

Kaufman County  
Laura Hughes  
County Clerk

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MISCELLANEOUS

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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

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48/204

INST # 2011-0019517



# Heartland

M Y H O M E T O W N

**AMENDED AND RESTATED COMMUNITY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HEARTLAND**

**Kaufman County, Texas**

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**AMENDED AND RESTATED COMMUNITY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HEARTLAND**

This Amended and Restated Community Declaration of Covenants, Conditions and Restrictions for Heartland (this "Declaration") is made and established on December 11, 2011 by Declarant.

**RECITALS**

- A. Heartland 600 Development Land, L.P. (the "Original Declarant") recorded that certain Community Declaration of Covenants, Conditions and Restrictions for Heartland on June 15, 2005 in the Real Property Records of Kaufman County, Texas as Document No. 00011910, in Volume 2658, Page 544, as amended (the "Original Declaration").
- B. By Assignment of Declarant Status & Designation of Successor Declarant dated March 27, 2007 and recorded in the Real Property Records of Kaufman County, Texas as Document No. 2008-00013314, in Volume 3427, Page 400 (the "Assignment"), the Original Declarant assigned to HW Heartland, L.P., a Texas limited partnership, all of its rights, titles, powers, interests and duties as "Declarant" in, to and under the Original Declaration. Accordingly, HW Heartland, L.P. now is the "Declarant" under the Original Declaration.
- C. The Development Period, as such term is defined in the Original Declaration, currently is in force and effect. Accordingly, Declarant, without the necessity of the vote or joinder or consent of any Owner or Mortgagee or any other person or entity, has the right and power to amend the Original Declaration as provided in Section 17.1 and Section C7 of Appendix C to the Original Declaration. Declarant, by the execution and recording of this Declaration, hereby amends, restates and supersedes the Original Declaration in its entirety.
- D. By this Declaration, Declarant desires to: (i) establish a general plan for the development of the Property for the purpose of promoting and protecting the value, desirability, attractiveness and functionality of the Property; (ii) provide for the creation, maintenance, repair, improvement and replacement of the Common Areas as set forth in the Governing Documents; (iii) provide for the implementation of the powers and duties of the Declarant and the Association as set forth in the Governing Documents; (iv) preserve and enhance the Property; (v) create and grant the Easements; and (vi) implement the purposes of the Association as provided for in the Governing Documents.
- E. The real property made subject to this Declaration shall include the Property described and set forth in Exhibit A attached hereto and any other real property not otherwise included in Exhibit A annexed into the property described in Appendix A of and pursuant to the Original Declaration prior to the date this Declaration is recorded in the Real Property Records. This Declaration shall not apply to real property withdrawn from the property described in Appendix A of and pursuant to the Original Declaration prior to the date this Declaration is recorded in the Real Property Records.

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, provisions, covenants, conditions, easements, restrictions, reservations, uses, limitations and obligations are established and

*DECLARANT POSSESSES CERTAIN POWERS AND RIGHTS DURING THE DECLARANT CONTROL PERIOD AS SET FORTH IN THIS DECLARATION INCLUDING BUT NOT LIMITED TO CONTROL OF THE ASSOCIATION AND DEVELOPMENT RIGHTS. ALL PROPERTY SUBJECT TO THIS DECLARATION SHALL BE ENCUMBERED BY DECLARANT'S RIGHTS DURING THE DECLARANT CONTROL PERIOD.*

shall be deemed to run with the land in the Property and shall be a burden and benefit to Declarant, the Association, the Owners and their respective heirs, legal representatives, successors and assigns:

## ARTICLE I DEFINITIONS

Section 1.1. **Defined Terms.** Each capitalized term used in this Declaration shall have the meaning set forth in this Section 1.1:

"Access Easement." An easement as more particularly described in Section 7.2 of this Declaration.

"Act." Chapter 209 of the Texas Property Code applicable to property owners' associations, as amended from time to time.

"Affiliates." Any Person who controls, is controlled by, or is under common control with another Person.

"Annexed Property." Any real property added to the Property by a Supplemental Declaration that subjects such real property to this Declaration.

"Architectural Control Committee." The committee established in accordance with Section 12.2 of this Declaration.

"Architectural Guidelines." Any procedural or substantive rules, guidelines, criteria, standards and procedures that may be adopted by Declarant, or the Board, from time to time, regarding the design, standards, development, planning and construction of Improvements and the use or occupancy of the Lots, as the same may be amended from time to time.

"Articles." The Articles of Association for the Association filed January 23, 2006 with the Secretary of State of Texas, as may be amended from time to time.

"Assessments." Regular Assessments, Special Assessments and Individual Assessments owing to the Association by an Owner or levied against any Lot by the Association.

"Association." The Heartland Community Association, Inc. a Texas nonprofit corporation, and its successors and assigns, organized under the TNCL, and created for the purposes and possessing the rights, powers, authority and obligations set forth in the Governing Documents, whose address for notice purposes is c/o HW Heartland, L.P., a Texas limited partnership, 3090 Olive Street, Suite 300, Dallas, Texas 75219, as may be changed by the Association from time to time.

"Board." The board of directors of the Association.

"Budget." An annual budget prepared by the Association that sets forth the anticipated Common Area Expenses for the ensuing fiscal year.

"Builder." An Owner who is in the business of constructing residences for resale to third parties and intends to construct a residence on such Lot for resale to a third party.

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**"Bylaws."** The Amended and Restated Bylaws adopted by the Board of Directors and recorded in the Real Property Records of the County, as may be amended from time to time.

**"Charges."** Any costs, expenses, dues, interest, fees, late fees, fines, collection costs, attorneys' fees and any other sums arising under the Governing Documents owing to the Association from an Owner other than Common Area Expenses.

**"City."** The City of Crandall, Texas.

**"Claim."** Any and all demands, actions, causes of action, losses, costs, expenses (including reasonable attorneys' fees whether incurred at pre-trial, trial or on appeal), damages or liability of any kind or nature.

**"Class A Members."** The Owners of each Lot.

**"Class B Member."** Declarant at all times on or before the termination of the Declarant Control Period.

**"Common Areas."** The portions of the Property and Improvements thereon (a) owned by the Association (other than any Lot acquired by the Association through a foreclosure pursuant to Section 6.4 of this Declaration); (b) leased by or assigned to the Association through a lease, contract or otherwise; (c) constituting an Easement Area, naming the Association as grantee; (d) for which the Association has maintenance responsibility pursuant to the Governing Documents or under any written agreement with any Governmental Authority; (e) any other areas designated as Common Areas by Declarant or the Board pursuant to the Governing Documents. Nothing in this definition of Common Area shall be intended to include Property Roads or other portions of the Property owned by the Kaufman County MUD.

**"Common Area Damage."** Has the meaning assigned to such term in Section 15.16 of this Declaration.

**"Common Area Expenses."** Expenditures made or liabilities incurred by or on behalf of the Association, together with any and all applicable reserves, including: (a) expenses of administration, maintenance or repair of any Common Area; (b) expenses due and payable in accordance with this Declaration; (c) expenses designated as Common Area Expenses by the Governing Documents or by the Board; (d) such reasonable reserves, as may be established by the Association.

**"County."** Kaufman County, Texas.

**"Declarant."** HW Heartland, L.P., a Texas limited partnership located at 3090 Olive Street, Suite 300, Dallas Texas 75219; provided, however, to the extent any rights or powers reserved to Declarant are transferred or assigned to the successor or assignee, such Person shall also execute the written notice of assignment.

**"Declarant Control Period."** The period commencing on the date of this Declaration and continuing until the earlier to occur of the date when: (a) 30 years after the date on which the Original Declaration was recorded; or (b) when, in Declarant's sole discretion, it voluntarily relinquishes such right by written notice executed by Declarant and recorded in the Real Property Records.

**"Declaration."** This Amended and Restated Community Declaration of Covenants, Conditions and Restrictions for Heartland, as amended and supplemented from time to time.

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"Designee." A Person acting at the request of another Person, including Builders, contractors, subcontractors, employees, agents, representatives, and licensees.

"Development Rights." Those rights set forth in Article XI of this Declaration.

"Drainage Facilities." The detention ponds, drainage channels, drainage swales, discharge structures, and grading, connector, and outfall pipes, and all other items and structures, whether located in Common Areas or on Lots, whether public or private, necessary for the proper drainage of surface storm water runoff within the Property.

"Easement Area." Any portion of the Property burdened by an Easement.

"Easements." Collectively, those easements described in Section 7.2 of this Declaration.

"Environmental Laws." Any federal, state, or local law, statute, ordinance, or regulation, whether now or hereafter in effect, pertaining to health, industrial hygiene, or the environmental conditions on, under, or about the Property or the Improvements.

"Governing Documents." Those documents listed in Section 2.3 of this Declaration, as they may be amended from time to time.

"Governmental Approvals." All permits, licenses, certificates, consents and any other approvals necessary or required pursuant to any law, ordinance, resolution, order, rule or regulation of any Governmental Authority.

"Governmental Authority." Any and all applicable courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental entity (federal, State, County, district, municipal, City or otherwise) whether now or hereafter in existence.

"Governmental Impositions." All real property and personal property taxes, assessments, standby fees, excises and levies, and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which at any time prior to or after the execution of this Declaration, may be assessed, levied or imposed upon the Property or any Lot therein by any Governmental Authority.

"Hazardous Substances." Any substance, product, waste, or other material which is or becomes listed, regulated, or addressed as being a toxic, hazardous, polluting, or similarly harmful substance under any Environmental Law.

"Improvements." Any and all physical structures, facilities, alterations or changes of any type or nature made to or on any portion of the Property, Common Areas, and Lots including any buildings, residences, parking lots, parking structures, roadways, driveways, ramps, loading areas, mechanical equipment, window coverings, signs, utilities, fencing, antennae, walls, screens, landscaping, street scapes, grading changes, park areas, walkways, bridges, recreational facilities, exterior lighting facilities, drainage structures, curbs, retaining walls, grates and man-made objects of every type, existing or in the future placed on any portion of the Property, including all cable television, cellular phone, internet and other utility or communication installations or equipment.

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"Indemnified Party." Shall have the meaning assigned to such term in Subsection 15.15(a) of this Declaration.

"Individual Assessments." Assessments established, imposed and levied from time to time by the Association pursuant to Section 6.2 of this Declaration.

"Insurance Trustee." The Association acting in the capacity of a trustee in accordance with the provisions of Section 9.4 of this Declaration to negotiate losses under any property insurance policies required to be obtained by the Association in this Declaration.

"Kaufman County MUDs." The municipal utility district or districts in which the Property is located, as further described in Section 3.3 of this Declaration.

"Legal Requirements." Any restrictive covenants and any other matters of record and any and all then-current judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to the use and enjoyment of any portion of the Property or any Lot, including Environmental Laws, zoning ordinances, subdivision and building codes, flood disaster laws and applicable architectural barrier and health laws and regulations.

"Lot." Any plot or tract of land in the Property that is a platted lot as shown on a plat approved by the City and recorded in the Real Property Records other than Common Areas.

"Maintenance Standard." Good repair and condition for the Property necessary to maintain the Common Areas and Lots, as applicable, in a condition reasonably suitable for their intended purpose.

"Manager." Any professional manager or management company that is engaged by the Association to perform any of the duties, powers or functions of the Association.

"Members." Class A Members and the Class B Member.

"Membership." The rights and obligations associated with being a Member.

"Mortgagee." Any Person that is the holder, insurer or guarantor of any mortgage or deed of trust securing indebtedness on the Property or on a Lot.

"Occupant." Any Person from time to time entitled to the use and occupancy of a Lot or Improvements thereon pursuant to an ownership right or any lease, sublease, license, or other similar agreement.

"Owner." Any Person (including Declarant) owning fee title to a Lot, but excluding any Person having an interest in a Lot solely as security for an obligation.

"Past Due Rate." The maximum lawful rate of interest allowed under Texas law or, if no maximum lawful rate exists, the rate of 18% per annum.

"Past Due Payment Plan." Shall have the meaning assigned to such term in Section 6.3 of this Declaration.

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"Person." Any individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, joint venture, estate, trust, unincorporated association and any other legal entity, including any Governmental Authority and any fiduciary acting in such capacity on behalf of any of the foregoing and any Designee.

"Plans." The plans and specifications for the development and construction of Improvements with respect to a particular Lot, prepared by or on behalf of an Owner and approved by all applicable Governmental Authority, and which includes all items set forth in the Architectural Guidelines, as applicable and any other information requested by the Architectural Control Committee.

"Property." That certain real property located in the County and more particularly described in Exhibit A attached to this Declaration which includes annexed property submitted to the Original Declaration in that certain Amendment of Annexation (Tracts D & F) recorded in the Real Property Records on July 29, 2005 as Document No. 00015712, in Volume 2689, Page 307 together with all and singular the Easements, rights, and appurtenances pertaining thereto, including any Annexed Property and excluding any property withdrawn pursuant to Section 11.3 of this Declaration.

"Property Roads." All roads existing in the Property governed, owned and maintained by the Kaufman County MUD.

"Real Property Records." The records of the office of the county clerk of the County where instruments concerning real property are recorded.

"Regular Assessments." Assessments established, imposed and levied by the Association pursuant to Article VI of this Declaration.

"Rules and Regulations." All rules, regulations and procedures as the same may be adopted and amended from time to time by the Board.

"Signage." Any signage, lettering, decorations, banners, advertising or marketing media, awnings, canopies, window covering, or any other form of expression on a Lot or in the interior of the Improvements if the same is visible from the exterior of the Improvements.

"Special Assessments." Assessments established, imposed and levied from time to time by the Association pursuant to Subsection 6.1(d) of this Declaration.

"State." The State of Texas.

"Supplemental Declaration." A written instrument, executed by Declarant and recorded in the Real Property Records that subjects Annexed Property to this Declaration or otherwise supplements the covenants, conditions or restrictions contained in this Declaration.

"Systems." All fixtures, utilities, equipment, pipes, lines, wires, computer cables, conduits, circuits, junction boxes, hangers, pull boxes, terminal points, electronic devices, air compressors, air handlers, chillers, cisterns, sprinkler devices and other systems used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, audio and video signals, and other utility services

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"Systems Easement." An easement as more particularly described in Subsection 7.2 of this Declaration.

"Taking." The taking or threat of taking of all or a portion of the Property or Common Area for any public or quasi-public use, by eminent domain proceedings or otherwise, by a Governmental Authority or by an action in the nature of eminent domain (whether permanent or temporary) or the sale or other transfer of the Property or Common Area in lieu thereof.

"TNCL." The Texas Nonprofit Corporation Law, as amended from time to time.

## ARTICLE II SUBMISSION

Section 2.1. **Submission of the Property to this Declaration.** The real property that is covered by this Declaration is described on Exhibit A is the Property. All of the Property and any right, title or interest therein shall be owned, held, leased, sold, occupied and conveyed to an Owner, subject to the covenants, conditions, restrictions, Easements, Charges, liens and other provisions of the Governing Documents, including the Development Rights.

