that the wall serves will thereafter contribute to the cost of restoration thereof in equal proportions without prejudice, subject however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions. The Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall. No Party Wall may be constructed, repaired, or rebuilt without the advance written approval of the Kingsborough South Reviewer in accordance with *Article 6* of the Covenant.

2.21.3 Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Official Public Records of Kaufman County, Texas, and has the right to foreclose the lien as if it were a mechanic’s lien. The right of an Owner to require

contribution from another Owner under this Section is appurtenant to the Lot and passes to the Owner's successors in title.

2.21.4 Alterations. The Owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the adjoining Lot. The Party Wall will always remain in the same location as when erected unless otherwise approved by the Owner of each Lot sharing the Party Wall and the Kingsborough South Reviewer.

2.21.5 Dispute Resolution. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section (the "**Dispute**"), the parties must submit the Dispute to mediation. Should the parties be unable to agree on a mediator within ten (10) days after written request therefore by the Highbridge Board, the Highbridge Board will appoint a mediator. If the Dispute is not resolved by mediation, the Dispute will be resolved by binding arbitration. Either party may initiate the arbitration. Should the parties be unable to agree on an arbitrator within ten (10) days after written request therefore by the Highbridge Board, the Highbridge Board will appoint an arbitrator. The decision of the arbitrator will be binding upon the parties and will be in lieu of any right of legal action that either party may have against the other. In the event an Owner fails to properly and on a timely basis (both standards to be determined by the Highbridge Board in the Highbridge Board's sole and absolute discretion) implement the decision of the mediator or arbitrator, as applicable, the Highbridge Board may implement said mediator's or arbitrator's decision, as applicable. If the Highbridge Board implements the mediator's or arbitrator's decision on behalf of an Owner, the Owner otherwise responsible therefor will be personally liable to the Highbridge Association for the cost of obtaining the all costs and expenses incurred by the Highbridge Association in conjunction therewith. If such Owner fails to pay such costs and expenses upon demand by the Highbridge Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot hereunder will be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s).

2.22 Playscapes and Sports Courts. Playscapes and sport courts are permissible at the sole discretion of the Kingsborough South Reviewer. If allowed, these facilities must be properly sited and screened so as to minimize the visual and audio impact of the facility on adjacent properties. Sport courts may not be lighted or enclosed with netting. Tennis courts are not permitted.

2.23 Decorations and Lighting. Unless otherwise permitted by *Section 2.14(v)*, no decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or any other

portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the Kingsborough South Reviewer. Customary seasonal decorations for holidays are permitted without approval by the Kingsborough South Reviewer but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any street unless otherwise approved by the Kingsborough South Reviewer.

2.24 Water Quality Facilities, Drainage Facilities and Drainage Ponds. The Development Area may include one or more water treatment plant, waste water treatment plant, water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Development Area and are inspected, maintained and administered by the Highbridge Association in accordance with all Applicable Law. Access to these facilities and ponds is limited to persons engaged by the Highbridge Association to periodically maintain such facilities. Each Owner is advised that the water treatment plant, waste water treatment plant, water quality facilities, sedimentation, drainage and detention facilities, and ponds are an active utility feature integral to the proper operation of the Development Area and may periodically hold standing water. Each Owner is advised that entry into the water treatment plant, waste water treatment plant, water quality facilities, sedimentation, drainage and detention facilities, or ponds may result in injury and is a violation of the Highbridge Rules.

2.25 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of the Documents or the Highbridge Documents. Any Owner acquiring a Lot in reliance on one or more of the Documents or the Highbridge Documents will assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

2.26 Owner's Obligation to Maintain Street Landscape. Each Owner will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the edge of the pavement of any adjacent public right-of-way, street or alley (the "**ST Landscape Area**") unless the responsibility for maintaining the ST Landscape Area or any portion thereof has been assumed by the Association, in the Highbridge Board's sole discretion, in a Recorded written instrument identifying all or any portion of the ST Landscape Area to be maintained (the "**Association Landscape Area**"). If the Association assumes such responsibility as set forth herein, Owner may neither perform any maintenance in the Association Landscape Area nor construct any Improvements therein. Otherwise specifically, and not by way of limitation, each Owner, at such Owner's sole cost and expense, will be required to maintain, irrigate and replace any trees located within the ST Landscape Area. No landscaping, including trees, may be removed from or installed within the ST Landscape Area without the advance written consent of the Highbridge Board. In the event an Owner fails to properly and on a timely basis (both standards to be determined by the Highbridge Board in the Highbridge Board's sole and

absolute discretion) mow, replace, prune, and/or irrigate any landscaping, including trees, in such Owner's ST Landscape Area, such failure will constitute a violation of the Documents and the Highbridge Documents and the Highbridge Board may cause such landscaping, including trees, to be mowed, replaced, pruned and/or irrigated in a manner determined by the Highbridge Board, in its sole and absolute discretion. If the Highbridge Board causes such landscaping, including trees, to be mowed, replaced, pruned and irrigated, the Owner otherwise responsible therefor will be personally liable to the Association for all costs and expenses incurred by the Association for effecting such work. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1½%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot hereunder will be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **EACH OWNER AND OCCUPANT WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION INCLUDING ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

2.27 Compliance with Documents and Highbridge Documents. Each Owner, his or her family, occupants of a Lot, and the Owner's tenants, guests, invitees, and licensees will comply strictly with the provisions of the Documents and the Highbridge Documents as the same may be amended from time to time. Failure to comply with any of the Documents or the Highbridge Documents will constitute a violation of thereof and may result in a fine against the Owner in accordance with *Section 5.14* of the Covenant, and will give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Master Board on behalf of the Master Association, the Highbridge Board on behalf of the Highbridge Association, the Kingsborough South Reviewer, or by an aggrieved Owner. Without limiting any rights or powers of the Association, the Master Board, the Highbridge Board or the Kingsborough South Reviewer may (but neither will be obligated to) remedy or attempt to remedy any violation of any of the provisions of Documents and/or the Highbridge Documents (as applicable), and the Owner whose violation has been so remedied will be personally liable to the Master Association or Highbridge Association (as applicable) for all

costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Master Association or Highbridge Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one half percent (1½%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot will be secured by the liens reserved in this Development Area Declaration and/or the Covenant for Assessments and may be collected by any means provided in this Development Area Declaration and/or the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner will release and hold harmless the Master Association and Highbridge Association and its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Master Association or Highbridge Association's acts or activities under this Section (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Master Association or Highbridge Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Master Association or Highbridge Association's gross negligence or willful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

2.28 Insurance Rates. Nothing may be done or kept on the Development Area that would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area or Special Common Area, or the Improvements located thereon, without the prior written approval of the Highbridge Board.

2.29 Mining and Drilling. No portion of the Development Area or the Common Area may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements and/or the development of the Development Area or the Common Area by the Declarant. Furthermore, this provision will not be interpreted to prevent the drilling of water wells by the Declarant or otherwise approved in advance by the Kingsborough South Reviewer which are required to provide water to all or any portion of the Development Area. All water wells must also be approved in advance by the Kingsborough South Reviewer and any applicable regulatory authority.

2.30 Release. EACH OWNER HEREBY RELEASES AND HOLDS HARMLESS THE HIGHBRIDGE ASSOCIATION, MASTER ASSOCIATION, DECLARANT, THE KINGSBOROUGH SOUTH REVIEWER AND THEIR AFFILIATES, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR

THAT MAY ARISE BY REASON OF SUCH OWNER'S USE OF ANY COMMON AREA OR SPECIAL COMMON AREA.

None of the Master Association, Highbridge Association or Declarant will assume any responsibility or liability for any personal injury or property damage which is occasioned by use of any Common Area or Special Common Area, and in no circumstance will words or actions by the Master Association, Highbridge Association or Declarant constitute an implied or express representation or warranty regarding the fitness or condition of any Common Area or Special Common Area.