Section 2.2. **Owner Acknowledgment.** Each Owner is subject to this Declaration and all other Governing Documents and the covenants and restrictions contained therein. By acceptance of a deed, or other instrument establishing title, ownership or the right of occupancy in any portion of the Property, including any Lot or any portion of a Lot, each Owner and Occupant acknowledges that it has been given notice of this Declaration and the other Governing Documents; that use of any portion of the Property and Lot is limited and governed by the provisions of the Governing Documents; that the Board may, from time to time, adopt and amend definitions of words, phrases and terms used in this Declaration and other Governing Documents; that the use, enjoyment and marketability of the Property and the Lots can be affected by this Declaration; and that the Governing Documents may change from time to time.

Section 2.3. **Governing Documents.** The Property's Governing Documents consist of the following documents, and in the event of any conflict between the provisions of the Governing Documents, the Governing Documents shall control in the following order: (a) the Act; (b) this Declaration, as amended by any Supplemental Declaration or amendment; (c) the Articles; (d) the Architectural Guidelines; (e) the Bylaws; (f) the Rules and Regulations; and (g) any other policies adopted by the Board of Directors and recorded in the Real Property Records, as each of the documents listed in items (a)-(g) may be amended from time to time. Any conflict between the provisions of multiple Supplemental Declarations applying to the same portion of Property or Annexed Property shall be resolved by granting control to the Supplemental Declaration with the latest date of filing in the Real Property Records which shall control over any prior Supplemental Declarations filed for such portion of Property. It is Declarant's intention for the Governing Documents to be in compliance with the Act and Declarant may amend the Governing Documents during the Declarant Control Period in its absolute and sole discretion to bring such documents in compliance with the Act and any other Legal Requirements.

Section 2.4. **Supplemental Declarations.** During the Declarant Control Period, and pursuant to Article XI of this Declaration, Declarant shall file any Supplemental Declaration in the Real Property Records which shall include the following: (a) an adequate legal description covering the Property or any Annexed Property, as applicable, subject to a Supplemental Declaration; (b) a signature page duly executed by the Owner of the Lot and/or the owner of any Annexed Property, as applicable; (c) a description of any conditions or restrictions that apply to the Property other than those set forth in this Declaration; and (d) a reference to this

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Declaration, stating the date of recordation and recording information of this Declaration in the Real Property Records.

**ARTICLE III  
USES, RESERVATIONS AND RESTRICTIONS**

Section 3.1. **Uses.** Subject to applicable restrictions of record, the Architectural Guidelines and Rules and Regulations, Lots or any Improvement located thereon may be used for purposes set forth in the Governing Documents and Legal Requirements.

Section 3.2. **Common Areas.** No Owner shall obstruct or interfere with the use of the Common Areas by other Owners, Declarant or the Association. No Owner shall keep or store anything on any part of the Common Areas without the prior written approval of the Association. No Owner shall alter any of the Common Areas or construct on or remove anything from the Common Areas without the prior written approval of the Association. Neither the Association nor Declarant is obligated to construct any Improvements on or within the Common Areas but shall have the right to do so at its election.

Section 3.3. **Municipal Utility District (MUD).** The Property is located in one or more municipal utility districts within the Kaufman County Municipal Utility Districts (the "Kaufman County MUDs") created pursuant to Article 16, Section 59 of the Texas Constitution. The boundaries of the Kaufman County MUDs are established by statute and operate pursuant to Chapters 49 and 54 of the Texas Water Code, as amended. The Kaufman County MUDs possess the powers of a road district and of a fresh water supply district and were created to provide and maintain significant parts of the Property's infrastructure. MUDs are authorized to supply and store water, operate sanitary wastewater systems, provide drainage and water quality services and to build and maintain roads on the Property. The Kaufman County MUDs have the authority to tax Owners like any other Governmental Authority and will subject Owners to certain taxes and charges. Section 49.452 of the Texas Water Code requires a seller of real property in a MUD to give notice to purchasers containing information about the applicable MUD(s) and the taxes and fees the MUD may charge. A sample of the required notice for the Kaufman County MUDs is attached to this Declaration as Exhibit B for illustration purposes only.

Section 3.4. **Landscaping Requirements.** All portions of a Lot not improved by Improvements or other buildings, residences, driveways, parking areas, walkways, patios or decks (referred to as the unimproved area or landscaped areas of a Lot) shall be maintained landscaped by the Owner thereof (other than Declarant) in a manner as set forth in the Architectural Guidelines or as otherwise approved by the Architectural Control Committee pursuant to Article XII of this Declaration. If any Owner fails to install required landscaping or fails to maintain such landscaping or its Lot in accordance with this Section 3.5 and the Architectural Guidelines, the Association may, but shall not be obligated to, perform such landscaping requirements in lieu of such Owner pursuant to Section 12.11 of this Declaration.

Section 3.5. **Environmental.**

(a) **No Hazardous Substances.** No Owner shall handle, store, deposit, use, process, manufacture, dispose of or release or allow any of its Designees or Occupants to handle, store, deposit, use, process, manufacture, dispose of or release any Hazardous Substances from, on, in, under or in the air above any part of the Property, including any surface waters or groundwater located on the Property or into public sanitary or storm sewer systems serving the Property without complying with all Legal Requirements including performing pre-treatment, obtaining permits and giving notices as required by Environmental Laws.

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(b) Costs and Expenses. Each Owner shall be responsible for and shall pay all costs and expenses related to cleanup and remediation required by any Governmental Authority of Hazardous Substances it or its Designees or Occupants causes in, on, under or above the Property.

Section 3.6. Right of Board Regarding Rules and Regulations. In furtherance of the purposes of this Declaration, the Board from time to time may adopt, amend or repeal the Rules and Regulations concerning and governing the Property, Lots or any portion thereof, including the establishment and enforcement of penalties for any infraction of the Rules and Regulations.

Section 3.7. Construction Use. Declarant and its Designees shall have the right to perform construction and such other reasonable activities in the Property, and to maintain upon portions of the Property such facilities as deemed reasonably necessary or incidental to the construction and sale of Lots or to the maintenance of Property, including the maintenance of temporary business or construction offices, construction trailers, material and equipment storage areas, washout lots, trash bins, construction yards and equipment, signs, models, temporary sales offices, parking areas and lighting facilities.

Section 3.8. Use of "Heartland". Each Owner, by acceptance of a deed to a Lot, acknowledges and agrees that such Owner's no ownership or other right or interest in the name "Heartland" and shall not use "Heartland", or any trademark or service mark owned by Declarant during the Declarant Control Period. Upon expiration or termination of the Declarant Control Period, and Declarant's assignment of ownership rights in "Heartland"(if such occurs), Owners shall not use "Heartland" without the prior written consent of the Board.

#### ARTICLE IV THE ASSOCIATION

Section 4.1. General Purposes and Powers of the Association. The Association has been incorporated as a nonprofit corporation under the TNCL. In addition to the powers conferred on the Association under the TNCL, the Association may take all actions authorized by the Governing Documents. Any and all actions taken by the Association pursuant to the Governing Documents are binding on all Owners. The Association shall be governed by the Act, TNCL and the Governing Documents.

Section 4.2. Deemed Assent Ratification and Approval. All Owners and Occupants of the Property shall be deemed to have assented to, ratified and approved the general purposes of this Declaration and the other Governing Documents and the power, authority, management rights of the Association, acting through the Board as permitted in and authorized by this Declaration and other Governing Documents.

Section 4.3. Manager. The Association may enter into contracts with a Manager for the day-to-day management and administration of either or both of the Property and the Association.

Section 4.4. Election of the Board of the Association. The Board shall be elected by the Owners pursuant to the provisions of the Bylaws or as otherwise set forth in Section 4.5 of this Declaration.

Section 4.5. Declarant's Right to Appoint, Remove and Replace Officers and Board Members During Declarant Control Period. Notwithstanding anything to the contrary in this Declaration or any of the other Governing Documents, Declarant, in its sole and absolute discretion, reserves the right, at any time and from time to time, to appoint, remove and replace any officer of the Association or member of the Board during the Declarant Control Period. Declarant may voluntarily surrender any or all of the foregoing rights to appoint and remove officers, directors and members of the Board before termination of the Declarant Control Period. If Declarant surrenders any or all of such rights, Declarant may require, for the duration of the Declarant Control

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Period, that specified actions of the Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

Section 4.6. **Duty to Accept Common Areas and Improvements Transferred by Declarant.** The Association shall accept any Common Areas, including any Improvements, equipment and personal property thereon conveyed or transferred to the Association by Declarant, together with the responsibility to maintain such property and perform any and all functions associated therewith, provided that such property and functions are not inconsistent with the terms of this Declaration. Any portion of the Common Areas transferred to the Association by Declarant shall, except to the extent otherwise specifically approved by resolution of the Board, be transferred to the Association free and clear of all liens (other than the lien of property taxes), but shall be subject to the terms of the Governing Documents applicable thereto. The Improvements located on the Common Areas may be changed or altered from time to time as determined by the Board.

Section 4.7 **Rights of the Board.** The Association acts solely through the Board or through the Architectural Control Committee as provided in the Governing Documents. Whenever in the Governing Documents there is a reference to action by the Association, such reference means the Association acting through and based on the decisions and direction by the Board.

## ARTICLE V MEMBERSHIP, VOTING AND ASSESSMENT ALLOCATIONS

### Section 5.1. **Allocation of Votes in the Association.**

(a) **Membership.** Each Owner shall automatically be a Member of the Association and must remain a Member for as long as that Person is an Owner. Membership is appurtenant to, and cannot be separated from, ownership of a Lot. Any transfer of title of a Lot shall operate automatically to transfer Membership appurtenant to such Lot. All Owners shall notify the Association in writing of any transfer of ownership of such Owner's Lot providing the name of the new Owner.

(b) **Voting During the Declarant Control Period.** Until such time as the Declarant Control Period has expired or terminated, there shall be two classes of voting Members in the Association. The Class B Member shall be entitled to exercise two votes for every one vote entitled to be cast by the Class A Members with respect to any matter on which Members shall be entitled to vote in accordance with the Governing Documents. THE CLASS A MEMBERS ACKNOWLEDGE AND AGREE, BY THEIR ACCEPTANCE OF THE DEED TO THEIR LOT, THAT UNTIL THE TERMINATION OF THE DECLARANT CONTROL PERIOD, THE CLASS B MEMBER POSSESSES THE MAJORITY OF THE VOTING INTERESTS IN THE ASSOCIATION AND SHALL BE ABLE TO CONTROL, THROUGH THE VOTING PROCESS, ANY MATTERS COMING BEFORE THE ASSOCIATION FOR A VOTE, SUBJECT TO THE REQUIREMENTS OF THE GOVERNING DOCUMENTS.

(c) **Membership.** Upon the expiration or termination of the Declarant Control Period, there shall be no more classes of Members and the rights of all Members shall be identical, including the election of the Board, and the procedures for the election of the members of the Board shall be in accordance with the Act and as set forth in the Bylaws. Unless a different allocation of votes is required by any Legal Requirement or in this Declaration, the Members shall be entitled to exercise one vote per Lot with respect to any matter of the Association on which Members shall be entitled to vote.

(d) **Transition of the Board during Declarant Control Period.** Notwithstanding the provisions of Section 5.1(b) above;

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(i) Not later than 120 days after the 10<sup>th</sup> anniversary of the date on which the Original Declaration was recorded in the Real Property Records, an election of members of the Board shall be held at which one third of the members of the Board shall be elected by Class A Members without the Class B Member voting for such members of the Board.

(ii) On a date as determined by Declarant in its absolute and sole discretion, which date shall not be less than 60 days prior to the termination of the Declarant Control Period, the Association shall elect all directors from the Class A Members to serve as the Board of Directors whose terms will commence as of the date on which the Declarant Control Period terminates.

Section 5.2. **Proxies Of Owners.** Votes allocated to a Lot may be cast pursuant to a proxy duly executed by an Owner in the form required by the Association. If a Lot is owned by more than one Person, any one co-Owner of the Lot may cast the vote of that Lot or register a protest to the casting of the vote of that Lot by the other co-Owners of the Lot through a duly executed proxy. An Owner may not revoke a proxy given pursuant to this Section 5.2 except by written notice of revocation to the individual presiding over a meeting of the Association.

Section 5.3 **Advisory Committee.** Declarant may determine in its absolute and sole discretion at any time prior to the transition of the Board set forth in Section 5.1(d) and expiration or termination of the Declarant Control Period, to appoint, but has no obligation to appoint, any number of Owners, for any length of time, to an advisory committee, each of whom is chosen by Declarant in its absolute and sole discretion ("Declarant Advisory Committee"). Declarant Advisory Committee members shall not be entitled to vote on any matter before the Board.

## ARTICLE VI ASSESSMENTS

Section 6.1. **Regular and Special Assessments by the Association.** The Association shall possess the right, power, authority and obligation to establish a Regular Assessment for the payment of Common Area Expenses and such Special Assessments as provided for in this Declaration.

(a) **Fees.** Declarant herein establishes and reserves the right to collect certain fees set forth herein upon the closing of sale of a Lot. The below listed fees shall not be considered an advance payment of any Assessments set forth herein and are not refundable. Declarant shall not be required to pay any fees set forth in this Section 6.1(a).

(i) **Replacement and Repair Reserve Fund Fee.** A Replacement and Repair Reserve Fund Fee shall be paid to the Association upon the closing of sale of a Lot. Each Owner, excluding Builders and Declarant, shall at the time such Person purchases a Lot, contribute a one time amount equal to the Replacement and Repair Reserve Fund Fee for the scheduled replacement or major repair of Common Area Improvements, which amount may be established and amended by Declarant in its sole discretion at any time prior to expiration or termination of the Declarant Control Period and by the Board at any time thereafter.

(ii) **Operations Fund Fee.** An Operations Fund Fee shall be paid to the Association upon the closing of sale of a Lot. Each Owner, excluding Builders and Declarant, shall at the time such Person purchases a Lot, contribute a one-time amount equal to the Operations Fund Fee which amount shall be a contribution of working capital to cover the cost of operational or maintenance matters or contingencies (i.e. insurance deductibles), which amount may be established and amended by Declarant in its sole

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discretion at any time prior to expiration or termination of the Declarant Control Period and by the Board at any time thereafter.

(iii) Builder Fees. Each Builder shall pay to the Association, upon the closing of sale of a Lot, an amount determined by and set forth in such Builder's lot takedown contract for Lots such Builder purchased in the Property.