2.31 Notice of Development Agreement. Each Owner is hereby advised that the Development Area is subject to that certain Agreement of Standards of Development in ETJ by and between the City of Crandall and Heartland 1100 Investment Land GP, LLC (the "**Development Agreement**"). Pursuant to the terms and provisions of the Development Agreement, certain restrictions apply to the Development Area. Each Owner is advised to review the Development Agreement in its entirety prior to the construction or addition of any Improvement upon any portion of the Development Area. This Section 2.31 is not intended to describe or summarize the terms and provisions of the Development Agreement.

ARTICLE 3

HIGHBRIDGE HOMEOWNERS ASSOCIATION, INC.

3.1 Organization. The Highbridge Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas non-profit corporation. Neither the Highbridge Certificate nor the Highbridge Bylaws will, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with the Covenant or this Development Area Declaration.

3.2 Membership. Any person or entity, upon becoming an Owner, will automatically become a member of the Highbridge Association. Membership will be appurtenant to and will run with the ownership of the Lot that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot. Within thirty (30) days after acquiring legal title to a Lot, if requested by the Highbridge Board, an Owner must provide the Highbridge Association with: (1) a copy of the recorded deed by which the Owner has acquired title to the Lot; (2) the Owner's address, phone number, and driver's license number, if any; (3) any Mortgagee's name and address; and (4) the name and phone number of any Occupant other than the Owner.

3.3 Governance. The Highbridge Board will consist of at least three (3) persons elected at the annual meeting of the Highbridge Association, or at a special meeting called for such purpose. Notwithstanding the foregoing provision or any provision in the Highbridge Documents to the contrary, until one hundred and twenty (120) days after seventy-five

percent (75%) of the Maximum Number of Lots have been made subject to the terms and provisions of this Development Area Declaration and have been conveyed to Owners other than the Declarant or a Homebuilder, Declarant will appoint and remove all members of the Highbridge Board and officers of the Highbridge Association. Within one hundred and twenty (120) days after seventy-five percent (75%) of the Maximum Number of Lots have been made subject to the terms and provisions of this Development Area Declaration and have been conveyed to Owners other than the Declarant or a Homebuilder, the Board will call a meeting of members of the Highbridge Association for the purpose of electing one-third (1/3) of the Highbridge Board (the "Initial Member Election Meeting"), which Board member(s) must be elected by Owners other than the Declarant. The individuals elected to the Highbridge Board at the Initial Member Election Meeting shall be elected for a one (1) year term and shall serve until his or her successor is elected or he or she is replaced in accordance with the Highbridge Bylaws.

3.4 Voting. In any situation in which an Owner or Highbridge Member is entitled individually to exercise the vote allocated to such Owner's Lot, if there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners holding a Majority of the ownership interest in the Lot determine among themselves and advise the Secretary of the Highbridge Association in writing prior to the close of balloting. Any co-Owner may cast the vote for the Lot, and Majority agreement shall be conclusively presumed unless another co-Owner of the Lot protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of a majority agreement and if the vote is cast differently by co-Owners on a matter, the voting interest will be split proportionality between each co-Owner, e.g., if there are two co-Owners of a Lot which has been allocated one vote, and one co-Owner votes for the matter and the other co-Owner votes against the matter, each co-Owner will be allocated one-half (1/2) vote. If there are more than two co-Owners and the vote is not evenly split between co-Owners, the vote of a majority of the co-Owners will prevail for purposes of the matter to which the vote applies. In no event shall the vote for such Lot exceed the total votes to which such Lot is otherwise entitled pursuant to *Section 3.5*.

3.5 Voting Allocation. The number of votes which may be cast for election of members to the Highbridge Board (except as provided by *Section 3.3*) and on all other matters to be voted on by the Highbridge Members will be calculated as set forth below.

3.5.1 The Owner of each Lot will have one (1) vote for each Lot so owned.

3.5.2 In addition to the votes to which Declarant is entitled by reason of *Section 3.5.1*, for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

3.5.3 Declarant may cast votes allocated to the Declarant pursuant to this *Section 3.5*, shall be considered a Highbridge Member for the purpose of casting such votes, and need not own any portion of the Development Area as a pre-condition to exercising such votes.

3.6 Powers. The Highbridge Association will have the powers of a Texas non-profit corporation. It will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by the laws of Texas or this Development Area Declaration. Without in any way limiting the generality of the two preceding sentences, the Highbridge Board, acting on behalf of the Highbridge Association, will have the following powers at all times:

(i) Highbridge Rules, Highbridge Bylaws and Highbridge Community Manual. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such Highbridge Rules, Highbridge Bylaws and the Highbridge Community Manual not in conflict with the Covenant or this Development Area Declaration, as it deems proper, covering any and all aspects of the Development Area (including the operation, maintenance and preservation thereof) or the Highbridge Association. Any Highbridge Rules, and any modifications thereto to existing Highbridge Rules, Highbridge Bylaws or the Highbridge Community Manual, proposed by the Highbridge Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

(ii) Insurance. To obtain and maintain in effect, policies of insurance that, in the opinion of the Highbridge Board, are reasonably necessary or appropriate to carry out the Highbridge Association's functions.

(iii) Records. To keep books and records of the Highbridge Association's affairs, and to make such books and records, together with current copies of the Highbridge Documents available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(iv) Highbridge Assessments. To levy and collect Highbridge Assessments and to determine Highbridge Assessment Units, as provided in *Article 5* below.

(v) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon for the purpose of enforcing the Highbridge Documents or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Highbridge Documents. The

expense incurred by the Highbridge Association in connection with the entry upon any Lot or and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Highbridge Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Highbridge Assessments. The Highbridge Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Highbridge Documents. The Highbridge Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Highbridge Documents; provided, however, that the Highbridge Board will never be authorized to expend any Highbridge Association funds for the purpose of bringing suit against Declarant, or its successors or assigns. The Highbridge Association may not alter or demolish any Improvements on any Lot, in enforcing this Development Area Declaration before a judicial order authorizing such action has been obtained by the Highbridge Association, or before the written consent of the Owner(s) of the affected Lot(s) has been obtained. **EACH OWNER AND OCCUPANT HEREBY RELEASES AND HOLDS HARMLESS THE HIGHBRIDGE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE HIGHBRIDGE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 3.6(V) (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE HIGHBRIDGE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT TO THE EXTENT SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE HIGHBRIDGE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

(vi) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Highbridge Association.

(vii) Manager. To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Highbridge Association, including

its property, to the extent deemed advisable by the Highbridge Board. Additional personnel may be employed directly by the Highbridge Association or may be furnished by the Manager. To the extent permitted by Applicable Law, the Highbridge Board may delegate any other duties, powers and functions to the Manager. **THE HIGHBRIDGE MEMBERS HEREBY RELEASE THE HIGHBRIDGE ASSOCIATION AND THE MEMBERS OF THE HIGHBRIDGE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(viii) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, and all other utilities, services, repair and maintenance.

(ix) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Highbridge Association or the Highbridge Board is required or permitted to secure or to pay for pursuant to Applicable Law or under the terms of the Highbridge Documents or as determined by the Highbridge Board.

(x) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise. During the Development Period, all acquisitions and dispositions of the Highbridge Association hereunder must be approved in advance and in writing by the Declarant.

(xi) Authority with Respect to Development Area Declaration. To do any act, thing or deed that is necessary or desirable, in the judgment of the Highbridge Board, to implement, administer or enforce any of the Highbridge Documents. Any decision by the Highbridge Board to delay or defer the exercise of the power and authority granted by this Section 3.6 will not subsequently in any way limit, impair or affect ability of the Highbridge Board to exercise such power and authority.

3.7 Indemnification. To the fullest extent permitted by Applicable Law but without duplication of (and subject to) any rights or benefits arising under the Highbridge Certificate or Highbridge Bylaws, the Highbridge Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is, or was, a director, officer, committee member, employee, servant or agent of the Highbridge Association against expenses, including attorneys' fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Highbridge Board or a court of competent jurisdiction that he: (i) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Highbridge

Association; or (ii) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of nolo contendere or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Highbridge Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

3.8 Insurance. The Highbridge Board may purchase and maintain, at the expense of the Highbridge Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Highbridge Association against any liability asserted against such person or incurred by such person in their capacity as an director, officer, committee member, employee, servant or agent of the Highbridge Association, or arising out of the person's status as such, whether or not the Highbridge Association would have the power to indemnify the person against such liability or otherwise.

3.9 Bulk Rate Contracts. Without limitation on the generality of the Highbridge Association powers set out in *Section 3.6* hereinabove (except that during the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant), the Highbridge Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The Highbridge Association may enter into Bulk Rate Contracts with any service providers chosen by the Highbridge Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are the owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Highbridge Board may determine in its sole and absolute discretion. The Highbridge Association may, at its option and election, add the charges payable by such Owner under such Bulk Rate Contract to the Highbridge Assessments (Regular Highbridge Assessments or Individual Highbridge Assessments, as the case may be) against such Owner's Lot. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Highbridge Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Development Area Declaration with respect to the failure by such Owner to pay Highbridge Assessments, including without limitation the right to foreclose the lien against such Owner's Lot which is reserved under the terms and provisions of this Development Area Declaration. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Highbridge Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12-day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Highbridge Board deems appropriate, any utility service or other service provided at the cost of the Highbridge Association and not paid for by such Owner (or Occupant of such Owner's Lot) directly to the applicable service or utility provider. Such notice will consist of a

separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or Occupant of such Owner's Lot) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

3.10 Protection of Declarant's Interests. Despite any assumption of control of the Highbridge Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Highbridge Board is prohibited from taking any action which would discriminate against Declarant, or which would be detrimental to the sale of Lots owned by Declarant. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant. Unless otherwise agreed to in advance and in writing by the Declarant, the Highbridge Board will be required to continue the same level and quality of maintenance, operations and services as that provided immediately prior to assumption of control of the Highbridge Board by Owners other than Declarant until the expiration or termination of the Development Period.

3.11 Right of Action by Highbridge Association or Master Association. Neither the Highbridge Association nor the Master Association shall have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Owner (whether one or more); or (ii) pertaining to a Claim, as such term is defined in *Section 8.1(i)* below, relating to the design or construction of Improvements on a Lot. This *Section 3.11* may not be amended or modified without the written and acknowledged consent of the Declarant and Highbridge Members entitled to cast at least one hundred percent (100%) of the total number of votes of the Highbridge Association, which must be part of a Recorded amendment instrument.

ARTICLE 4 CONSTRUCTION RESTRICTIONS

4.1 Construction of Improvements. Unless prosecuted by the Declarant, no Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any portion of the Development Area unless placed, maintained, erected or constructed in accordance with Applicable Law and approved in advance and in writing by the Kingsborough South Reviewer in accordance with the Covenant. Pursuant to *Section 6.4* of the Covenant, the Kingsborough South Reviewer may adopt Design Guidelines applicable to the Development Area. If adopted, all Improvements must strictly comply with the requirements of the Design Guidelines unless a variance is obtained pursuant to the Covenant. The Design Guidelines may be supplemented, modified, amended, or restated by the Kingsborough South Reviewer as authorized by the Covenant.

4.2 Utility Lines. Unless otherwise approved by the Kingsborough South Reviewer, no sewer, drainage or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals including telephone, television, microwave or radio signals, shall be constructed, placed or maintained anywhere in or upon any portion of the Development Area other than within buildings or structures unless the same shall be contained in conduits or cables constructed, placed or maintained underground, concealed in or under buildings or other structures.

4.3 Garages. All garages, carports and other open automobile storage units must be approved in advance of construction by the Kingsborough South Reviewer. No garage may be permanently enclosed or otherwise used for habitation. The garage requirements for each residence are set forth in the Design Guidelines, if adopted.

4.4 Clotheslines; Window Air Conditioners. No clotheslines and no outdoor clothes drying or hanging shall be permitted within the Development Area, nor shall anything be hung, painted or displayed on the outside of the windows (or inside, if visible from the outside) or placed on the outside walls or outside surfaces of doors of any of the residence (except for customary seasonal decorations pursuant to *Section Error! Reference source not found.*3), and no awnings, canopies or shutters (except for those heretofore or hereinafter installed by Declarant or a Homebuilder) shall be affixed or placed upon the exterior walls or roofs of residences, or any part thereof, nor relocated or extended, without the prior written consent of the Kingsborough South Reviewer. Window air conditioners are prohibited.

4.5 Fences. No fence may be constructed on the Development Area without the prior written consent of the Kingsborough South Reviewer. All fences must strictly comply with the requirements of the Design Guidelines, if adopted, unless a variance is obtained pursuant to the Covenant.

4.6 Driveways. The design, construction material, and location of: (i) all driveways, and (ii) culverts incorporated into driveways for ditch or drainage crossings, must be approved by the Kingsborough South Reviewer. Each Owner will be responsible, at such Owner's sole cost and expense, for properly and on a timely basis (both standards to be determined by the Highbridge Board in the Highbridge Board's sole and absolute discretion) maintaining and repairing the driveway on such Owner's Lot.

4.7 Roofing. All roofing material must be approved in advance of construction by the Kingsborough South Reviewer. In addition, roofs of buildings may be constructed with "Energy Efficient Roofing" with the advance written approval of the Kingsborough South Reviewer. For the purpose of this Section, "Energy Efficient Roofing" means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities. The Kingsborough South Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i)

resemble the shingles used or otherwise authorized for use within the Development Area; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth in the Documents or the Highbridge Documents. In conjunction with any such approval process, the Owner should submit information which will enable the Kingsborough South Reviewer to confirm the criteria set forth in this Section. Any other type of roofing material will be permitted only with the advance written approval of the Kingsborough South Reviewer.

4.8 HVAC Location. No air-conditioning apparatus may be installed on the ground in front of a residence or on the roof of any residence, unless otherwise approved in advance by the Kingsborough South Reviewer. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of a residence or at any other location where it would be visible from any street, any other residence, Common Area, or Special Common Area. All HVAC units must be screened in a manner approved in advance by the Kingsborough South Reviewer, or as otherwise set forth in the Design Guidelines, if adopted.

4.9 Solar Energy Device. Solar Energy Devices may be installed with the advance written approval of the Kingsborough South Reviewer, or after the expiration or termination of the Development Period the ACC, in accordance with the procedures and requirements set forth below:

4.9.1 Application. To obtain approval of a Solar Energy Device, the Owner will provide the Kingsborough South Reviewer with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "Solar Application"). A Solar Application may only be submitted by an Owner. The Solar Application must be submitted in accordance with the provisions of *Article 6* of the Covenant.

4.9.2 Approval Process. The Kingsborough South Reviewer will review the Solar Application in accordance with the terms and provisions of *Article 6* of the Covenant. The Kingsborough South Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 4.9.3* below **UNLESS** the Kingsborough South Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 4.9.3*, creates a condition that substantially interferes with the use and enjoyment of property within the Development Area by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The Kingsborough South Reviewer's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Highbridge Association or property owned in common by Highbridge Members of the Highbridge Association must be approved in advance and in writing by the Highbridge Board,

and the Highbridge Board need not adhere to this *Section 4.9.2* when considering any such request.

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

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

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

4.10 Rainwater Harvesting Systems. Rainwater Harvesting Systems may be installed with the advance written approval of the Kingsborough South Reviewer.

4.10.1 Application. To obtain the Kingsborough South Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the Kingsborough South Reviewer with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "**Rainwater Harvesting System Application**"). A Rainwater Harvesting System Application may only be submitted by an Owner.

4.10.2 Approval Process. The decision of the Kingsborough South Reviewer will be made in accordance with *Article 6* of the Covenant. Any proposal to install a Rainwater Harvesting System on property owned by the Highbridge Association or property owned in common by Highbridge Members of the Highbridge Association must be approved in advance and in writing by the Highbridge Board, and the Highbridge Board need not adhere to this Section when considering any such request.

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

(i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the Kingsborough South Reviewer.

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

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

(iv) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the Kingsborough South Reviewer.

4.10.4 Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Kingsborough South Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rainwater Harvesting System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, Common Area, Special Common Area, or another Owner's Lot. When reviewing a Rainwater Harvesting System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, any additional requirements imposed by the Kingsborough South Reviewer to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the Kingsborough South Reviewer.