(b) Common Area Expenses. The Association shall establish the amount sufficient in the judgment of the Association to pay all Common Area Expenses when due and possesses the right, but not the obligation to establish and maintain a reserve fund for such purposes. The amount established to pay Common Area Expenses shall be assessed to the Owners and against the Lots (the "Regular Assessments"), shall be divided, allocated and assessed equally among the total number of Lots and shall be due and payable semi-annually, or on such dates as otherwise determined by Declarant or established by the Association, and shall be applied to the payment of Common Area Expenses for which the Association is responsible.

(c) Budget for Common Area Expenses. Prior to the commencement of each fiscal year of the Association, the Association shall establish and adopt the Budget for the next following fiscal year, notify Owners of such Budget and make the Budget available for review by all Owners. No further communication shall be necessary to establish the amount of each Owner's obligation regarding the Regular Assessments payable under this Declaration, and the failure of the Association to timely notify and make available for review by Owners such Budget shall not excuse or relieve an Owner from the payment of the Regular Assessments contemplated thereby, in which case, each Owner shall continue to pay to the Association an amount equal to such Owner's Regular Assessments and on the same schedule as established pursuant to the most recent Budget made available to the Owners. The Board shall have the right to amend the Budget at any time in which event the portion of the Regular Assessments assessed against each Lot and the corresponding payment obligation of each Owner shall be adjusted accordingly. Notwithstanding the foregoing, and only after expiration or termination of the Declarant Control Period, no Budget, or amendment thereof, may increase the amount of Regular Assessments allocated to a Lot and payable by an Owner by more than 15% from the immediately preceding fiscal year, without the affirmative vote of at least 51% of the Members entitled to vote at such time.

(d) Special Assessments by Association. In addition to the Regular Assessments contemplated by Subsection 6.1(b) and (c) of this Declaration, the Association shall establish Special Assessments from time to time as may be necessary or appropriate in the judgment of the Association to pay (i) non-recurring Common Area Expenses relating to the maintenance, care, alteration, improvement, replacement, operation and management of the Property and the administration of the Association; (ii) capital expenditures necessary to replace Improvements on or within the Common Area; (iii) additional Common Area Expenses if the Regular Assessments are not sufficient to cover all of the Common Area Expenses, except as otherwise set forth in Section 6.5 with regard to Declarant's funding responsibilities during the Declarant Control Period; and (iv) contractual and other liabilities of the Association that have not been included in the Budget. Special Assessments so established shall be payable by and allocated among the total number of Lots and allocated to each Owner based upon the number of Lots such Owner owns within 30 days of receipt of notice of such Special Assessment, or as otherwise specified in such notice.

Section 6.2. Individual Assessments. In addition to the Regular Assessments and the Special Assessments contemplated in this Article VI, the Association shall possess the right, power and authority to establish or levy the Individual Assessments in accordance with the provisions of this Declaration against an individual Owner and its Lot for Charges properly borne solely by one or more but less than all Owners, such as (without limitation) charges for additional services, damages, fines or fees, interest, collection costs, attorneys'

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fees, insurance deductible payments or any other amount owing the Association by an Owner. The Individual Assessments shall be the personal obligation of the Owner against whom the Individual Assessment is assessed, and shall constitute a lien against the Lot in the same manner and with the same consequences as the Regular Assessment and any duly authorized Special Assessment.

Section 6.3. **Obligation to Pay Assessments.** Each Owner shall be personally obligated to pay the Owner's share of all Assessments to the Association in the amounts and on the dates established pursuant to this Declaration. Unpaid Assessments due as of the date of the conveyance or transfer of a Lot, or a portion thereof, shall not constitute a personal or entity obligation, as applicable, of the new Owner (other than the new Owner's pro rata share of any proration thereof), but the lien provided for in Section 6.4 below shall not be affected by such conveyance as the former Owner shall continue to have personal or entity liability for such unpaid Assessments. No Owner, other than Declarant as set forth in Section 6.5, shall be entitled to exemption from liability for the Owner's obligation to pay such Assessments for any reason, including claims of (a) waiver of the use and enjoyment of the Common Area or the facilities as to which any Assessments relate; (b) an abandonment or vacation of the Lot or Improvements thereon; (c) offsets or reductions; and (d) Declarant, the Association, or the Board or any other entity is not properly exercising its duties and powers under the Governing Documents. Any Assessment not paid within 30 days of the date due thereof shall bear interest at the Past Due Rate, and shall be recoverable by the Association, together with interest as aforesaid and all costs and expenses of administering the Past Due Payment Plan, hereinafter defined, and other collection methods, including reasonable attorneys' fees, by suit in a court of competent jurisdiction or in a mediation or arbitration in the County pursuant to the provisions of Article XIV of this Declaration. The Association shall adopt and record in the Real Property Records guidelines establishing an alternative payment schedule by which an Owner may make partial payments to the Association for delinquent Assessments pursuant to such guidelines (the "Past Due Payment Plan"). It shall be the responsibility of the Association to collect any such delinquent Assessments, the existence of which shall be made known by written notice delivered to the defaulting Owner and, if requested, the Owner's Mortgagee pursuant to and in accordance with the Act; provided, however, if the Association is not taking the action permitted in this Section 6.3 the Declarant may exercise such rights for its own benefit and the benefit of the Association.

Section 6.4. **Lien to Secure Payment of Assessments.** Declarant hereby reserves and assigns to the Association a lien against each Lot which shall be and constitute a lien and encumbrance, in favor of the Association, upon such Lot. Subject to Section 6.9 of this Declaration, the liens established in this Declaration shall be prior and superior to all other liens and encumbrances subsequently created upon such Lot regardless of how created, evidenced or perfected, other than the liens for Governmental Impositions. So long as the Association satisfies the requirements set forth in the Act, and any other applicable Legal Requirement with regard to delinquent assessments and foreclosure of assessment liens, assessment liens created in this Declaration may be foreclosed on or enforced by any means available at law or in equity. The lien securing the obligation for the payment of Assessments shall not be enforceable against the purchaser at a foreclosure sale of a lien encumbering a Lot in order to satisfy the indebtedness for a Mortgagee (or against the grantee by deed in lieu of any such foreclosure) for any Assessments which became payable prior to the date of such foreclosure sale (or conveyance in lieu thereof); provided, however, in no event shall a defaulting Owner be relieved from liability incurred for unpaid Assessments owed by such Owner.

Section 6.5. **Commencement of Obligation to Pay Assessments.** Each Owner, other than Declarant, shall be obligated to commence payment of all Assessments against a Lot on the date the Lot is conveyed to the Owner. On the date on which a Lot is conveyed to an Owner, such Owner shall be obligated to pay only a pro rata share of the Assessment against such Lot based on a proper proration. Notwithstanding the foregoing,

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Declarant, during the Declarant Control Period, has the right, but not the duty, to reduce or waive any assessment obligation set forth in this Article VI of a Builder.

During the Declarant Control Period, Declarant is exempt from the obligation to pay Assessments on Lots or other portions of the Property it owns; however, Declarant is responsible for providing funding for shortfalls between actual operating expenses and the Regular Assessments collected pursuant to the Budget for a given year. Any such payments made by Declarant to the Association may be treated as a contribution, subsidy or a loan by Declarant in its absolute and sole discretion. Declarant shall have no obligation to pay Special Assessments during the Declarant Control Period.

Section 6.6. **Notice of Default.** If an Owner defaults in the Owner's monetary obligations to the Association, the Association shall notify the Owner and other lien holders in accordance with the Act and shall state the Association's intent to foreclose its lien

Section 6.7. **Alternative Actions.** Nothing contained in this Declaration prohibits the Association from taking a deed in lieu of foreclosure from an Owner or from filing suit to recover a money judgment for sums that may be secured by the Association's lien.

Section 6.8. **Statement of Expenses and Access to Records.** Upon proper delivery of a written request from an Owner to the Board or the Manager containing the requisite information as set forth in the Act, the Association shall provide current copies of or make reasonably available for examination, the requested books, records, financial statements and any other requested information maintained by the Association in accordance with the Bylaws, any record retention policy adopted by the Board and filed of record in the Real Property Records, and the Act. The costs associated with compilation, production and reproduction of information contemplated in this Section 6.8 shall be set forth in the records retention, inspection, production and copying policy adopted by the Board.

Section 6.9. **Subordination of Lien for Assessments.** The lien for the payment of Assessments shall be subordinate to the lien of any valid mortgage or deed of trust that secures lien indebtedness from an Owner for a Lot that was recorded prior to the date any such Assessment becomes delinquent under the provisions of this Declaration.

## **ARTICLE VII EASEMENTS**

Section 7.1. **Utility and Plat Easements.** Easements for utilities and other purposes over and across the Lots, Common Areas or other portions of the Property may be established, as shown upon a recorded plat or separate document, pursuant to the provisions of this Declaration, or as granted by authority reserved in any recorded document, if approved by Declarant or the Association (subsequent to the termination or expiration of the Declarant Control Period).

Section 7.2. **Easements.** Each Owner accepts a deed conveying title to a Lot, subject to the Easements granted and reserved, as applicable, in this Section 7.2, which Easements (and all rights and obligations related to such Easements arising on or after the date of any transfer) shall run with the Property.

(a) **Access Easement.** Declarant hereby reserves and grants a perpetual, assignable and non exclusive access easement over, on and across each Lot, the Common Areas or other portions of the Property as may reasonably be necessary for its own benefit and for the benefit of each Lot, the Property and the Association, as applicable, for: (i) the maintenance (including ingress and egress therefrom), repair or replacement of any of

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the Common Areas or Improvements thereon or accessible therefrom; (ii) the use of, and the ingress and egress to a Lot, provided no other reasonable means of access exists; (iii) the performance of any obligations under the Governing Documents; (iv) the making of emergency repairs therein necessary to prevent damage to the Common Area, Lot or other portions of the Property; (v) the evacuation of all or any part of the Property in the event of an emergency; (vi) the maintenance (including ingress and egress therefrom), repair or replacement of any of the Drainage Facilities and (vii) such other reasonable purposes as are deemed by the Declarant or the Association to be necessary for the performance of the obligations of the Association as described in this Declaration and in the Bylaws.

(b) Common Area Easement. Declarant hereby reserves and grants a perpetual, assignable and non-exclusive common area easement over, on and across the Common Areas for its own benefit and for the benefit of each Lot (that is an intended beneficiary of such Common Area), the Owners and the Association for ingress and egress from each Lot and for the use of the Common Area.

(c) Systems Easement. Declarant hereby reserves and grants a perpetual, assignable and non-exclusive utility easement over, on and across the Common Area: (i) for its own benefit, and the benefit of utility companies supplying Systems and service to the Lots for supplying such Systems and service to any Lot; and (ii) for its own benefit and the benefit of the Association for the right to grant additional Systems Easements. Declarant may record an easement agreement or easement relocation agreement in the Real Property Records, specifically locating or relocating any Systems Easement subsequent to the recordation of this Declaration, and each Owner, by acceptance of the deed to a Lot, hereby grants Declarant an irrevocable power of attorney, coupled with an interest, with full power and authority to locate or relocate any Systems Easement.

(d) Easements Strictly Limited. The Easements are for the benefit of Declarant, the Association, the Architectural Control Committee, Owners and certain Designees only. No Owner is required to allow any Person other than a Designee the benefit of such Easements and, further, all Owners are obligated to undertake all reasonable efforts to prohibit Persons other than Designees from benefiting from or using such Easements in relation to their respective Lot. If an Owner finds that Persons other than Designees are attempting to benefit from or use such Easements in relation to their respective Lot, and such Owner, despite diligent efforts, is unable to cause such Persons to cease and desist from so doing, then the Owner shall notify the Association in writing of the problem, stating with specificity the problems that have occurred and such Owner's efforts to combat the problems and the Association shall have the right (but not the obligation) to attempt to cause the offending Persons to cease and desist from benefiting (or attempting to benefit) or using (or attempting to use) such Easements.

(e) Certain Exceptions. None of the Easements reserved or granted in this Section 7.2 shall be used in a manner which materially adversely affects the structural integrity of the Improvements. Use and availability of any facilities or areas covered by the Easements are subject to the Governing Documents.

**Section 7.3. Power to Grant Easements**. Declarant, during the Declarant Control Period, and the Association (to the extent permitted by the Act) shall have the power to grant access, utility, drainage, water facility and any other easements in, on, over or under the Common Areas for any lawful purpose, including without limitation, the provision of emergency services, utilities (including water, sanitary sewer, storm sewer, gas, and other energy services), telephone, cable television, fiber optic, and other telecommunication services, and other uses or services to one or more of the Owners, subject to the prior review and approval of such easement by Declarant or Association, whichever is applicable. The requesting Owner for an easement pursuant to this Section 7.3 shall be responsible for, all costs and expenses incurred by the Association regarding the creation of such easement.

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**ARTICLE VIII  
MAINTENANCE RESPONSIBILITIES**

**Section 8.1. Maintenance.**

(a) **Maintenance of Lots.** All maintenance, repairs and replacements of, in or to any Lot or Improvements thereon, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Owner of such Lot or Improvements in accordance with the Maintenance Standard.

(b) **Maintenance of Common Areas.** Except as otherwise provided in the Governing Documents, the Common Areas shall be maintained by the Association, the cost and expense of which shall constitute a Common Area Expense and shall be payable as a Common Area Expense, as set forth in this Declaration. Nothing in this Declaration shall be deemed or construed as relieving any Owner from liability or responsibility for damage to the Common Areas caused by the negligence or misconduct of an Owner or an Owner's Designees.

(c) **Maintenance of Easements.** Except as expressly provided in Section 7.2 of this Declaration, all maintenance, repairs and replacements of, in or to any Easement Area, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Owner of each Lot in which the Easement Area is located and in accordance with the Maintenance Standard. If the Easement Area is located in a Common Area, then all maintenance, repairs and replacements of, in or to any Easement Area, ordinary or extraordinary, foreseen or unforeseen, shall be performed by the Association and shall be payable as a Common Area Expense, as set forth in this Declaration.

**Section 8.2. Owner Failure to Maintain.** If any Owner fails or neglects to maintain, repair or clean any portion of the Property or certain Improvements, as required to be maintained by such Owner pursuant to the Governing Documents and by Section 8.1 of this Declaration, and such failure or neglect continues for an unreasonable time period in light of the surrounding circumstances as may be determined on a case by case basis by the Association, after Owner's receipt of written notice of such neglect or failure from the Association, then the Association may, but shall not be obligated to, enter the Property, and take appropriate steps to perform, or cause to be performed, the maintenance obligations of the Owner required by this Declaration. The defaulting Owner shall, upon demand, reimburse the Association for performing such required maintenance and all costs and expenses incurred in the exercise of its rights pursuant to this Section 8.2 or as otherwise set forth in this Declaration.

**Section 8.3. Disputes.** Any Dispute arising among any or all of the Owners or the Association as to the proper Person to bear a maintenance cost or expense shall be resolved in accordance with the provisions of Article XIV of this Declaration.