4.11 Xeriscaping. As part of the installation and maintenance of landscaping on an Owner's Lot, an Owner may submit plans for and install drought tolerant landscaping ("Xeriscaping") upon written approval by the Kingsborough South Reviewer. All Owners implementing Xeriscaping shall comply with the following:

4.11.1 Application. Approval by the Kingsborough South Reviewer is required prior to installing Xeriscaping. To obtain the approval of the Kingsborough South Reviewer for Xeriscaping, the Owner shall provide the Kingsborough South Reviewer with the following information: (i) the proposed site location of the Xeriscaping on the Owner's Lot; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered with gravel, rocks and cacti (the "**Xeriscaping Application**"). A Xeriscaping Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The Kingsborough South Reviewer is not responsible for: (i) errors or omissions in the Xeriscaping Application submitted to the Kingsborough South Reviewer for approval; (ii) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (iii) the compliance of an approved application with Applicable Law.

4.11.2 Approval Conditions. Unless otherwise approved in advance and in writing by the Kingsborough South Reviewer each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

(i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the Kingsborough South Reviewer. For purposes of this Section 4.11.2(i), "aesthetically compatible" will mean overall and long-term aesthetic compatibility within the community. For example, an Owner's Lot plan may be denied if the Kingsborough South Reviewer determines that: (A) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or (B) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property Owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner's Lot.

(ii) No Owners shall install gravel, rocks or cacti that in the aggregate encompass over ten percent (10%) of such Owner's front yard or ten percent (10%) of such Owner's back yard without advanced written approval of the Kingsborough South Reviewer.

(iii) The Xeriscaping may not attract diseases and insects that are harmful to the existing landscaping on neighboring Lots, as reasonably determined by the Kingsborough South Reviewer.

4.11.3 Process. The decision of the Kingsborough South Reviewer will be made within a reasonable time, or within the time period otherwise required by the principal deed restrictions which govern the review and approval of improvements. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association or property owned in common by members of the Highbridge Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Highbridge Association must be approved in advance and in writing by the Highbridge Board, and the Highbridge Board need not adhere to the requirements set forth in this *Section 4.11* when considering any such request.

4.11.4 Approval. Each Owner is advised that if the Xeriscaping Application is approved by the Kingsborough South Reviewer installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the Kingsborough South Reviewer may require the Owner to: (i) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (ii) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Covenant and may subject the Owner to fines and penalties. Any requirement imposed by the Kingsborough South Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application will be at the Owner's sole cost and expense.

4.12 Flood Zone. A portion of the Development Area lies within Flood Zone A (areas subject to inundation by the 1-percent-annual-chance flood event). No Improvements shall be placed within the floodway and any filling or other Improvements placed within Zone A shall require review and approval from the applicable governmental authority prior to construction of such Improvements or fill material being placed.

ARTICLE 5 COVENANT FOR HIGHBRIDGE ASSESSMENTS

5.1 Purpose of Highbridge Assessments. The Highbridge Association will use Highbridge Assessments for the general purposes of preserving and enhancing the Development Area, and for the benefit of Owners and Occupants, including but not limited to maintenance of real and personal property, management, and operation of the Highbridge Association, and any expense reasonably related to the purposes for which the Highbridge Association was formed. If made in good faith, the Highbridge Board's decision with respect to the use of Highbridge Assessments is final.

5.2 Highbridge Assessments.

5.2.1 Established by Highbridge Board. Highbridge Assessments established by the Highbridge Board pursuant to the provisions of this *Article 5* will be levied against each Lot in amounts determined pursuant to *Section 5.8* below. The total amount of Highbridge Assessments will be determined by the Highbridge Board in accordance with the terms of this *Article 5*.

5.2.2 Personal Obligation; Lien. Each Highbridge Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot against which the Highbridge Assessment is levied and will be secured by a lien hereby granted and conveyed by Declarant to the Highbridge Association against each such Lot and all Improvements thereon (such lien, with respect to any Lot not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot is created). The Highbridge Association may enforce payment of such Highbridge Assessments in accordance with the provisions of this Article.

5.2.3 Declarant Subsidy. Declarant may, but is not obligated to, reduce Highbridge Assessments which would otherwise be levied against Lots for any fiscal year by the payment of a subsidy to the Highbridge Association. Any subsidy paid to the Highbridge Association by Declarant may be treated as a contribution or a loan, in Declarant's sole and absolute discretion. The payment of a subsidy in any given year will not obligate Declarant to continue payment of a subsidy to the Highbridge Association in future years.

5.2.4 Master Association. Each Lot is subject to the terms and provisions of the Covenant and accordingly, each Owner will also be a mandatory Member of the Master Association and be required to pay assessments to the Master Association in accordance with the Covenant.

5.3 Maintenance Fund. The Highbridge Board will establish a maintenance fund into which will be deposited all monies paid to the Highbridge Association and from which disbursements will be made in performing the functions of the Highbridge Association under this Development Area Declaration.

5.4 Regular Highbridge Assessments. Prior to the beginning of each fiscal year, the Highbridge Board will prepare a budget for the purpose of determining amounts sufficient to pay the estimated net expenses of the Highbridge Association (the "**Regular Highbridge Assessments**") which sets forth: (i) an estimate of the expenses to be incurred by the Highbridge Association during such year in performing its functions and exercising its powers under this Development Area Declaration, including, but not limited to, the cost of all management, repair and maintenance; and (ii) an estimate of the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and due consideration to any expected income and any surplus from the prior year's fund. Regular

Highbridge Assessments sufficient to pay such estimated net expenses will then be levied at the level set by the Highbridge Board in its sole and absolute discretion, and the Highbridge Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any Individual Highbridge Assessment by any Owner, the Highbridge Association may at any time, and from time to time, levy further Regular Highbridge Assessments in the same manner. All such Regular Highbridge Assessments will be due and payable to the Highbridge Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Highbridge Board may designate in its sole and absolute discretion.

5.5 Highbridge Working Capital Assessment. Each Owner (other than Declarant) of a Lot will pay a one-time working capital assessment (the "**Highbridge Working Capital Assessment**") to the Highbridge Association in such amount as may be determined by the Declarant, until expiration or termination of the Development Period, and the Highbridge Board thereafter. Such Highbridge Working Capital Assessment need not be uniform among all Lots, and the Declarant or the Highbridge Board, as applicable, is expressly authorized to establish Highbridge Working Capital Assessments of varying amounts depending on the size, use and general character of the Lots. The levy of any Highbridge Working Capital Assessment will be effective only upon the Recordation of a written notice, signed by Declarant or a duly authorized officer of the Highbridge Association, setting forth the amount of the Highbridge Working Capital Assessment and the Lots to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the Highbridge Working Capital Assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Highbridge Association's assessment lien; (ii) transfer to, from, or by the Highbridge Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent. Additionally, an Owner who (a) is a Homebuilder; or (b) acquires a Lot for the purpose of resale to a Homebuilder (a "**Development Owner**") will not be subject to the Highbridge Working Capital Assessment; however, the Highbridge Working Capital Assessment will be payable by any Owner who acquires a Lot from a Homebuilder or Development Owner for residential living purposes or by any Owner who: (I) acquires a Lot and is not in the business of constructing single-family residences for resale to a third party; or (II) who acquires the Lot for any purpose other than constructing a single-family residence thereon for resale to a third party. In the event of any dispute regarding the application of the Highbridge Working Capital Assessment to a particular Owner, the Declarant during the Development Period, and thereafter the Highbridge Board's, determination regarding the application of the exception will be binding and conclusive without regard to any contrary interpretation of this Section 5.5. The Highbridge Working Capital Assessment will be in addition to, not in lieu of, any other Highbridge Assessments levied in accordance with this Article 5 and will not be considered an advance payment of such Highbridge Assessments. The Highbridge Working Capital Assessment hereunder will be due and payable by the transferee

to the Highbridge Association immediately upon each transfer of title to the Lot, including upon transfer of title from one Owner of such Lot to any subsequent purchaser or transferee thereof. The Declarant during the Development Period, and thereafter the Highbridge Board, will have the power to waive the payment of any Highbridge Working Capital Assessment attributable to a Lot (or all Lots) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

5.6 Special Highbridge Assessments. In addition to the Regular Highbridge Assessments provided for above, the Highbridge Board may levy special Highbridge Assessments (the "**Special Highbridge Assessments**") whenever in the Highbridge Board's opinion such Special Highbridge Assessments are necessary to enable the Highbridge Board to carry out the functions of the Highbridge Association under the Highbridge Documents. The amount of any Special Highbridge Assessments will be at the reasonable discretion of the Highbridge Board.