**Section 8.4. Mechanic's Liens.** No labor or services performed or materials furnished and incorporated in a Lot, the Improvements thereon or any Common Area shall be the basis for the filing of a lien against any Lot or Common Area not expressly approved in writing by the Owner of such Lot or by the Association with respect to Common Areas. All contracts for labor, services and/or materials with respect to any of the Lots shall be in compliance with the provisions of the Governing Documents.

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## ARTICLE IX INSURANCE

Section 9.1. **Requirements.** Unless otherwise determined by Declarant or the Board of Directors pursuant to the Bylaws, all insurance coverage required of the Association pursuant to Article IX of this Declaration or purchased at the election by the Association shall:

- (a) be in such form and issued by responsible insurance companies licensed to do business in the State and shall be rated by Best's Insurance Guide (or any successor publication of comparable standing) as "A-VI" or better;
- (b) shall be carried in a blanket form naming Declarant, the Association, the Board, and the respective officers, directors and employees of the Association as insureds;
- (c) provide that insurance trust agreements shall be recognized.

Section 9.2. **Insurance by the Association.** Commencing upon the filing of this Declaration, or as otherwise determined by Declarant, the Association shall obtain and maintain insurance for the Common Areas and any Improvements thereon, as set forth in the Bylaws. The Association shall carry such other or additional insurance in such amounts and insuring against such risks as the Association shall reasonably deem necessary with respect to the Common Areas or the operation of the Association. In addition, each insurance policy maintained by the Association shall provide that: (a) the Association shall be named as insured under such policies and the Declarant and Owners shall be named as an additional insured under such policies with respect to liability arising out of the ownership of a Lot or other portion of Property or membership in the Association; (b) no action or omission by any Owner, unless validly exercised on behalf of the Association, shall void the policy or be a condition to recovery under the policy; and (c) such policy is primary insurance if at the time of a loss under the policy any Owner has other insurance covering the same property covered by the policy. Unless indicated otherwise, the premiums for all insurance coverages maintained by the Association pursuant to this Section 9.2 shall constitute a Common Area Expense, and shall be payable by the Association.

Section 9.3. **Insurance by Residence Owners.** An Owner shall be responsible for obtaining and maintaining at such Owner's sole cost and expense insurance policies covering: (a) 100% of replacement cost of all improvements, additions and betterments made upon such Owner's Lot or in such other amounts established by the Board in accordance with the Governing Documents and (b) any other insurance required by any Mortgagee or other lender in relation to such Owner's Lot. Nothing in this Declaration shall be deemed or construed as prohibiting an Owner, at its sole cost and expense, from obtaining and maintaining such further and supplementary insurance coverages as such Owner may deem necessary or appropriate. Nothing in this Section 9.3 shall be construed to require the Association to monitor the existence or adequacy of insurance coverages on any Lots.

Section 9.4. **Association as Insurance Trustee for the Owners.** By acceptance of a deed to a Lot, each Owner shall be deemed to have irrevocably appointed the Association as the Insurance Trustee on insurance policies obtained by the Association (whether or not the Association is identified as such in a policy). All property insurance policies required to be obtained by the Association as described in Section 9.2 of this Declaration may be issued in the name of the Association as Insurance Trustee for the property covered under such policies. Loss payable provisions shall be in favor of the Insurance Trustee as a trustee for the Association. The Insurance Trustee shall not be liable for the payment of premiums, nor the renewal or sufficiency of policies, except those policies required to be purchased and maintained by the Association pursuant to Section 9.2 of this

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Declaration and the Bylaws. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and to hold or properly dispose of the same in trust for the benefit of the Owners and Declarant in accordance with the terms of the Governing Documents.

Section 9.5. **Other.**

(a) Neither the Association, Board, Declarant, any Owner nor each of their respective Affiliates shall be liable for failure to obtain any insurance coverage required by the Governing Documents or for any loss or damage resulting from such failure, if such failure is a result of such insurance coverage is not reasonably available.

(b) The insurance purchased by the Association shall not cover Claims of one Owner against any other Owner.

**ARTICLE X  
CASUALTY AND CONDEMNATION**

Section 10.1. **Casualty.** If any Improvements located on any Lot are damaged or destroyed by fire or other casualty, the Owner of such Lot must, within a reasonable period of time, either (a) repair, restore and rebuild such Improvements (and any damage to Improvements not on the Lot caused by such fire or other casualty) in accordance with Plans approved by the Architectural Control Committee as provided in the Governing Documents; or (b) raze all of the damaged Improvements on its Lot, clear its Lot of all debris resulting from such razing, and seed or sod the Lot with grass. Notwithstanding the above, an Owner must repair, restore and rebuild any Improvements in the Common Areas that is damaged or destroyed as the result of such fire or other casualty).

Section 10.2. **General Condemnation Provisions.** If all or any part of the Common Area is subject to a Taking, the Association will be the exclusive representative of the Owners. The expense of participation in such proceedings by the Association shall be a Common Area Expense. The Association is specifically authorized to obtain and pay for assistance from attorneys, appraisers, architects, engineers, expert witnesses and other Persons as the Association in its discretion deems necessary or advisable to aid or advise it in matters relating to condemnation proceedings. The cost of any restoration or repair of the Common Area following a partial Taking shall be a Common Area Expense.

Section 10.3. **Payment of Awards.** Any awards resulting from condemnation of any Common Areas shall be deposited into the reserve fund account for the Association or may used to repair and replace any damage or destruction of the Common Area caused by the condemnation.

**ARTICLE XI  
DEVELOPMENT RIGHTS**

Section 11.1. **Development Rights.** In accordance with and only if permitted by the Act, Declarant reserves for itself, during the Declarant Control Period or other time period in accordance with the Governing Documents, the following Development Rights to: (a) add real property to the Property as Annexed Property and designate or restrict uses on any portion thereof; (b) designate or create additional Lots and Common Areas, and to convert Lots into Common Area, (c) subject portions of the Property owned by Declarant to Supplemental Declarations, as Declarant may determine; (d) whether by plat or otherwise, relocate boundaries between adjoining Lots owned by Declarant and enlarge or reduce Lots owned by Declarant, enlarge or reduce the

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Common Areas, reduce or diminish the size of portions of the Common Area, split, combine, divide or subdivide Lots owned by Declarant and change set back requirements; (e) establish specifications for construction of all Improvements, amend such specifications and complete or make Improvements on Lots owned by Declarant and construct Improvements on Common Areas; (f) create and use and permit others to use the Easements or any other easements pursuant to the Governing Documents; (g) merge or consolidate the Association with any owner association within the Property; (h) withdraw any portion of the Property or any Lots owned by Declarant or as otherwise set forth in Section 11.3; (i) amend this Declaration, maps or plats in connection with the exercise of any Development Right; (j) change the permitted use of, any portion of the Property that is owned by Declarant; (k) make amendments to the Governing Documents; (l) market, promote, sponsor marketing events, erect and maintain signs and advertising in Common Areas and on other portions of the Property other than on Lots owned by an Owner other than Declarant; (m) maintain construction, sales, and management offices, signs advertising the Property, Lots and models, and to conduct general sales from such offices on Lots owned by Declarant or Builders (and their assignees); (n) establish in the Common Areas, from time to time, by dedication or otherwise, public and private streets and utility and other easements for purposes including public access, access, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions and exclusions; (o) construct, in a way that does not materially adversely affect the development plans of any Owner, underground utility lines, pipes, wires, ducts and conduits, storm drains, detention ponds, and other facilities for the purpose of furnishing services to the Property; (p) approve or disapprove the recordation of any declaration; (q) appoint or remove any Architectural Control Committee member in accordance with Section 12.2 of this Declaration and create subcommittees and appoint members to such subcommittees of the Architectural Control Committee; (r) exercise any additional reserved right created by any other provision of the Governing Documents; (s) record an instrument surrendering a Development Right; and (t) any other right granted to Declarant by the Governing Documents.

**Section 11.2. Annexation of Additional Property.**

(a) Manner of Annexation. At any time after the date this Declaration is recorded in the Real Property Records, until the expiration of the Declarant Control Period, Declarant may add Annexed Property to the Property by way of a Supplemental Declaration and make such Annexed Property subject to the Governing Documents. Declarant may subject any Annexed Property to all or any portion of this Declaration, may replat the Property and such Annexed Property as Declarant desires, and may create additional Lots and Common Areas from or out of such Annexed Property.

(b) Effectiveness and Applicability of Provisions of Supplemental Declaration. Effective upon the recording of an Supplemental Declaration in the Real Property Records, or as otherwise stated in such Supplemental Declaration: (i) the covenants and restrictions contained in this Declaration and the other Governing Documents shall automatically, and without further action by any Person, apply to Annexed Property in the same manner that such covenants and restrictions apply to all other portions of the Property; and (ii) any lien arising from ownership or construction upon Annexed Property shall affect only such Annexed Property and Improvements located thereon.

**Section 11.3. Withdrawal of Real Property.** During the Declarant Control Period, Declarant reserves the right to withdraw any portion of the Property or any Lot from the Property and from this Declaration and the other Governing Documents for any reason. Such withdrawal shall be accomplished by the execution, acknowledgment and recordation of a written notice of withdrawal (the "Withdrawal Notice"); provided no Assessments have then commenced with respect to the Property or Lot to be withdrawn. The Withdrawal Notice shall: (a) be executed and acknowledged by Declarant and the Owner of the Lot to be withdrawn (if Declarant is not the Owner) without the necessity of the joinder or consent of any other Person; (b) contain an adequate legal

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description of the Lot to be withdrawn; and (c) contain a statement and declaration that the Lot is withdrawn from the Property and from the effect of this Declaration and the other Governing Documents. The withdrawal shall be effective upon filing of the Withdrawal Notice in the Real Property Records. Nothing in this Section 11.3 shall be interpreted to prohibit later annexation of any withdrawn Property.

Section 11.4. **No Approval Required for Exercise of Development Rights.** No approval of any Owner or its Mortgagee shall be required for the exercise of any Development Right. Declarant may exercise any Development Right on all or any portion of the Property and in whatever order determined by Declarant. Declarant shall not be obligated to exercise any Development Right or to expand the Property beyond the number of Lots initially submitted. The exercise of any Development Right as to some portion of the Property shall not obligate the Declarant to exercise any Development Right as to other portions of the Property. No provision of this Declaration shall be construed to prevent or limit Declarant's right, and Declarant expressly reserves the right, to complete the development of the Property within the boundaries of the Property and to construct or alter Improvements on any Property owned by Declarant within the Property.

Section 11.5. **Zoning.** No Owner other than Declarant may apply for any change in the zoning of any portion of the Property without Declarant's prior written approval. Each Owner shall fully cooperate with Declarant in executing all documents, providing all information, and taking or refraining from taking any action as may be necessary or appropriate to effectuate any zoning change requested by Declarant. Any costs and expenses incurred by Declarant or the Architectural Control Committee relating to the obtainment of a zoning change on behalf of an Owner shall be reimbursed by such Owner.

Section 11.6. **Rights Transferable.** Rights created or reserved under Article XI of this Declaration for the benefit of Declarant may be transferred to any Person by an instrument executed by Declarant and the transferee describing the rights transferred and recorded in the Real Property Records.

Section 11.7. **Reciprocal Easements.** If part of the Property is withdrawn or de-annexed by Declarant during the Declarant Control Period, the Owners of the Property and the withdrawn Property shall be deemed to have and enjoy whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Property and withdrawn Property. Within a reasonable time after the necessity for any such easement appears, Declarant shall prepare and record in the Real Property Records whatever documents are necessary to evidence such easements and shall amend this Declaration to include reference to the recorded easements. Such recorded easements shall specify that the Owners of the Property and the owners of the withdrawn Property shall be obligated to pay a proportionate share of the cost of the operation and maintenance of any easements utilized by either one of them on the other's real property upon such reasonable basis as Declarant shall establish in the easements. Preparation and recordation of an easement pursuant to this Section 11.7 shall exclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable in relation to each portion of withdrawn Property and the Property as contemplated by this Section 11.7.

## ARTICLE XII ARCHITECTURAL CONTROL COMMITTEE

Section 12.1. **Required Approval.** The Plans for initial construction of any Improvements must first be submitted to and approved in writing by the Architectural Control Committee prior to the commencement of any work on such Improvements. Changes to the exterior of any building (after initial installation or construction) on a Lot that meet any of the criteria set forth in this Section 12.1 must first be submitted in writing to and approved in writing by the Architectural Control Committee: (a) any addition to the exterior of an

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Improvement; (b) a change or alteration to the architectural style and character of an Improvement including the exterior appearance, finish material, color or texture; (c) any addition of an accessory or additional structure to the Lot; (d) any change that results in a substantial change to the roof plane or lines of an Improvement; (e) demolition or destruction by voluntary action of any Improvement; (f) installation or modification of any landscaping or fencing; or (g) any grading, excavation, filling or similar disturbance to the surface of any portion of the Property including change of grade, change of ground level, or change of drainage pattern. The Architectural Control Committee may require other information be submitted with applications as further described in the Architectural Guidelines. Any Owner of a Lot, excluding Declarant, shall not be permitted to divide or sub-divide such Owner's Lot, nor convey any easements or other interests in the Lot less than in their entirety without the prior written approval of the Architectural Control Committee.

Section 12.2. **Establishment of the Architectural Control Committee.** The Architectural Control Committee shall be established by Declarant, and shall initially consist of up to five members appointed by Declarant. Declarant shall have the continuing right to appoint and remove all members of the Architectural Control Committee during the Declarant Control Period. The Board shall have the right to appoint and remove members of the Architectural Control Committee upon the expiration or termination of the Declarant Control Period. Members of Architectural Control Committee after the expiration or termination of the Declarant Control Period shall serve for a term as may be designated by the Board or until resignation or removal by the Board. During the Declarant Control Period, Declarant shall give the Association notice of the appointment or removal of any member of the Architectural Control Committee. After the Declarant Control Period, the Board may, at any time and from time to time change the authorized number of members of the Architectural Control Committee, but at no time shall the number of members of the Architectural Control Committee be less than three. A majority of the Architectural Control Committee shall constitute a quorum of the Architectural Control Committee, and a vote of the majority of the Architectural Control Committee members present at any meeting where a quorum is present shall be required for the Architectural Control Committee action. Declarant may, from time to time, during the Declarant Control Period, adopt, promulgate, amend or otherwise revise the Architectural Guidelines, or any other standards, rules, regulations and procedures governing development control of the Property for the purposes of (a) further enhancing, defining, or interpreting which items or Improvements are covered by Article XII of this Declaration; and (b) providing for changes in technology, industry standards, style, materials, safety issues, consistency with updated building codes or Legal Requirements, or for any other reason that Declarant deems to be proper, necessary or in the best interests of the Property; provided that neither Declarant nor the Architectural Control Committee in its review or approval of any matter, shall be deemed to be giving any opinion, warranty or representation as to compliance with any of the matters set forth in this Subsection 12.3(b).

Section 12.3. **Delegation of Control.** The Architectural Control Committee shall have the right, subject to the prior written approval by Declarant during the Declarant Control Period, to delegate its rights and obligations under Article XII of this Declaration to any subcommittee of the Architectural Control Committee. Any such delegation may be revoked by the Architectural Control Committee, at any time.

Section 12.4. **Architectural Guidelines.** After the Declarant Control Period, the Board may adopt Architectural Guidelines from time to time. The Architectural Guidelines shall not be inconsistent with the provisions of the Governing Documents, as both may be amended and if there are any inconsistencies, the provisions of the documents shall control in the order that is set forth for the Governing Documents in Section 2.3 of this Declaration.

Section 12.5. **Reply and Communication.** The Architectural Control Committee shall respond to applications made in accordance with this Article XII within the time periods and in the manner as set forth in the Architectural Guidelines. All communications and submittals shall be addressed to the Architectural Control

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Committee in writing at such address as the Architectural Control Committee may designate in the Architectural Guidelines. Any approvals granted by the Architectural Control Committee, or its designees, shall be granted solely for the benefit of the applicant only with respect to its application and shall not be construed as an approval for any other Person, Owner or Occupant planning to perform the same or similar type construction, architectural change or other improvement for which an application would be necessary pursuant to this Declaration and the Architectural Guidelines.

Section 12.6. **Variances.** The Architectural Control Committee may grant variances or adjustments from the Architectural Guidelines or from any conditions and restrictions imposed by this Article XII pursuant to variance criteria established by the Architectural Control Committee and as may be set forth in the Architectural Guidelines.

Section 12.7. **Appeal Rights of Owners.** If any request by an Owner under the provisions of this Article XII is disapproved by the Architectural Control Committee, then the applicant shall have the right of appeal to the Board. In considering the appeal, the Board can overturn the Architectural Control Committee's decision if the Board determines, in its sole discretion that the Architectural Control Committee abused its discretion or acted in an arbitrary or capricious manner. Notwithstanding the foregoing, and during the Declarant Control Period, the Board, in its sole discretion, may overturn the Architectural Control Committee's decision of disapproval for any reason whatsoever.

Section 12.8. **No Deemed Waivers.** No action or failure to act by Declarant, the Architectural Control Committee or by the Board shall constitute a waiver or estoppel with respect to any future action by the Architectural Control Committee or the Board, with respect to any Improvement to a Lot. Specifically, the approval by the Architectural Control Committee of any Improvement to a Lot shall not be deemed a waiver of any right or an estoppel to withholding approval for any similar Improvement to another Lot or any similar proposals, plans, specifications or other materials submitted with respect to any other improvement to another Lot.

Section 12.9. **Limitation on Liability.** Declarant, the Architectural Control Committee and the members thereof, as well as any designee of the Architectural Control Committee designated to act on its behalf, shall not be liable in damages to any Owner or Person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within the jurisdiction of the Architectural Control Committee under the Governing Documents. Declarant and the Architectural Control Committee shall not be responsible for structural, engineering or any other defects in Plans approved or for violations of any building or zoning code or other land use regulations or Legal Requirements, and any Claim against an Indemnified Party in connection therewith shall be subject to indemnification under and pursuant to the provisions of Section 15.15 of this Declaration.

Section 12.10. **Records.** The Architectural Control Committee shall or shall cause the Manager to maintain records, electronic or written, of all applications submitted to it and of all actions taken by it with respect thereto in accordance with the record retention, inspection, production and copying policy adopted by the Board. Such records shall be open and available for inspection by any Owner pursuant to such policy and in accordance with the Act.

Section 12.11. **Enforcement of Article XII of this Declaration.**

(a) **Nonconforming Improvements.** Any Improvement to a Lot made in violation of Article XII of this Declaration or of the Architectural Guidelines shall be deemed to be nonconforming. Should the

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Architectural Control Committee determine that any Improvement has been made without approval or was not made in substantial compliance with the description and materials furnished, and any conditions imposed, or was not completed with due diligence, the Architectural Control Committee, acting on behalf of the Association, shall notify the Owner in writing of the noncompliance. The notice shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. Upon receipt of any such notice, the Owner of the Lot upon which such Improvement has been made shall, at such Owner's own cost and expense, remove such structure or Improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming Improvement. Should the Owner fail to take such action within the time specified in the notice of noncompliance, the Association shall have the right to record a copy of such notice of noncompliance in the Real Property Records. Further, the Association shall have the right to enter the Lot, correct or remove the Improvement that constitutes the violation, and restore the Lot to substantially the same condition as the Lot previously existed. All costs, together with interest at the Past Due Rate, may be assessed against the benefited Lot and collected as an Assessment. The provisions of this Section 12.11 are in addition to all other legal and equitable remedies available to the Association.

(b) Additional Remedies. In addition to the enforcement rights of the Association set forth in Subsection 12.11(a) of this Declaration, the Association shall have the right, but not the obligation, to institute, maintain and prosecute proceedings at law or in equity against any Person violating or attempting to violate any of the terms and provisions of Article XII of this Declaration. In any action instituted or maintained under Article XII of this Declaration, the Association, shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by a court. Failure of the Association or the Architectural Control Committee to enforce any covenant, condition or restriction contained in the Governing Documents shall not be deemed a waiver of the Association or the Architectural Control Committee's right to do so thereafter.

Section 12.12. Obtaining Governmental Approvals. Prior to commencement of construction of any Improvements, an Owner shall obtain all required Governmental Approvals in order for the Owner to construct, operate and maintain the Improvements.

### **ARTICLE XIII PROPERTY ROADS**

Section 13.1. The Kaufman County MUD shall be solely responsible for the management and operation of the Property Roads. The Association shall have the right to temporarily close off portions of the Property Roads for commercial uses and for events, activities and functions approved by the Association. Declarant, the Association and the Board and its members shall not be liable to any extent whatsoever to any Person or Owner for any defect in or structural issue with the Property Roads or for any failure with respect to performance of management, operations, and other duties concerning the Property Roads, and any Claim in connection therewith against an Indemnified Party shall be the subject of indemnification under Section 15.15 of this Declaration.

### **ARTICLE XIV DISPUTE RESOLUTION**

Section 14.1. Dispute Resolution. The Association, Owners, Declarant, and any other Persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article XIV (each a "Party" and collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the costs of litigation if possible. For the purposes of this Article XIV,

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"Claimant" shall mean means the Party who has brought a Claim against a Party and "Respondent" means the Party against whom the Claimant has a Claim. Each Party hereby covenants and agrees that this Article XIV applies to all Claims except as otherwise set forth herein. The following Claims ("Exempt Claims") shall be exempt from this Article XIV: (a) Association's claim for Assessments, and any action by the Association to collect Assessments; (b) an action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration; (c) enforcement of any easements, architectural control provisions, maintenance and use restrictions set forth in this Declaration; and (d) a suit to which an applicable statute of limitations would expire within the notice period of this Article XIV, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article XIV.

Section 14.2. **Mandatory Procedures.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article XIV.

Section 14.3. **Claim Notice.** Claimant must notify Respondent in writing of the Claim (the "Claim Notice") stating: (a) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (b) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises); (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) that the Claim Notice is given pursuant to this Article XIV.

Section 14.4. **Negotiation.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within five days after Respondent's receipt of the Claim Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

Section 14.5. **Mediation.** If the Parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Claim Notice (or within such other period as may be mutually agreed to by the Parties), Claimant will have 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 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, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

Section 14.6. **Termination of Mediation.** If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

Section 14.7. **Allocation of Costs.** Except as otherwise provided in this Article XIV, each Party bears all of its own costs incurred prior to and during the proceedings described in the Claim Notice, negotiation, and

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mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

Section 14.8. **Enforcement of Resolution.** Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article XIV. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.

Section 14.9. **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. A Party having an Exempt Claim may submit it to the procedures of this Article XIV.

Section 14.10. **Litigation and Approval Settlement.** To encourage the use of alternate dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. Each Owner, by accepting an interest in or title to a parcel, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Article XIV. After the expiration or termination of the Declarant Control Period, this Article XIV may not be amended without the approval of Owners of at least 75 percent of the Lots.

Section 14.11. **Owner Approval.** The Association may not initiate any judicial or administrative proceeding without the prior approval of owners of at least a majority of the Lots, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of owners in order to preserve the status quo.

Section 14.12. **Suit Against Declarant.** Also, the Association may not initiate any judicial or administrative proceeding against Declarant without the approval of Owners representing at least 75 percent of the Lots.

Section 14.13. **Funding Litigation.** Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a special assessment, the Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its reserve funds for operating expenses or repair or replacement or reserve funds or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

Section 14.14. **Settlement.** The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of Claims.

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**ARTICLE XV  
GENERAL PROVISIONS**

Section 15.1. **Remedies Cumulative.** Each remedy provided under the Governing Documents is cumulative and nonexclusive.

Section 15.2. **Severability.** Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of the Governing Documents or the application thereof to any Person or circumstances is held invalid, unenforceable and not in compliance with the Legal Requirements, such the invalidity, unenforceability or non-compliance shall not affect other provisions or applications of the Governing Documents.

Section 15.3. **Covenants and Restrictions Running with the Land.** The covenants and restrictions of this Declaration shall run with the land and bind the Property in perpetuity.

Section 15.4. **Amendment of Declaration by Declarant.** Pursuant to Declarant exercising any Development Right until the termination or expiration of the Declarant Control Period pursuant to this Declaration, any of the provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration or the other Governing Documents, may be amended by Declarant by the recordation of a written instrument, executed by Declarant (without the necessity of the joinder or consent of any other Person), setting forth such amendment. Each deed, security interest, other evidence of obligation or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and an approval of the reservation of, the power of Declarant to make, execute and record an amendment under this Section 15.4. During the Declarant Control Period, Declarant, without a vote of the Owners or approval by the Mortgagees or the Association, may amend the Governing Documents in any manner necessary to meet the requirements of the Federal National Mortgage Association, the Federal National Home Loan Mortgage Corporation, the Federal Housing Administration or the Veterans Administration or the Act (as may be amended).

Section 15.5. **Amendment of Declaration by Owners.** After the Declarant Control Period has terminated or expired, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, repealed, added to, or changed from time to time by an amendment upon the vote of 51% of the votes entitled to be cast at a duly called meeting of the Members at which a quorum is present. Any such amendment shall be effective upon the recording thereof in the Real Property Records, which shall contain a certification that the amendment has been approved as set forth in this Section 15.5.

Section 15.6. **Required Approval of Declarant to Amendment.** Notwithstanding any other provision in this Declaration to the contrary, any proposed amendment or repeal of any provision of this Declaration reserving Development Rights or for the benefit of Declarant, or its assignees, shall not be effective unless Declarant, and its assignees, if any, have given written approval to such amendment, which approval may be evidenced by the execution by Declarant or its assignees of any certificate of amendment. The foregoing requirement for approval of any amendment shall terminate upon the termination or expiration of the Declarant Control Period.

Section 15.7. **No Public Dedication.** Nothing in this Declaration shall be deemed to be a gift or dedication of any portion of the Property, or of any Lot to the general public or for any public use or purpose whatsoever, it being the intent that this Declaration be strictly limited to and for the purposes expressed in this Declaration for the development, maintenance and operation of a private real estate development on private

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property solely for the benefit of the Owners, except that certain easements, rights-of-way, streets, water facilities and similar utilities and improvements of the Property may be dedicated by plat or by separate documents.

Section 15.8. **Notices.** All notices or other communications required or permitted to be given pursuant to this Declaration shall be in writing and shall be considered as properly given if: (a) mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, (b) by delivering same in person to the intended addressee, (c) by delivery to an independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee or (d) by prepaid telefacsimile to the addressee. Notice so mailed shall be effective upon its deposit with the United States Postal Service or any successor thereto; notice sent by such a commercial delivery service shall be effective upon delivery to such commercial delivery service; notice given by personal delivery shall be effective only if and when received by the addressee; and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the addresses of Declarant and the Association shall be as set forth below and the address of each Owner shall be the address of the Lot unless an alternate address is provided by an Owner to the Association. Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of 30 days notice to the Association in the manner set forth herein:

Declarant: HW Heartland, L.P.  
c/o Hillwood Development Company, LLC  
3090 Olive Street, Suite 300  
Dallas, Texas 75219  
Attention: General Counsel

Association: Heartland Community Association, Inc.  
Hillwood Development Company, LLC  
3090 Olive Street, Suite 300  
Dallas, Texas 75219  
Attention: General Counsel

Section 15.9. **Interpretation.** Declarant shall have the right, power and authority to determine all questions arising under or in connection with the Governing Documents and to reasonably construe and interpret its provisions in accordance with the laws of the State and the laws of the United States applicable to transactions in the State. Any such determination, construction or interpretation made by Declarant shall be binding on the Owners. In all cases, the provisions set forth or provided for in the Governing Documents shall be construed together and given that interpretation or construction which, in the reasonable opinion of Declarant, shall best effect its general plan of development as reflected herein in accordance with the laws of the State and the laws of the United States applicable to Declarant. The provisions of the Governing Documents shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. Uses of the word "including" shall be deemed to be followed by the words "without limitation."

Section 15.10. **No Representations or Warranties.** No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by Declarant or its Affiliates, in connection with any portion of the Property, its physical condition, the Legal Requirements, fitness for intended use, or in connection with the development, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof.

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Section 15.11. **Singular Includes the Plural.** Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 15.12. **Captions.** All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article of this Declaration.

Section 15.13. **Governing Law; Venue.** This Declaration shall be construed and governed under the laws of the State. Venue for any lawsuit arising out of the Governing Documents, whether directly or indirectly, shall be in the County.

Section 15.14. **INDEMNIFICATION.**

(a) **GENERAL.** EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT, THE ASSOCIATION, THE ARCHITECTURAL CONTROL COMMITTEE, THE BOARD AND EACH OF THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (EACH AN "INDEMNIFIED PARTY"), FROM ANY AND ALL CLAIMS OF ANY NATURE THAT ARISE AS THE RESULT OF OR ARE CAUSED BY (i) SUCH OWNER'S (OR THE OCCUPANT OF SUCH OWNER'S LOT OR IMPROVEMENTS THEREON) NON-COMPLIANCE WITH ANY OF THE PROVISIONS OF THE GOVERNING DOCUMENTS, OR (ii) ANY ACT OR OMISSION OF SUCH OWNER (OR THE OCCUPANT OF SUCH OWNER'S LOT OR IMPROVEMENTS THEREON).