5.7 Individual Highbridge Assessments. In addition to any other Highbridge Assessments, the Highbridge Board may levy an individual assessment (the "**Individual Highbridge Assessment**") against an Owner and the Owner's Lot. Individual Highbridge Assessments may include, but are not limited to, the following: (i) interest, late charges, and collection costs on delinquent Highbridge Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Lot into compliance with the Highbridge Documents; (iii) fines for violations of the Highbridge Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and project documents; and (vi) reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Occupants of the Owner's Lot.

5.8 Amount of Assessment.

5.8.1 Highbridge Assessments to be Levied. The Highbridge Board will levy Highbridge Assessments against each "**Highbridge Assessment Unit**" (as defined in Section 5.8.2 below). Unless otherwise provided in this Development Area Declaration, Highbridge Assessments levied pursuant to Section 5.4 and Section 5.6 will be levied uniformly against each Highbridge Assessment Unit.

5.8.2 Highbridge Assessment Unit. Each Lot will constitute one "**Highbridge Assessment Unit**" unless otherwise provided in Section 5.8.3.

5.8.3 Declarant Exemption. Notwithstanding anything in this Development Area Declaration to the contrary, no Highbridge Assessments will be levied upon Lots owned by Declarant.

5.8.4 Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Development Area or Lot from

Highbridge Assessments; (ii) delay the levy of Highbridge Assessments against any un-platted, unimproved or improved portion of the Development Area or Lot; or (iii) reduce the levy of Highbridge Assessments against any un-platted, unimproved or improved portion of the Development Area or Lot. In the event Declarant elects to delay or reduce Highbridge Assessments pursuant to this Section, the duration of the delay or the amount of the reduction will be set forth in a Recorded written instrument. Declarant may terminate, extend or modify any delay or reduction set forth in a previously Recorded instrument by the Recordation of a replacement instrument.

5.9 Late Charges. If any Highbridge Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Highbridge Board, at the Highbridge Board's election at any time and from time to time, to pay a late charge in such amount as the Highbridge Board may designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot owned by such Owner, collectible in the manner as provided for collection of Highbridge Assessments, including foreclosure of the lien against such Lot; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

5.10 Owner's Personal Obligation for Payment of Highbridge Assessments. Highbridge Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot against which are levied such Highbridge Assessments. No Owner may exempt himself from liability for such Highbridge Assessments. In the event of default in the payment of any such Highbridge Assessment, the Owner of the Lot will be obligated to pay interest on the amount of the Highbridge Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Highbridge Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1 and 1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

5.11 Highbridge Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this Article 5 is, together with late charges as provided in Section 5.9 and interest as provided in Section 5.10 hereof and all costs of collection, including attorney's fees as herein provided, are secured by the continuing Highbridge Assessment lien granted to the Highbridge Association pursuant to Section 5.2.2 above, and will bind each Lot in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot, except only for (i) tax and governmental assessment liens; (ii) liens for Master Assessments; and (iii) all sums secured by a first mortgage Recorded lien or Recorded first deed of trust lien, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot in question; provided that, in the case of subparagraph (iii) above, such Mortgage was Recorded, before the delinquent Highbridge Assessment was due. The Highbridge Association will have the power to subordinate the aforesaid Highbridge Assessment lien to any other lien. Such power will be entirely discretionary with the Highbridge Board, and such subordination may be signed by an officer of the Highbridge Association. The Highbridge Association may, at

its option and without prejudice to the priority or enforceability of the Highbridge Assessment lien granted hereunder, prepare a written notice of Highbridge Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot covered by such lien and a description of the Lot. Such notice may be signed by one of the officers of the Highbridge Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot subject to this Development Area Declaration will be deemed conclusively to have granted a power of sale to the Highbridge Association to secure and enforce the Highbridge Assessment lien granted hereunder. The Highbridge Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Highbridge Association may have pursuant to Applicable Law and this Development Area Declaration, including the rights of the Highbridge Association to institute suit against such Owner personally obligated to pay the Highbridge Assessment and/or for foreclosure of the aforesaid lien. In any foreclosure proceeding, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The Highbridge Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Highbridge Association will report to said Mortgagee any unpaid Highbridge Assessments remaining unpaid for longer than sixty (60) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot; except, however, that in the event of foreclosure of any lien superior to the Highbridge Assessment lien, the lien for any Highbridge Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Highbridge Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Highbridge Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this Section 5.11, the Highbridge Association will upon the request of the Owner execute a release of lien relating to any lien for which written notice has been filed as provided above, except in circumstances in which the Highbridge Association has already foreclosed such lien. Such release will be signed by an officer of the Highbridge Association. In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Highbridge Assessment and after the lapse of at least twelve (12) days since such payment was due, the Highbridge Association may, upon five (5) days' prior written notice (which may run concurrently with such 12 day period) to such Owner, in addition to all other rights and remedies available pursuant to Applicable Law, equity or otherwise, terminate, in such manner as the Highbridge Board deems appropriate, any utility or cable services, provided through the Highbridge Association and not paid for directly by an Owner or occupant to the utility or service provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Any

utility or cable service will not be disconnected or terminated on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot will not relieve the Owner of such Lot or such Owner's transferee from liability for any Highbridge Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot and on the date of such conveyance Highbridge Assessments against the Lot remain unpaid, or said Owner owes other sums or fees under this Development Area Declaration to the Highbridge Association, the Owner will pay such amounts to the Highbridge Association out of the sales price of the Lot, and such sums will be paid in preference to any other charges against the Lot other than liens superior to the Highbridge Assessment liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot which are due and unpaid. The Owner conveying such Lot will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot also assumes the obligation to pay such amounts. The Highbridge Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Highbridge Association's records upon the transfer of a Lot to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot from Declarant to a third party.

5.12 Exempt Property. The following area within the Development Area will be exempt from the Highbridge Assessments provided for in this Article:

- (i) All area dedicated and accepted by a public authority, by the Recordation of an appropriate document;
- (ii) The Common Area and the Special Common Area; and
- (iii) Any portion of the Development Area owned by Declarant.

5.13 Fines and Damages Highbridge Assessment.

5.13.1 Highbridge Board Assessment. The Highbridge Board may assess fines against an Owner for violations of the Highbridge Documents committed by such Owner, an Occupant or an Owner's or Occupant's guests, agents or invitees pursuant to the *Fine and Enforcement Policy* contained in the Highbridge Community Manual. Any fine and/or charge for damage levied in accordance with this Section 5.13 shall be considered an Individual Highbridge Assessment pursuant to this Development Area Declaration. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Highbridge Board may assess damage charges against an Owner for pecuniary loss to the Highbridge Association from property damage or destruction of any Improvements caused by the Owner, the Occupant or their guests, agents, or invitees. The Manager shall have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the Highbridge Documents and/or informing them of potential or

probable fines or damage assessments. The Highbridge Board may from time to time adopt a schedule of fines.

5.13.2 Lien Created. The payment of each fine and/or damage charge levied by the Highbridge Board against the Owner of a Lot is, together with interest as provided in *Section 5.10* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Highbridge Association pursuant to *Section 5.2.2* of this Development Area Declaration. The fine and/or damage charge shall be considered a Highbridge Assessment for the purpose of this Article and shall be enforced in accordance with the terms and provisions governing the enforcement of Highbridge Assessments pursuant to this Article.

5.14 Collection of Master Assessments Levied Pursuant to the Covenant. In accordance with the Covenant, unless the Master Association elects otherwise, the Highbridge Association will collect from each Owner the allocated share attributable to such Owner's Lot of Master Assessments. The Master Assessments shall be paid by each Owner of a Lot together with the Regular Highbridge Assessment levied hereunder by the Highbridge Association. If, for any reason, the Highbridge Association fails to collect the Master Assessments in conjunction with Regular Highbridge Assessments, then the Highbridge Association shall collect the Master Assessments from each Owner, and remit the Master Assessments to the Master Association in such manner as the Master Association may deem proper; provided, however, that, in any event, each Master Assessment will be remitted to the Master Association prior to the time when payment thereof is required by the terms and provisions of the Covenant.