(b) **PLAN REVIEW.** NO OWNER SUBMITTING PLANS TO AN INDEMNIFIED PARTY PURSUANT TO THE GOVERNING DOCUMENTS, BY DISSEMINATION OF THE SAME, AND NO OWNER, BY ACQUIRING TITLE TO A LOT, SHALL MAKE ANY CLAIMS AGAINST ANY INDEMNIFIED PARTY RELATING TO OR ARISING OUT OF ANY INDEMNIFIED PARTY'S REVIEW OF SUCH SUBMITTED PLANS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NO INDEMNIFIED PARTY REVIEWING SUCH PLANS SHALL BE RESPONSIBLE FOR OR SHALL HAVE OBLIGATIONS TO COMMENT ON OR ASSURE COMPLIANCE OF SUCH PLANS FOR STRUCTURAL INTEGRITY AND SAFETY, SOUNDNESS, WORKMANSHIP, MATERIALS, USEFULNESS, CONFORMITY WITH BUILDING OR OTHER CODES OR INDUSTRY STANDARDS OR COMPLIANCE WITH ANY LEGAL REQUIREMENTS. FURTHER, EACH OWNER AGREES TO INDEMNIFY, DEFEND, AND HOLD EACH INDEMNIFIED PARTY HARMLESS FROM ANY PLANS OF AN OWNER SUBMITTED UNDER THE GOVERNING DOCUMENTS OR THE CONSTRUCTION OF IMPROVEMENTS OF SUCH OWNER'S LOT.

Section 15.15. **Limitation of Liability.** Neither Declarant, the Association, the Architectural Control Committee, the Board nor any of their respective officers, directors, employees or agents shall be, individually or in combination, liable for Claims of: (a) any Owner or any other Person submitting Plans, proposed uses or variance for approval, by reason of mistake in judgment, negligence, gross negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or to disapprove any Plans, proposed use or variance submitted for approval; (b) an Owner, in connection with any design, engineering or construction defect associated with any Improvement or building constructed on the Property; (c) an Owner, in connection with the breach or violation of any provision of the Governing Documents by an Owner including the restrictive covenants in the Governing Documents covering the use of such Owner's Lot; (d) an Owner, in connection with: (i) injury or damage to any Person or property caused by the elements or by such Owner or any other Person, or resulting from any utility, rain, snow or ice which may leak or flow from or over any portion of the Common

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Areas or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder; (ii) loss by damage, theft or otherwise of any property that may be stored in or upon any of the Common Areas; or (iii) damage or injury caused in whole or in part by the failure of the Association or any officer, director, employee or agent of the Association to discharge its or their responsibilities under this Section 15.15 of this Declaration (collectively, "Common Area Damage"); or (e) any Claim for breach of representation or warranty, express or implied, by an Owner or any other Person in connection with any portion of the Property, its physical condition, the Legal Requirements, fitness for intended use, or in connection with the development, sale, operation, maintenance, taxes or regulation thereof ("Breach of Representation or Warranty"), unless and except specifically set forth in writing and executed by the Person against whom the Claim is asserted. No Designee of Declarant, the Association, the Architectural Control Committee or the Board shall be liable to any Owner or any of its Designees, for any Claims, except as otherwise expressly set forth in the Governing Documents and such Designee shall be indemnified in accordance with the provisions of the Governing Documents.

THE OWNERS, BY ACCEPTANCE OF A DEED TO THEIR RESPECTIVE LOTS, RELEASE AND FOREVER DISCHARGES DECLARANT, THE ASSOCIATION, THE BOARD AND THE ARCHITECTURAL CONTROL COMMITTEE, AND THEIR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, FROM ALL CLAIMS IN CONNECTION WITH (a) ANY DESIGN, ENGINEERING OR CONSTRUCTION DEFECT ASSOCIATED WITH ANY IMPROVEMENT CONSTRUCTED ON THE PROPERTY; (b) THE BREACH OF ANY PROVISION OF THE GOVERNING DOCUMENTS BY AN OWNER, INCLUDING THE RESTRICTIVE COVENANTS IN THIS DECLARATION COVERING THE USE OF SUCH OWNER'S LOT; (c) ANY BREACH OF REPRESENTATION OR WARRANTY; OR (d) COMMON AREA DAMAGE.

Section 15.16. Liability of Owners for Damage. Each Owner shall be liable to the Association, for any damage to the Common Areas or for any expense or liability incurred by the Association that may be sustained by reason of any act or omission of such Owner or its Occupants or its Designees, and for any violation by such Owner or its Occupants or its Designees, of the Governing Documents. The Association shall have the power to levy and collect an Individual Assessment against an Owner to cover the costs and expenses incurred by the Association on account of any such damage or any such violation of the Governing Documents, including interest and reasonable attorneys' fees, or for any increase in insurance premiums directly attributable to any such damage or violation.

Section 15.17. Reimbursement of Expenses. Except as otherwise expressly stated in this Declaration or the other Governing Documents, whenever a sum is due and payable by an Owner to the Association, Architectural Control Committee or Declarant such sum shall be paid within 30 days of an Owner's receipt of notice of such payment. If an Owner fails to make such payment within such 30 day time period, such outstanding amount shall accrue interest at the Past Due Rate. Additionally, such outstanding payment is subject to the rights of the Association contained in Section 6.4 of this Declaration.

*[Remainder of Page Intentionally Left Blank – Signature Page to Follow]*

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IN WITNESS WHEREOF, Declarant has duly executed this Declaration on the day and year first above written.

**DECLARANT:**

HW Heartland, L.P.,  
a Texas limited partnership

By: HW Heartland GP, LLC,  
a Texas limited liability company,  
its general partner

By: *Michele M. Ringnald*  
Name: Michele M. Ringnald  
Title: Secretary

STATE OF TEXAS                    §  
  §  
COUNTY OF DALLAS           §

This instrument was acknowledged before me on the 21 day of December     , 2011 by Michele M. Ringnald, Secretary of HW Heartland, L.P., a Texas limited partnership, on behalf of said partnership.

[SEAL]

*Kristy Needham*  
Notary Public in and for the State of Texas

My Commission Expires:



List of Exhibits:

- Exhibit A - Legal Description of the Property
- Exhibit B - Sample MUD Notice



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

**TRACT C (609.910 acres)**

BEING all that certain lot, tract or parcel of land located in the J. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being the remainder of that certain tract of land described as Tract K31 in the deed to West Foundation, according to the deed filed for record in Volume 749, Page 245 of the Deed Records of Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod set with a cap stamped "Pate Engrs." at the intersection of the Southwesterly boundary line of said Tract K31 and the Southeasterly right-of-way line of Farm-Market 741 (a 90 foot wide right-of-way), said iron rod being in the center of County Road No. 269;

THENCE along the Southwesterly right-of-way line of said Farm-Market 741 as follows:

1. North 43 deg. 59 min. 38 sec. East, along the Southeasterly right-of-way line of said Farm-Market 741, a distance of 2525.09 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs.";
2. North 44 deg. 20 min. 25 sec. East, at a distance of 792.50 feet passing a concrete monument found and at a distance of 2590.74 feet passing a concrete monument found and continuing in all a distance of 4582.54 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs." for the beginning of a curve to the left having a radius of 761.20 feet;
3. Along said curve to the left, through a central angle of 11 deg. 23 min. 36 sec., an arc length of 151.37 feet and having a long chord which bears North 38 deg. 38 min. 37 sec., 151.12 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs.";
4. North 44 deg. 20 min. 25 sec. East, a distance of 463.83 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs." for the beginning of a curve to the left having a radius of 127.30 feet;
5. Along said curve to the left, through a central angle of 40 deg. 09 min. 07 sec., an arc length of 89.21 feet and having a long chord which bears North 24 deg. 15 min. 15 min. East, 87.40 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs.", said iron rod being on the Northwesterly boundary line of the aforementioned Tract K31;

THENCE North 44 deg. 20 min. 24 sec. East, along the Northwesterly line of said Tract K31, a distance of 14.48 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs." for the Northwest corner of said Tract K31, said iron rod being in County Road No. 260 (an undefined width right of way);

THENCE South 46 deg. 07 min. 54 sec. East, along the Northeasterly boundary line of said Tract K31 and with said County Road No. 260, a distance of 3434.03 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs." in the center of said County Road No. 260 and being the Northeast corner of said Tract K31;

THENCE South 44 deg. 14 min. 23 sec. West, along the Southeasterly boundary line of said Tract K31 and the Northwesterly boundary line of that certain called 1000 acre tract of land conveyed to Fitzpatrick, Ltd., according to the deed filed for record in Volume 1166, Page 368, Deed Records, Kaufman County, Texas, at a distance of 30.00 feet passing a 1/2 inch iron rod set with a cap stamped "Pate Engrs." For reference and continuing along said boundary line at a distance of 7803.09 feet passing a 1/2 inch iron rod set with a cap stamped "Pate Engrs." for reference and continuing in all a distance of 7833.09 feet to a 5/8-inch iron rod found in the aforementioned County Road No. 269;



THENCE North 45 deg. 52 min. 38 sec. West, along the Southwesterly boundary line of said Tract K31 and along said County Road No. 269, a distance of 3387.41 feet to the POINT OF BEGINNING and containing 609.910 acres (26,567,680 square feet) of land.

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**HEARTLAND SINGLE FAMILY - SECTION ONE**

Tract A1 - 298.609 acres ! Tract A2 - 63.144 acres ! Tract G - 158.104 acres

**TRACT A1 (298.609 acres)**

BEING a tract of land located in the MARTHA MUSICK SURVEY, ABSTRACT NO. 312 and the JOHN MOORE SURVEY, ABSTRACT NO. 309, Kaufman County, Texas and being part of a tract of land described as Tract 2 in Deed to 2219 Kaufman Partners, L.P., recorded in Volume 2127 Page 184, Deed Records, Kaufman County, Texas and being more particularly described as follows:

COMMENCING at a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found at the intersection of the Easterly line of F.M. 741, a 90 foot wide right-of-way, with the South line of Interstate Highway 20, a variable width right-of-way, at the most Northerly Northwest corner of said Kaufman Partners, L.P. tract, said point being at the beginning of a curve to the right having a central angle of 00 degrees 59 minutes 08 seconds, a radius of 909.93 feet and a chord bearing and distance of South 32 degrees 19 minutes 54 seconds West, 15.65 feet (Basis of bearing derived from Texas State Plane Coordinates, North Central Zone, NAD83);

THENCE Southwesterly, along said curve to the right, an arc distance of 15.65 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears South 26 degrees 10 minutes 17 seconds West, 0.35 feet;

THENCE South 31 degrees 50 minutes 20 seconds West, a distance of 211.13 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears North 13 degrees 28 minutes 29 seconds West, 0.24 feet and a concrete monument bears North 80 degrees 33 minutes 03 seconds East, 0.67 feet, said point being at the beginning of a curve to the right having a central angle of 14 degrees 28 minutes 00 seconds, a radius of 999.93 feet and a chord bearing and distance of South 39 degrees 04 minutes 20 seconds West, 251.80 feet;

THENCE Southwesterly, along said curve to the right, an arc distance of 252.47 feet to a point for corner from which a concrete monument bears North 49 degrees 31 minutes 41 seconds West, 0.44 feet;

THENCE South 46 degrees 18 minutes 20 seconds West, a distance of 451.89 feet to a point for corner at the POINT OF BEGINNING of the tract herein described;

THENCE South 43 degrees 41 minutes 40 seconds East, a distance of 249.40 feet to a point for corner at the beginning of a curve to the left having a central angle of 38 degrees 41 minutes 30 seconds, a radius of 950.00 feet and a chord bearing and distance of South 63 degrees 02 minutes 25 seconds East, 629.41 feet;

THENCE Southeasterly, along said curve to the left, an arc distance of 641.53 feet to a point for corner;

THENCE South 82 degrees 23 minutes 10 seconds East, a distance of 172.65 feet to a point for corner at the beginning of a curve to the right having a central angle of 10 degrees 28 minutes 31 seconds, a radius of 300.00 feet and a chord bearing and distance of South 77 degrees 08 minutes 55 seconds East, 54.77 feet;

THENCE Easterly, along said curve to the right, an arc distance of 54.85 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 10 degrees 28 minutes 31 seconds, a radius of 300.00 feet and a chord bearing and distance of South 77 degrees 08 minutes 55 seconds East, 54.77 feet;

THENCE Easterly, along said curve to the left, an arc distance of 54.85 feet to a point for corner;

THENCE South 82 degrees 23 minutes 10 seconds East, a distance of 23.30 feet to a point for corner at the beginning of a curve to the right having a central angle of 36 degrees 41 minutes 46 seconds, a radius of 790.00 feet and a chord bearing and distance of South 64 degrees 02 minutes 17 seconds East, 497.37 feet;

THENCE Southeasterly, along said curve to the right, an arc distance of 505.97 feet to a point for corner;

THENCE South 45 degrees 41 minutes 24 seconds East, a distance of 1,323.95 feet to a point for corner;

THENCE North 44 degrees 18 minutes 36 seconds East, a distance of 10.00 feet to a point for corner;

THENCE South 45 degrees 41 minutes 24 seconds East, a distance of 397.25 feet to a point for corner at the beginning of a curve to the right having a central angle of 73 degrees 29 minutes 59 seconds, a radius of 800.00 feet and a chord bearing and distance of South 08 degrees 56 minutes 24 seconds East, 957.32 feet;

THENCE Southerly, along said curve to the right, an arc distance of 1,026.25 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 41 degrees 53 minutes 44 seconds, a radius of 950.00 feet and a chord bearing and distance of South 06 degrees 51 minutes 43 seconds West, 679.28 feet;

THENCE Southerly, along said curve to the left, an arc distance of 694.65 feet to a point for corner at the beginning of a reverse curve to the right having a central angle of 39 degrees 52 minutes 07 seconds, a radius of 800.00 feet and a chord bearing and distance of South 05 degrees 50 minutes 55 seconds West, 545.51 feet;

THENCE Southerly, along said curve to the right, an arc distance of 556.67 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 16 degrees 47 minutes 55 seconds, a radius of 950.00 feet and a chord bearing and distance of South 17 degrees 23 minutes 01 seconds West, 277.534 feet;

THENCE Southerly, along said curve to the left, an arc distance of 278.53 feet to a point for corner at the beginning of a reverse curve to the right having a central angle of 35 degrees 23 minutes 17 seconds, a radius of 700.00 feet and a chord bearing and distance of South 26 degrees 40 minutes 42 seconds West, 425.51 feet;

THENCE Southwesterly, along said curve to the right, an arc distance of 432.35 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 11 degrees 29 minutes 37 seconds, a radius of 550.00 feet and a chord bearing and distance of South 38 degrees 37 minutes 32 seconds West, 110.15 feet;

THENCE Southwesterly, along said curve to the left, an arc distance of 110.33 feet to a point for corner ;

THENCE South 32 degrees 52 minutes 43 seconds West, a distance of 423.44 feet to a point for corner in the Northeast line of said F.M. 741;

THENCE Northwesterly and Northeasterly along said F.M. 741, the following seven (7) courses and distances:

1. North 57 degrees 07 minutes 17 seconds West, a distance of 311.04 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears North 29 degrees 06 minutes 50 seconds West, 0.61 feet, said point being at the beginning of a curve to the right having a central angle of

11 degrees 54 minutes 00 seconds, a radius of 11,382.09 feet and a chord bearing and distance of North 51 degrees 10 minutes 17 seconds West, 2,359.75 feet;

2. Northwesterly, along said curve to the right, an arc distance of 2,363.99 feet to a concrete monument found for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears South 89 degrees 03 minutes 20 seconds West, 0.80 feet;
3. North 45 degrees 13 minutes 17 seconds West, a distance of 1,653.79 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears South 71 degrees 05 minutes 38 seconds West, 1.33 feet and a concrete monument bears South 45 degrees 13 minutes 17 seconds East, 0.66 feet, said point being at the beginning of a curve to the right having a central angle of 90 degrees 30 minutes 21 seconds, a radius of 909.93 feet and a chord bearing and distance of North 00 degrees 01 minutes 54 seconds East, 1,292.50 feet;
4. Northerly, along said curve to the right, an arc distance of 1,437.35 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears North 82 degrees 45 minutes 30 seconds West, 1.12 feet and a concrete monument bears North 45 degrees 17 minutes 04 seconds East, 0.77 feet;
5. North 45 degrees 17 minutes 04 seconds East, a distance of 197.76 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears North 09 degrees 36 minutes 38 seconds East, 1.35 feet;
6. North 46 degrees 08 minutes 16 seconds East, a distance of 1,039.11 feet to a point for corner from which a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" bears North 08 degrees 24 minutes 23 seconds West, 2.12 feet and a concrete monument bears North 60 degrees 39 minutes 15 seconds East, 1.02 feet;
7. North 46 degrees 18 minutes 20 seconds East, a distance of 309.01 feet to the POINT OF BEGINNING and containing 298.609 acres of land, more or less.

**TRACT A2 (63.144 acres)**

BEING a tract of land located in the MARTHA MUSICK SURVEY, ABSTRACT NO. 312, Kaufman County, Texas and being a part of a tract of land described as Tract 4 in Deed to 2219 KAUFMAN PARTNERS, L.P., a Texas Limited Partnership, recorded in Volume 2127, Page 184, Deed Records, Kaufman County, Texas and being more particularly described as follows:

BEGINNING at the most Northerly corner of said Tract 4, said point being in the Southeast line of a tract of land described in Deed to Michael A. McFerrin and wife, Mary Elizabeth Hofker, recorded in Volume 1022, Page 621, Deed Records, Kaufman County, Texas, said point also being in the Southwest line of High Country Lane;

THENCE South 45 degrees 14 minutes 23 seconds East, along the Northeast line of said Tract 4 and said Southwest line of High Country Lane, a distance of 270.47 feet to a point for corner in the Southwest line of F.M. 741, a 90 foot wide right-of-way, at the beginning of a non-tangent curve to the left having a central angle of 09 degrees 32 minutes 19 seconds, a radius of 999.93 feet and a chord bearing and distance of South 40 degrees 27 minutes 07 seconds East, 166.28 feet;

THENCE Southeasterly, along said curve to the left and said Southwest line of F.M. 741, an arc distance of 166.47 feet to a point for corner;

THENCE South 45 degrees 13 minutes 17 seconds East, continuing along said Southwest line of F.M. 741, a distance of 889.10 feet to a point for corner;

THENCE South 44 degrees 46 minutes 43 seconds West, a distance of 596.80 feet to a point for corner at the beginning of a curve to the left having a central angle of 40 degrees 54 minutes 04 seconds, a radius of 1,607.20 feet and a chord bearing and distance of South 24 degrees 19 minutes 41 seconds West, 1,123.11 feet;

THENCE Southwesterly, along said curve to the left, an arc distance of 1,147.32 feet to a point for corner;

THENCE North 85 degrees 13 minutes 53 seconds West, a distance of 409.58 feet to a point for corner at the beginning of a curve to the left having a central angle of 33 degrees 48 minutes 53 seconds, a radius of 225.00 feet and a chord bearing and distance of South 77 degrees 51 minutes 41 seconds West, 130.87 feet;

THENCE Westerly, along said curve to the left, an arc distance of 132.79 feet to a point for corner; at the beginning of a non-tangent curve to the right having a central angle of 90 degrees 01 minutes 29 seconds, a radius of 50.00 feet and a chord bearing and distance of South 65 degrees 25 minutes 50 seconds West, 70.73 feet;

THENCE Southwesterly, along said curve to the right, an arc distance of 78.56 feet to a point for corner;

THENCE South 20 degrees 26 minutes 35 seconds West, a distance of 141.03 feet to a point for corner;

THENCE North 45 degrees 55 minutes 11 seconds West, a distance of 843.29 feet to a point for corner in said Southeasterly line of the McFerrin Tract;

THENCE North 25 degrees 16 minutes 50 seconds East, along said Southeasterly line, a distance of 918.22 feet to a point for corner;

THENCE North 27 degrees 52 minutes 28 seconds East, continuing along said Southeasterly line, a distance of 711.94 feet to a point for corner;

THENCE North 44 degrees 02 minutes 09 seconds East, a distance of 694.12 feet to the POINT OF BEGINNING and containing 63.144 acres of land, more or less.

**TRACT G (158.104 acres)**

BEING a tract of land located in the MARTHA MUSICK SURVEY, ABSTRACT NO. 312 and the JOHN MOORE SURVEY, ABSTRACT NO. 309, Kaufman County, Texas and being part of a tract of land described as Tract 2 in Deed to 2219 KAUFMAN PARTNERS, L.P., recorded in Volume, 2127, Page 184, Deed Records, Kaufman County, Texas and being more particularly described as follows:

BEGINNING at the most Easterly corner of said Tract 2;

THENCE South 43 degrees 51 minutes 39 seconds West, a distance of 2,650.46 feet to a point for corner in the Northeasterly line of F.M. 741, a 90 foot wide right-of-way, at the most Southerly corner of said Tract 2;

THENCE Northwesterly along said Northeast right-of-way line of F.M. 741 the following four (4) courses and distances:

North 45 degrees 17 minutes 35 seconds West, a distance of 3.79 feet to a point for corner;

North 44 degrees 55 minutes 38 seconds West, a distance of 752.58 feet to a point for corner at the beginning of a curve to the left having a central angle of 12 degrees 11 minutes 39 seconds, a radius of 5,745.58 feet and a chord bearing and distance of North 51 degrees 01 minutes 28 seconds West, 1,220.52 feet;

Northwesterly, along said curve to the left, an arc distance of 1,222.82 feet to a point for corner;

North 57 degrees 07 minutes 17 seconds West, a distance of 18.71 feet to a point for corner;

THENCE North 32 degrees 52 minutes 43 seconds East, leaving said Northeast line, a distance of 423.44 feet to a point for corner at the beginning of a curve to the right having a central angle of 11 degrees 29 minutes 38 seconds, a radius of 550.00 feet and a chord bearing and distance of North 38 degrees 37 minutes 32 seconds East, 110.15 feet;

THENCE Northeasterly, along said curve to the right, an arc distance of 110.33 feet to a point for corner at the beginning of a non-tangent curve to the left having a central angle of 35 degrees 23 minutes 17 seconds, a radius of 700.00 feet and a chord bearing and distance of North 26 degrees 40 minutes 43 seconds East, 425.51 feet;

THENCE Northeasterly, along said curve to the left, an arc distance of 432.35 feet to a point for corner at the beginning of a reverse curve to the right having a central angle of 16 degrees 47 minutes 55 seconds, a radius of 950.00 feet and a chord bearing and distance of North 17 degrees 23 minutes 02 seconds East, 277.53 feet;

THENCE Northerly, along said curve to the right, an arc distance of 278.53 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 39 degrees 52 minutes 07 seconds, a radius of 800.00 feet and a chord bearing and distance of North 05 degrees 50 minutes 56 seconds East, 545.51 feet;

THENCE Northerly, along said curve to the left, an arc distance of 556.67 feet to a point for corner at the beginning of a reverse curve to the right having a central angle of 41 degrees 53 minutes 44 seconds, a radius of 950.00 feet and a chord bearing and distance of North 06 degrees 51 minutes 44 seconds East, 679.28 feet;

THENCE Northerly, along said curve to the right, an arc distance of 694.65 feet to a point for corner at the beginning of a reverse curve to the left having a central angle of 51 degrees 56 minutes 57 seconds, a radius of 800.00 feet and a chord bearing and distance of North 01 degrees 50 minutes 08 seconds East, 700.76 feet;

THENCE Northerly, along said curve to the left, an arc distance of 725.35 feet to a point for corner;

THENCE North 65 degrees 51 minutes 38 seconds East, a distance of 65.50 feet to a point for corner;

THENCE South 46 degrees 16 minutes 15 seconds East, a distance of 3,520.12 feet to the POINT OF BEGINNING and containing 158.104 acres of land, more or less.

#### **TRACT B (1,022.027 acres)**

BEING a tract of land located in the JOHN MOORE SURVEY, ABSTRACT NO. 309 and the MARTHA MUSICK SURVEY, ABSTRACT NO. 312, Kaufman County, Texas and being part of a tract of land described as Tract 1 and Tract 2 in Deed to HW Heartland, L.P., recorded in Document Number 2007-00007342, Deed Records, Kaufman County, Texas and being more particularly described as follows:

BEGINNING at a busted concrete monument found in the Northeasterly line of County Road No. 2757, a 100 foot right-of-way, at the West end of a corner clip at the South corner of said Tract 1;

THENCE Northwesterly, along the Northeasterly line of said County Road No. 2757, the following three (3) courses and distances:

North 44 degrees 19 minutes 40 seconds West, a distance of 1,248.09 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 45 degrees 25 minutes 40 seconds West, a distance of 624.62 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 45 degrees 38 minutes 40 seconds West, a distance of 3,304.71 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the West corner of said Tract 1;

THENCE North 44 degrees 34 minutes 48 seconds East, leaving the Northeasterly line of said County Road No. 2757 and along the Northwesterly line of said Tract 1, a distance of 3,661.95 feet to a 60D nail found for corner;

THENCE Northerly, along said Northwesterly line, the following seven (7) courses and distances:

North 44 degrees 20 minutes 17 seconds West, a distance of 763.42 feet to a 60D nail found for corner;

North 44 degrees 46 minutes 22 seconds East, a distance of 110.79 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGINEERS" found for corner;

North 45 degrees 09 minutes 05 seconds West, a distance of 756.36 feet to a 60D nail found for corner;

North 45 degrees 20 minutes 50 seconds West, a distance of 611.72 feet to a 60D nail found for corner;

North 44 degrees 54 minutes 14 seconds East, a distance of 247.82 feet to a 60D nail found for corner;

South 68 degrees 10 minutes 49 seconds East, a distance of 629.95 feet to a 60D nail found for corner;

North 44 degrees 19 minutes 24 seconds East, a distance of 851.60 feet to a 60D nail found for corner;

THENCE North 45 degrees 55 minutes 11 seconds West, a distance of 363.57 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner, being the Southwest corner of HEARTLAND TRACT B PHASE 3A, an addition to Kaufman County, Texas according to the Plat thereof recorded in Volume 3727, Page 460, Plat Records, Kaufman County, Texas

THENCE North 44 degrees 04 minutes 49 seconds East, a distance of 125.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

THENCE South 45 degrees 55 minutes 11 seconds East, a distance of 11.50 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner, at the beginning of a curve to the left having a central angle of 113 degrees 39 minutes 44 seconds, a radius of 50.00 feet and a chord bearing and distance of North 77 degrees 14 minutes 57 seconds East, 83.71 feet;

THENCE Easterly, along said curve to the left, an arc distance of 99.19 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner, at the beginning of a non-tangent curve to the right having a central angle of 33 degrees 48 minutes 53 seconds, a radius of 225.00 feet and a chord bearing and distance of North 77 degrees 51 minutes 41 seconds East, 130.87 feet;

THENCE Easterly, along said curve to the right, an arc distance of 132.79 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

THENCE South 85 degrees 13 minutes 53 seconds East, passing at a distance of 164.50 feet the Southwest corner of HEARTLAND TRACT B PHASE 2A, an Addition to Kaufman County, Texas according to the Plat thereof recorded in Volume 2827, Page 511, Plat Records, Kaufman County, Texas and continuing for a total distance of 349.57 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner at the beginning of a non-tangent curve to the left having a central angle of 00 degrees 18 minutes 11 seconds, a radius of 1,667.20 feet and a chord bearing and distance of South 03 degrees 45 minutes 28 seconds West, 8.82 feet;

THENCE Easterly and Northerly, along the lines of said Addition, the following three (3) courses and distances

Southerly, along said curve to the left, an arc distance of 8.82 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

South 86 degrees 23 minutes 37 seconds East, a distance of 60.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner at the beginning of a non-tangent curve to the right having a central angle of 24 degrees 34 minutes 57 seconds, a radius of 1,607.20 feet and a chord bearing and distance of North 15 degrees 53 minutes 52 seconds East, 684.29 feet;

Northerly, along said curve to the right, an arc distance of 689.56 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found at the Northeast corner of said Addition and at the South corner of HEARTLAND TRACT B PHASE 1A, an Addition to Kaufman County, Texas according to the Plat thereof recorded in Volume 3437, Page 110, Plat Records, Kaufman County, Texas, said point being at the beginning of a curve to the right having a central angle of 16 degrees 35 minutes 23 seconds, a radius of 1,607.20 feet and a chord bearing and distance of North 36 degrees 29 minutes 01 seconds East, 463.73 feet;

THENCE Northeasterly, along said HEARTLAND TRACT B PHASE 1A Addition and along said curve to the right, an arc distance of 465.36 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner;

THENCE North 44 degrees 46 minutes 43 seconds East, continuing along said HEARTLAND TRACT B PHASE 1A Addition, a distance of 596.80 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" found for corner in the Southwesterly right-of-way line of Farm to Market Road No. 741, a 90 foot right-of-way;

THENCE Southeasterly, along the Southwesterly right-of-way line of said Farm to Market Road No. 741, the following twelve (12) courses and distances:

South 45 degrees 13 minutes 17 seconds East, a distance of 764.69 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the left having a central angle of 03 degrees 03 minutes 24 seconds, a radius of 11,472.09 feet and a chord bearing and distance of South 46 degrees 44 minutes 59 seconds East, 611.94 feet;

Southeasterly, along said curve to the left, an arc distance of 612.01 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 45 degrees 21 minutes 23 seconds East, a distance of 189.56 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGINEERS" found for corner at the beginning of a curve to the left having a central angle of 04 degrees 13 minutes 00 seconds, a radius of 2,993.57 feet and a chord bearing and distance of South 47 degrees 27 minutes 53 seconds East, 220.26 feet;