5.15 Lien Rights under the Covenant. In addition to the lien rights granted to the Highbridge Association pursuant to the terms and provisions of this Development Area Declaration, in accordance with *Article 5* of the Covenant, each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Master Assessments in accordance with the terms and provisions of the Covenant. Each Master Assessment is a charge on the Lot and is secured by a continuing lien on the Lot as set forth in the Covenant. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing lien for Master Assessments attributable to a period prior to the date the Owner purchased his Lot. An express lien on each Lot has been granted and conveyed by the Declarant under the Covenant to the Master Association to secure the payment of the Master Assessments. Each Owner is advised to review the Covenant for more information concerning the liens granted to secure payment of the Master Assessments.

ARTICLE 6 DEVELOPMENT

6.1 Notice of Applicability. Upon Recording, this Development Area Declaration serves to provide notice that at any time, and from time to time, Declarant, and Declarant only,

may subject all or any portion of the Property to the terms, covenants, conditions, restrictions and obligations of this Development Area Declaration. This Development Area Declaration will apply to and burden a portion or portions of the Property upon the filing of a Notice of Applicability in accordance with *Section 9.5* of the Covenant describing such Property by a legally sufficient description and expressly providing that such Property will be subject to the terms, covenants conditions, restrictions and obligations of this Development Area Declaration. To add land to the Development Area, Declarant will be required only to Record a Notice of Applicability filed pursuant to *Section 9.5* of the Covenant containing the following provisions:

(i) A reference to this Development Area Declaration, which will include the recordation information thereof;

(ii) A statement that such land will be considered a part of the Development Area for purposes of this Development Area Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Development Area Declaration will apply to the added land; and

(iii) A legal description of the added land.

6.2 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw land from the Development Area and remove and exclude from the burden of this Development Area Declaration any portion of the Development Area. Upon any such withdrawal this Development Area Declaration and the covenants, conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development Area withdrawn. To withdraw lands from the Development Area hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

(i) A reference to this Development Area Declaration, which will include the recordation information thereof;

(ii) A statement that the provisions of this Development Area Declaration will no longer apply to the withdrawn land; and

(iii) A legal description of the withdrawn land.

6.3 Assignment of Declarant's Rights. Notwithstanding any provision in this Development Area Declaration to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Development Area Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

6.4 Disputes. If a dispute arises regarding the allocation of maintenance responsibilities by this Development Area Declaration, the dispute will be resolved by the

Highbridge Board, who shall delegate such maintenance responsibility to either the Association or the individual Owner(s), as determined by the Highbridge Board in its sole and absolute discretion.

ARTICLE 7 GENERAL PROVISIONS

7.1 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Development Area Declaration will run with and bind the portion of the Property described, in a Notice of Applicability Recorded pursuant to Section 9.5 of the Covenant or in any Recorded notice, and will inure to the benefit of and be enforceable by the Master Association, Highbridge Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Development Area Declaration is Recorded, and continuing through and including January 1, 2090, after which time this Development Area Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Highbridge Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Highbridge Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Highbridge Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the Recording of a certified copy of such resolution. The foregoing sentence will in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Highbridge Bylaws. Notwithstanding any provision in this Section to the contrary, if any provision of this Development Area Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living as of the date of the Recording of this document descendants of Elizabeth II, Queen of England.

7.2 Amendment. This Development Area Declaration may be amended or terminated by the Recording of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) by the president and secretary of the Highbridge Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period), Highbridge Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Highbridge Association, and the Master Board (after expiration or termination of the Development Period). The foregoing sentence will in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Highbridge Bylaws. No amendment will be effective without the written consent of Declarant during the Development Period.

7.3 **Interpretation.** The provisions of this Development Area Declaration will be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Development Area, provided, however, that the provisions of this Development Area Declaration will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Development Area. This Development Area Declaration will be construed and governed under the laws of the State of Texas.

7.4 **Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

7.5 **Enforcement and Non-waiver.** Except as otherwise provided herein, any Owner of Lot, at such Owner's own expense, Declarant, the Master Association and the Highbridge Association will have the right to enforce all of the provisions of this Development Area Declaration. The Master Association, Highbridge Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Development Area Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Highbridge Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant, the Master Association or the Highbridge Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Development Area is hereby declared to be a violation of this Development Area Declaration and subject to all of the enforcement procedures set forth herein. The failure to enforce any provision of the Highbridge Documents at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Highbridge Documents.

7.6 **Severability.** If any provision of this Development Area Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Development Area Declaration, or, to the extent permitted by applicable law, the validity of such provision as applied to any other person or entity.

7.7 **Captions.** All captions and titles used in this Development Area Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

7.8 **Conflicts.** If there is any conflict between the provisions of the Covenant, this Development Area Declaration, or any Highbridge Rules adopted pursuant to the terms of such documents, the provisions of the Covenant, then the Development Area Declaration, then the Highbridge Rules, in that order, will govern.

7.9 **Higher Authority.** The terms and provisions of this Development Area Declaration are subordinate to Applicable Law. Generally, the terms and provisions of this Development Area Declaration are enforceable to the extent they do not violate or conflict with Applicable Law.

7.10 **Acceptance by Owners.** Each Owner of a Lot or other real property interest in the Development Area, by the acceptance of a deed of conveyance, and each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Development Area Declaration or to whom this Development Area Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development Area, and will bind any person having at any time any interest or estate in the Development Area, and will inure to the benefit of each Owner in like manner as though the provisions of this Development Area Declaration were recited and stipulated at length in each and every deed of conveyance.

ARTICLE 8 DISPUTE RESOLUTION

This Article 8 is intended to encourage the resolution of disputes involving the Development Area. A dispute regarding the Lots, Common Area, and/or Improvements can create significant financial exposure for the Highbridge Association and the Highbridge Members, interfere with the resale and refinancing of Lots, and increase strife and tension among the Owners, the Highbridge Board and the Highbridge Association's management. Since disputes may have a direct effect on each Owner's use and enjoyment of their Lot and the Common Area, this Article 8 requires Owner transparency and participation in certain circumstances. Transparency means that the Owners are informed in advance about a dispute, the proposed arrangement between the Highbridge Association and a law firm or attorney who will represent the Highbridge Association in the dispute, and that each Owner will have an opportunity to participate in the decision-making process prior to initiating the dispute resolution process.

8.1 **Introduction and Definitions.** The Highbridge Association, the Owners, Declarant, Homebuilders, and all persons subject to this Development Area Declaration, and each person not otherwise subject to this Development Area Declaration who agrees to submit to this Article 8 by written instrument delivered to the Claimant, which may include, but is not limited to, a Homebuilder, a general contractor, sub-contractor, design professional, or other person who participated in the design or construction of Lots, Common Area or any Improvement within, serving or forming a part of the Development Area (individually, a "Party" and collectively, the "Parties") agree to encourage the amicable resolution of disputes

involving the Development Area and the Common Area to avoid the emotional and financial costs of litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined. Notwithstanding anything contained in this *Article 8*, any Claim brought by an Owner related to a residence that is subject to a warranty agreement provided by the Declarant or Homebuilder will not be subject to this *Article 8* and will be governed by the warranty agreement, unless the Parties agree to have the dispute governed by this *Article 8*. This *Article 8* may only be amended with the prior written approval of the Declarant, the Highbridge Association (acting through a Majority of the Highbridge Board), and Owners holding 100% of the votes in the Highbridge Association. As used in this Article only, the following words, when capitalized, have the following specified meanings:

(i) **"Claim"** means:

(A) Claims relating to the rights and/or duties of Declarant, the Highbridge Association, the Master Association or the Kingsborough South Reviewer, under the Highbridge Documents.

(B) Claims relating to the acts or omissions of the Declarant, the Highbridge Association or a Highbridge Board member or officer of the Highbridge Association during Declarant's control and administration of the Highbridge Association, and any claim asserted against the Kingsborough South Reviewer.