Southeasterly, along said curve to the left, an arc distance of 220.31 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGINEERS" found for corner;

South 49 degrees 34 minutes 23 seconds East, a distance of 222.82 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGINEERS" found for corner at the beginning of a curve to the left having a central angle of 07 degrees 34 minutes 00 seconds, a radius of 1,858.59 feet and a chord bearing and distance of South 53 degrees 21 minutes 23 seconds East, 245.27 feet;

Southeasterly, along said curve to the left, an arc distance of 245.45 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGINEERS" found for corner;

South 57 degrees 08 minutes 23 seconds East, a distance of 299.17 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a non-tangent curve to the left having a central angle of 02 degrees 58 minutes 43 seconds, a radius of 11,472.09 feet and a chord bearing and distance of South 55 degrees 37 minutes 56 seconds East, 596.35 feet;

Southeasterly, along said curve to the left, an arc distance of 596.42 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 57 degrees 07 minutes 15 seconds East, a distance of 329.76 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a non-tangent curve to the right having a central angle of 12 degrees 11 minutes 38 seconds, a radius of 5,655.58 feet and a chord bearing and distance of South 51 degrees 01 minutes 28 seconds East, 1,201.38 feet;

Southeasterly, along said curve to the right, an arc distance of 1,203.65 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 44 degrees 55 minutes 38 seconds East, a distance of 752.58 feet to a concrete monument found for corner;

South 45 degrees 17 minutes 35 seconds East, a distance of 239.42 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 44 degrees 19 minutes 46 seconds West, leaving the Southwesterly right-of-way line of said Farm-to-Market Road No. 741, a distance of 1,400.75 feet to a 5/8 inch iron rod found in fence corner post;

THENCE South 44 degrees 45 minutes 27 seconds East, a distance of 1,448.35 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the Northwesterly right-of-way line of said Farm-to-Market Road No. 741;

THENCE Southwesterly, along the Northwesterly right-of-way line of said Farm-to-Market Road No. 741, the following eight (8) courses and distances:

South 44 degrees 24 minutes 12 seconds West, a distance of 544.98 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

North 45 degrees 25 minutes 26 seconds West, a distance of 10.00 feet to a concrete monument found for corner;

South 44 degrees 30 minutes 36 seconds West, a distance of 700.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 45 degrees 39 minutes 20 seconds East, a distance of 10.00 feet to an "X" set for corner;

South 44 degrees 20 minutes 40 seconds West, a distance of 1,798.29 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 44 degrees 26 minutes 34 seconds West, a distance of 792.04 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

South 43 degrees 58 minutes 26 seconds West, a distance of 2,424.34 feet to a concrete monument found for corner;

South 89 degrees 30 minutes 06 seconds West, a distance of 135.36 feet to the POINT OF BEGINNING and containing 1,022.027 acres of land, more or less.

=====

**SAVE AND EXCEPT (EXCLUDING)**

**SCHOOL SITE - LOT 1, BLK 38, TRACT A, PHASE 2B**

ALL OF LOT 1, BLOCK 38, HEARTLAND TRACT A, PHASE 2B, an addition in Kaufman County, Texas, according to the plat thereof recorded on October 23, 2007, as Document No. 00025180, in Volume 3276, Page 11, Real Property Records, and in Cabinet 3, Slide 38, Plat Records, Kaufman County, Texas, having been withdrawn by the Amendment to Withdraw School Site (Lot 1, Block 38, Heartland Tract A, Phase 2B), recorded on July 11, 2008, as Document No. 2008-00013316, in Volume 3427, Page 415, Real Property Records, Kaufman County, Texas.

**ANNEXED PROPERTY**

**TRACT D (125.802 acres) and TRACT F (149.158 acres)**

**[Attached to this Exhibit A]**

Property submitted to the Original Declaration in that certain Amendment of Annexation (Tracts D & F) recorded in the Real Property Records on July 29, 2005 as Document No. 00015712, in Volume 2689, Page 307 as more particularly described in the attached legal descriptions taken from such amendment.

**DESCRIPTION OF SUBJECT LAND**  
**TRACTS D & F**

**TRACT D (125.802 ACRES)**

**BEING** all that certain lot, tract or parcel of land located in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, and being the remainder of that certain 132 acre tract of land described as Tract K9 in the deed to the West Foundation, as filed for record in Volume 709, Page 245 of the Deed Records of Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

**BEGINNING** at a 1/2 inch iron rod set with a cap stamped "Pate Engrs." at the intersection of the North-Westerly right-of-way line of F.M. 741 (a 90 foot wide right-of-way) and the Northerly right of way line of Interstate 20 (a variable width right-of-way) from which a concrete monument found bears North 83 deg. 00 min. 18 sec. East, 3.99 feet;

**THENCE** South 83 deg. 00 min. 18 sec. West, generally along a barbed wire fence and the Northerly right-of-way line of said Interstate 20, a distance of 711.40 feet to a concrete monument found;

**THENCE** South 80 deg. 01 min. 06 sec. West, continuing generally along said barbed wire fence and the Northerly right-of-way line of said Interstate 20, a distance of 691.66 feet to a 1/2 inch iron rod set with a cap stamped "Pate Engrs.", for the Southeast corner of the remainder of the called 4.00 acre tract of land conveyed to Anna Ruth Johnson, according to the deed filed for record in Volume 608, Page 694, Deed Records of Kaufman County, Texas;

**THENCE** North 45 deg. 27 min. 13 sec. West, along a barbed wire fence and the Southwesterly boundary line of the aforesaid 132 acre tract, at a distance of 353.4 feet passing the Northeast corner of the remainder of said called 4.00 acre tract and the most Easterly corner of that certain 22.832 acre tract conveyed to Anil Aggarwal, et ux, according to the deed filed for record in Volume 1287, Page 530, Deed Records, Kaufman County, Texas, and continuing along the Southwesterly boundary line of said 132 acre tract and the Northeasterly boundary line of said 22.832 acre tract, at a distance of 1280.27 feet passing a 1/2 inch iron rod found at a wood fence post, and continuing in all a distance of 1299.57 feet to a PK nail set in the asphalt pavement of County Road No. 256 - High Country Lane (a undefined width right-of-way);

**THENCE** North 44 deg. 45 min. 21 sec. East, along said County Road No. 256 - High Country Lane, a distance of 2784.29 feet to a PK nail set in the asphalt pavement of said road, said PK nail being the Northeast corner of said 132 acre tract and the Northwest corner of the remainder of a 50.00 acre tract of land conveyed to D. D. McGee, according to the deed filed for record in Volume 458, Page 567, Deed Records, Kaufman County, Texas;

**THENCE** South 45 deg. 41 min. 40 sec. East, along the common boundary line between the aforesaid 132 acre tract and said D. D. McGee tract, a distance of 30.00 feet passing a 1/2" Iron rod set with a cap stamped "Pate Engrs.", and continuing in all a distance of 2135.94 feet to the aforesaid 132 acre tract and said D. D. McGee tract, a distance of 2135.94 feet to a 1/2 inch Iron rod set with a cap stamped "Pate Engrs." on the Northwesterly right-of-way line of F.M. 741;

**THENCE** South 44 deg. 38 min. 20 sec. West, along the Northwesterly right-of-way line of said F.M. 741, at a distance of 751.31 feet passing a concrete monument found, and continuing in all a distance of 1672.89 feet to the **POINT OF BEGINNING** and containing 125.802 acres (5,479,994 square feet) of land.

**TRACT F (149.158 ACRES)**

**BEING** a tract of land located in the MARTHA MUSICK SURVEY, ABSTRACT NO. 312 and in the JOHN MOORE SURVEY, ABSTRACT NO. 309, Kaufman County, Texas and being a part of a called 606.440 acre tract of land described AS Tract 2 In Deed to 2219 KAUFMAN PARTNERS, L.P., a Texas Limited Partnership, recorded in Volume, 2127 Page 184, Deed Records, Kaufman County, Texas and being more particularly described as follows:

**BEGINNING** at a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found at the intersection of the Easterly line of F.M. 741, a 90 foot wide right-of-way, with the South line of Interstate Highway 20, a variable width right-of-way;

**THENCE** North 83 degrees 22 minutes 32 seconds East (Basis of bearing derived from Texas State Plane Coordinates, North Central Zone, NAD83), a distance of 751.93 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found for corner;

**THENCE** North 88 degrees 29 minutes 15 seconds East, a distance of 474.57 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found for corner;

**THENCE** South 84 degrees 18 minutes 44 seconds East, a distance of 952.45 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found for corner;

**THENCE** South 78 degrees 59 minutes 18 seconds East, a distance of 4.45 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "PATE ENGRS" found for corner;

**THENCE** South 45 degrees 06 minutes 31 seconds East, a distance of 2,131.34 feet to a 3/4 inch iron pipe found for corner;

**THENCE** South 44 degrees 47 minutes 12 seconds West, a distance of 1,898.54 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

**THENCE** South 65 degrees 51 minutes 38 seconds West, a distance of 65.50 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a non-tangent curve to the left having a central angle of 21 degrees 33 minutes 02 seconds, a radius of 800.00 feet and a chord bearing and distance of North 34 degrees 54 minutes 53 seconds West, 299.13 feet;

**THENCE** Northwesterly, along said curve to the left, an arc distance of 300.90 feet to a point for corner;

**THENCE** North 45 degrees 41 minutes 24 seconds West, a distance of 397.25 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

**THENCE** South 44 degrees 18 minutes 36 seconds West, a distance of 10.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

**THENCE** North 45 degrees 41 minutes 24 seconds West, a distance of 1,323.95 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the left having a central angle of 36 degrees 41 minutes 46 seconds, a radius of 790.00 feet and a chord bearing and distance of North 64 degrees 02 minutes 17 seconds West, 497.37 feet;

**THENCE** Northwesterly, along said curve to the left, an arc distance of 505.97 feet to a point for corner;

**THENCE** North 82 degrees 23 minutes 10 seconds West, a distance of 23.30 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the right having a central angle

of 10 degrees 28 minutes 31 seconds, a radius of 300.00 feet and a chord bearing and distance of North 77 degrees 08 minutes 55 seconds West, 54.77 feet;

**THENCE** Westerly, along said curve to the right, an arc distance of 54.85 feet to a point for corner; at the beginning of a reverse curve to the left having a central angle of 10 degrees 28 minutes 31 seconds, a radius of 300.00 feet and a chord bearing and distance of North 77 degrees 08 minutes 55 seconds West, 54.77 feet;

**THENCE** Westerly, along said curve to the left, an arc distance of 54.85 feet to a point for corner;

**THENCE** North 82 degrees 23 minutes 10 seconds West, a distance of 172.65 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the right having a central angle of 38 degrees 41 minutes 30 seconds, a radius of 950.00 feet and a chord bearing and distance of North 63 degrees 02 minutes 25 seconds West, 629.41 feet;

**THENCE** Northwesterly, along said curve to the right, an arc distance of 641.53 feet to a point for corner;

**THENCE** North 43 degrees 41 minutes 40 seconds West, a distance of 249.40 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the Southeast line of said F.M. 741;

**THENCE** North 46 degrees 18 minutes 20 seconds East, along said Southeast line, a distance of 451.89 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a curve to the left having a central angle of 14 degrees 28 minutes 00 seconds, a radius of 999.93 feet and a chord bearing and distance of North 39 degrees 04 minutes 20 seconds East, 251.80 feet;

**THENCE** Northeasterly, along said curve to the left and continuing along said Southeast line, an arc distance of 252.47 feet to a point for corner;

**THENCE** North 31 degrees 50 minutes 20 seconds East, continuing along said Southeast line, a distance of 211.13 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner at the beginning of a non-tangent curve to the left having a central angle of 00 degrees 59 minutes 08 seconds, a radius of 909.93 feet and a chord bearing and distance of North 32 degrees 19 minutes 54 seconds East, 15.65 feet;

**THENCE** Northeasterly, along said curve to the left and continuing along said Southeast line, an arc distance of 15.65 feet to the **POINT OF BEGINNING** and containing 149.158 acres of land, more or less.

*(End of Exhibit A)*

**EXHIBIT B**

**SAMPLE MUD NOTICE**

**NOTICE TO PURCHASER OF REAL ESTATE SITUATED IN  
KAUFMAN COUNTY MUNICIPAL UTILITY DISTRICT NO. 11**

The real property, described below, which you are about to purchase is located in Kaufman County Municipal Utility District No. 11 ("District"). The District has taxing authority separate from any other taxing authority, and may, subject to voter approval, issue an unlimited amount of bonds and levy an unlimited rate of tax in payment of such bonds. As of this date, the rate of taxes levied by the District on real property located in the District is \$1.00 on each \$100 of assessed valuation. The total amount of bonds, excluding refunding bonds and any bonds or any portion of bonds issued that are payable solely from revenues received or expected to be received under a contract with a governmental entity, approved by the voters and that has been or may be issued, at this date, is \$86,000,000 for water, sewage and drainage purposes; and \$52,000,000 for paved roads and turnpikes and the aggregate initial principal amount of all bonds issued for one or more of the specified facilities of the District and payable in whole or in part from property taxes is \$11,170,000.

The District also has the authority to adopt and impose a standby fee on property in the District that has water, sanitary sewer, or drainage facilities and services available but not connected and which does not have a house, building or other improvement located thereon and does not substantially utilize the utility capacity available to the property. The District may exercise the authority without holding an election on the matter. As of this date, the most recent amount of the standby fee is \$0.00. An unpaid standby fee is a personal obligation of the person that owned the property at the time of imposition and is secured by a lien on the property. Any person may request a certificate from the District stating the amount, if any, of unpaid standby fees on a tract of property in the District.

The purpose of this District is to provide water, sewer, drainage or flood control facilities, roads and services within the District through the issuance of bonds payable in whole or in part from property taxes. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned or to be owned by the District. The legal description of the property that you are acquiring is as follows:

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Seller

PURCHASER IS ADVISED THAT THE INFORMATION SHOWN ON THIS FORM IS SUBJECT TO CHANGE BY THE DISTRICT AT ANY TIME. THE DISTRICT ROUTINELY ESTABLISHES TAX RATES DURING THE MONTHS OF SEPTEMBER THROUGH DECEMBER OF EACH YEAR, EFFECTIVE FOR THE YEAR IN WHICH THE TAX RATES ARE APPROVED BY THE DISTRICT. PURCHASER IS ADVISED TO CONTACT THE DISTRICT TO DETERMINE THE STATUS OF ANY CURRENT OR PROPOSED CHANGES TO THE INFORMATION SHOWN ON THIS FORM.

The undersigned purchaser hereby acknowledges receipt of the foregoing at or prior to execution of a binding contract for the purchase of the real property described in such notice or at closing of purchase of the real property.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Purchaser

INGT # 2011-0019517  
Filed for record in Kaufman County  
On: 12/29/11 at 8:41 AM