(C) Claims relating to the design or construction of the Common Area or any Improvements located within or on Common Area.

(ii) **"Claimant"** means any Party having a Claim against any other Party.

(iii) **"Respondent"** means any Party against which a Claim has been asserted by a Claimant.

8.2 Mandatory Procedures. Claimant may not initiate any proceeding before any judge, jury, arbitrator or any judicial or administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article. As provided in *Section 8.8* below, a Claim must be resolved by binding arbitration.

8.3 Claim Affecting Common Areas. In accordance with *Section 3.11* of this Development Area Declaration, the Highbridge Association does not have the power or right to institute, defend, intervene in, settle, or compromise litigation, arbitration or other proceedings: (i) in the name of or on behalf of any Lot Owner (whether one or more); or (ii) pertaining to a Claim, as defined in *Section 8.1* above, relating to the design or construction of Improvements on a Lot (whether one or more). Additionally, no Lot Owner shall have the power or right to

institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. Each Lot Owner, by accepting an interest in or to title to a Lot, hereby grants to the Highbridge Association the exclusive right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. In the event the Highbridge Association asserts a Claim related to the Common Area, as a precondition to providing the Notice defined in Section 8.5, initiating the mandatory dispute resolution procedures set forth in this Article 8, or taking any other action to prosecute a Claim related to the Common Area, the Highbridge Association must:

8.3.1 Obtain Owner Approval of Engagement.

The requirements related to Owner approval set forth in this Section 8.3.1 are intended to ensure that the Highbridge Association and the Owners approve and are fully informed of the financial arrangements between the Highbridge Association and a law firm or attorney engaged by the Highbridge Association to prosecute a Claim relating to the design or construction of the Common Area. The engagement agreement between the Highbridge Association and the law firm or attorney may include requirements that the Highbridge Association pay costs, fees, and expenses to the law firm or attorney which will be paid through Highbridge Assessments levied against Owners. The financial agreement between the Highbridge Association and the law firm or attorney may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Highbridge Association and the law firm or attorney is terminated or if the Highbridge Association agrees to settle the Claim. In addition, the financial arrangement between the Highbridge Association and the law firm or attorney may include additional costs, expenses, and interest charges. This financial obligation can be significant. The Highbridge Board may not engage a law firm or attorney to prosecute a Claim relating to the design or construction of the Common Area or execute a written agreement between the Highbridge Association and a law firm or attorney for the purpose of prosecuting a Claim relating to the design or construction of Common Area unless the law firm or attorney and the financial arrangements between the Highbridge Association and the law firm or attorney are approved by the Owners in accordance with this Section 8.3.1.

Unless otherwise approved by Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association, the Highbridge Association, acting through the Highbridge Board, shall in no event have the authority to engage a law firm or attorney to prosecute a Claim relating to the design or construction of the Common Area if the agreement between the Highbridge Association and law firm or attorney includes any provision or requirement that would obligate the Highbridge Association to pay any costs, expenses, fees, or other charges to the law firm or attorney, including but not limited to, costs, expenses, fees, or other charges payable by the Highbridge Association: (i) if the Highbridge Association terminates the engagement with the law firm or attorney or engages another firm or third-party to assist with the Claim; (ii) if the Highbridge Association agrees to settle the Claim for a cash

payment or in exchange for repairs or remediation performed by the Respondent or any other third-party; (iii) if the Highbridge Association agrees to pay interest on any costs or expenses incurred by the law firm or attorney; and/or (iv) for consultants, expert witnesses, and/or general contractors hired by the law firm or attorney. For avoidance of doubt, it is intended that Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association must approve the law firm and attorney who will prosecute the Claim and the written agreement between the Highbridge Association and the law firm and/or attorney.

The approval of the Highbridge Members required under this *Section 8.3.1* must be obtained at a meeting of Highbridge Members called in accordance with the Highbridge Bylaws. The notice of Member meeting will be provided pursuant to the Highbridge Bylaws but the notice must also include: (a) the name of the law firm and attorney; (b) a copy of the proposed written agreement between the Highbridge Association and the law firm and/or attorney; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Highbridge Association; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Highbridge Association; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Highbridge Association if the conditions for payment occur, which estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the law firm and/or attorney will use to evaluate the Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Common Area or Improvements on the Development Area). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Lots or the Common Area will be affected by such testing, and if the destructive testing occurs the means or method the Highbridge Association will use to repair the Common Area or Improvements affected by such testing and the estimated costs thereof. The notice required by this paragraph must be prepared and signed by a person other than the law firm or attorney who is a party to the proposed agreement being approved by the Highbridge Members. In the event Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association approve the law firm and/or attorney who will prosecute the Claim and the written agreement between the Highbridge Association and the law firm and/or attorney, the Highbridge Board shall have the authority to engage the law firm and/or attorney and enter into the written agreement approved by the Highbridge Members.

8.3.2 Provide Notice of the Inspection. As provided in *Section 8.3.3* below, a Common Area Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Common Area Report, the Highbridge Association must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common Area Report, the specific

Common Areas to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

8.3.3 Obtain a Common Area Report.

The requirements related to the Common Area Report set forth in this Section 8.3.3 are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Area Report and recommendations are not affected by influences that may compromise the professional judgement of the party preparing the Common Area Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Area Report is compromised.

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

The Common Area Report must be obtained by the Highbridge Association. The Common Area Report will not satisfy the requirements of this Section and is not an “independent” report if: (a) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the law firm or attorney that presently represents the Highbridge Association or proposes to represent the Highbridge Association; (b) the costs and expenses for preparation of the Common Area Report are not required to be paid directly by the Highbridge Association to the Inspection Company at the time the Common Area Report is finalized and delivered to the Highbridge Association; or (c) the law firm or attorney that presently represents the Highbridge Association or proposes to represent the Highbridge Association has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Highbridge Association’s agreement with the law firm or attorney) the Highbridge Association for the costs and expenses for preparation of the Common Area Report. For avoidance of doubt, an “independent” report

means that the Highbridge Association has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Highbridge Association will directly pay for the report at the time the Common Area Report is finalized and delivered to the Highbridge Association.

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

8.3.5 Provide a Right to Cure Defects and/or Deficiencies Noted on Common Area Report. Commencing on the date the Common Area Report has been completed and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (i) inspect any condition identified in the Common Area Report; (ii) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Area Report; and (iii) correct any condition identified in the Common Area Report. As provided in Section 8.11 of the Covenant, the Declarant has an easement throughout the Development Area for itself, and its successors, assigns, architects, engineers, other design professionals, each Homebuilder, other builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Area Report.

8.3.6 Hold Owner Meeting and Obtain Approval. In addition to obtaining approval from Highbridge Members for the terms of the attorney or law firm engagement agreement, the Highbridge Association must obtain approval from Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association to provide the Notice described in Section 8.5, initiate the mandatory dispute resolution procedures set forth in this Article 8, or take any other action to prosecute a Claim, which approval from Highbridge Members must be obtained at a meeting of Highbridge Members called in accordance with the Highbridge Bylaws. The notice of meeting required hereunder will be provided pursuant to the Highbridge Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Area Report; (iii) a copy of any engagement letter between the Highbridge Association and the law firm and/or attorney selected by the Highbridge Association to assert or provide assistance with the Claim; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Highbridge Association directly or for which the Highbridge Association may be liable as a result of prosecuting the Claim; (v) a summary of the steps previously taken by the Highbridge Association to resolve the Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Claim may

affect the market value, marketability, or refinancing of a Lot while the Claim is prosecuted; and (vii) a description of the manner in which the Highbridge Association proposes to fund the cost of prosecuting the Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the attorney who represents or will represent the Highbridge Association in the Claim; (b) a member of the law firm of the attorney who represents or will represent the Highbridge Association in the Claim; or (c) employed by or otherwise affiliated with the law firm of the attorney who represents or will represent the Highbridge Association in the Claim. In the event Highbridge Members approve providing the Notice described in *Section 8.5*, or taking any other action to prosecute a Claim, the Highbridge Members holding a Majority of the votes in the Highbridge Association, at a special meeting called in accordance with the Highbridge Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

8.3.7 Provide Officer Certification. Within ten (10) days after a vote of Highbridge Members called pursuant to this *Article 8*, the secretary or another officer of the Highbridge Association will provide to Declarant and any Respondent (if different than Declarant): (i) a true and correct copy of the meeting notice provided to Highbridge Members, for the meeting at which such vote was taken; (ii) copies of the ballots cast at such meeting (whether in person, electronic, or by proxy); (iii) a certification, executed by the issuing officer of the Highbridge Association that: (a) the information set forth in (i) and (ii) hereinabove is true and correct; (b) the meeting notice provided to Highbridge Members was provided in accordance with this *Article 8*; and (c) the vote was held in accordance with the Highbridge Bylaws and this *Article 8*.

8.4 Claim by Lot Owners. Pursuant to *Section 8.3* above, an Owner does not have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area. In the event that a court of competent jurisdiction or arbitrator determines that an Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area, such Owner shall be required, since a Claim affecting the Common Area could affect all Owners, as a precondition to providing the Notice defined in *Section 8.5*, initiating the mandatory dispute resolution procedures set forth in this *Article 8*, or taking any other action to prosecute a Claim, to comply with the requirements imposed by the Highbridge Association in accordance with *Section 8.3.2* (Provide Notice of Inspection), *Section 8.3.3* (Obtain a Common Area Report), *Section 8.3.4* (Provide a Copy of Common Area Report to all Respondents and Owners), *Section 8.3.5* (Provide Right to Cure Defects and/or Deficiencies Noted on Common Area Report), *Section 8.3.6* (Owner Meeting and Approval), *Section 8.3.7* (Officer Certification), and *Section 8.5* (Notice). Additionally, class action proceedings are prohibited, and no Owner shall be entitled to prosecute, participate, initiate, or join any litigation, arbitration or other proceedings as a class member or class representative in any such proceedings under this Development Area Declaration.

8.5 Notice. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Restrictions or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in *Section 8.6* below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with *Section 8.6*, to comply with the terms and provisions of Section 27.004 of the Texas Property Code during such sixty (60) day period. *Section 8.6* does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 of the Texas Property Code could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in *Section 8.7* below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to *Section 8.7* is required without regard to the monetary amount of the Claim.

If the Claimant is the Highbridge Association, the Notice will also include: (a) if the Claim relates to the design or construction of the Common Area, a true and correct copy of the Common Area Report and any and all other reports, studies, analyses, and recommendations obtained by the Highbridge Association related to the Common Area; (b) a copy of any engagement letter between the Highbridge Association and the law firm and/or attorney selected by the Highbridge Association to assert or provide assistance with the Claim; (c) if the Claim relates to the design or construction of the Common Area, reasonable and credible evidence confirming that Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association approved the law firm and attorney and the written agreement between the Highbridge Association and the law firm and/or attorney in accordance with *Section 8.3.1*; (d) a true and correct copy of the special meeting notice provided to Highbridge Members in accordance with *Section 8.3.6* above; and (e) reasonable and credible evidence confirming that Highbridge Members holding eighty percent (80%) of the votes in the Highbridge Association approved providing the Notice. If the Claimant is not the Highbridge Association and pertains to the Common Areas, the Notice will also include a true and correct copy of the Common Area Report.

8.6 Negotiation. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually acceptable place and time to discuss the Claim. If the Claim involves all or any portion of the Development Area, then at such meeting or at some other mutually-agreeable time, Respondent

and Respondent's representatives will have full access to the Development Area that is subject to the Claim for the purposes of inspecting the Development Area.

8.7 Mediation. If the parties negotiate, but do not resolve the Claim through negotiation within one-hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Respondent will submit the Claim to mediation in accordance with this *Section 8.7*. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with *Section 8.8*.

8.8 Binding Arbitration-Claims. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this *Section 8.8*.

8.8.1 Governing Rules. If a Claim has not been resolved after mediation in accordance with *Section 8.7*, the Claim will be resolved by binding arbitration in accordance with the terms of this *Section 8.8* and the American Arbitration Association (the "AAA") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by the AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "AAA Rules"). In the event of any inconsistency between the AAA Rules and this *Section 8.8*, this *Section 8.8* will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment or enforced in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

- (i) One arbitrator shall be selected by Respondent, in its sole and absolute discretion;
- (ii) One arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and
- (iii) One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

8.8.2 Exceptions to Arbitration; Preservation of Remedies. No provision of, nor the exercise of any rights under, this *Section 8.8* will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

8.8.3 Statute of Limitations. All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding under this *Section 8.8*.

8.8.4 Scope of Award; Modification or Vacation of Award. The arbitrator shall resolve all Claims in accordance with Applicable Law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of this *Section 8.8* and subject to *Section 8.9* below; provided, however, attorney's fees and costs may not be awarded by the arbitrator to either Claimant or Respondent. In addition, for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code, except that the arbitrator may not award attorney's fees and/or costs to their Claimant or Respondent. In all arbitration proceedings, the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on: (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of Applicable Law; or (iv) a cause of action or remedy not expressly provided under Applicable Law. In no event may an arbitrator award speculative, special, exemplary, treble, or punitive damages for any Claim.

8.8.5 Other Matters. To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred and eighty (180) days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in Kaufman County, Texas. Unless otherwise provided by this *Section 8.8*, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and Applicable Law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by Applicable Law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the

news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

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

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

8.11 Period of Limitation.

8.11.1 For Actions by an Owner or Resident. The exclusive period of limitation for any of the Parties to bring any Claim, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design, four (4) years and one (1) day from the date that the Owner or Resident discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In the event that a court of competent jurisdiction determines that an Owner does have the power or right to institute, defend, intervene in, settle or compromise litigation, arbitration or other proceedings relating to the design or construction of the Common Area, the exclusive period of limitation for a Claim of construction defect or defective design of the Common Areas, shall be the earliest of: (a) two (2) years and one (1) day from the date that the Owner or the Highbridge Association discovered or reasonably should have discovered evidence of the Claim; or (b) the applicable statute of limitations for such Claim. In no event shall this *Section 8.11.1* be interpreted to extend any period of limitations.

8.11.2 For Actions by the Highbridge Association. The exclusive period of limitation for the Highbridge Association to bring any Claim, including, but not limited to, a Claim of construction defect or defective design of the Common Areas, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Highbridge Association or its manager, board members, officers or agents discovered or reasonably should have discovered evidence of the Claim; (ii) for Claims other than those alleging construction defect or defective design of the Common Areas, four (4) years and one (1) day from the date that the Highbridge Association or its manager, board members, officers or agents discovered or reasonably should have discovered evidence of the Claim; or (iii) the applicable statute of limitations for such Claim. In no event shall this *Section 8.11.2* be interpreted to extend any period of limitations.

8.12 Funding the Resolution of Claims. The Highbridge Association must levy a Special Highbridge Assessment to fund the estimated costs to resolve a Claim pursuant to this *Article 8*. The Highbridge Association may not use its annual operating income or reserve funds to fund the costs to resolve a Claim unless the Highbridge Association has previously established and funded a dispute resolution fund.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective the 31 day of March, 2020

DECLARANT:

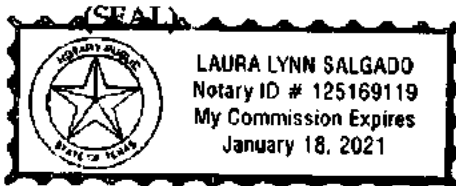
**LENNAR HOMES OF TEXAS LAND AND
CONSTRUCTION, LTD.,**
a Texas limited partnership

By: **U.S. Home Corporation, a Delaware
corporation, its general partner**

By: Jennifer Eller
Printed Name: Jennifer Eller
Title: Authorized Agent

THE STATE OF TEXAS §
 §
COUNTY OF Dallas §

This instrument was acknowledged before me on March 31st, 2020
Jennifer Eller, the Authorized Agent, U.S. Home Corporation, a Delaware
corporation, the general partner of LENNAR HOMES OF TEXAS LAND AND
CONSTRUCTION, LTD., a Texas limited partnership, on behalf of said entities.



R. Slach
Notary Public Signature

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