

**Denton County  
Juli Luke  
County Clerk**

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**Instrument Number:** 153659

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DECLARATION

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**" Examined and Charged as Follows: "**

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

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**STATE OF TEXAS  
COUNTY OF DENTON**

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

Juli Luke  
County Clerk  
Denton County, TX

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
OLD NORTH PARK PHASE II**

**THE STATE OF TEXAS   §  
                                  §           KNOW ALL MEN BY THESE PRESENTS  
COUNTY OF DENTON   §**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR OLD NORTH PARK PHASE II** (this “Declaration”), is made on the date hereinafter set forth by **OLD NORTH/MISTY WOOD, LLC**, a Texas limited liability company (“Declarant”).

**RECITALS:**

**WHEREAS**, Declarant is the owner of that certain real property described on Exhibit “A” attached hereto and incorporated herein by reference consisting of 42 residential and two (2) Common Area Lots, comprising Old North Park Phase II–A, an Addition to the City of Denton, Denton County, Texas, per the Plat thereof recorded under Document Number 2016-2110 in the Plat Records of Denton County, Texas (the “Property”);

**WHEREAS**, Declarant intends that the Property, and such other land as may be added thereto pursuant to the terms and provisions of this Declaration, be developed into a planned residential community;

**NOW, THEREFORE**, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the restrictions, covenants and conditions, liens and charges herein set forth, which shall be deemed to be covenants running with the land and imposed on the intended to benefit and burden each Lot and other portions of the Property in order to maintain within the Property a planned community of high standards. Such covenants shall be binding on all parties having any right, title or interest therein or any party thereof, their respective heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**ADDITIONAL DEFINITIONS**

**1.1   Architectural Control Committee.** “Committee” shall mean and refer to those three (3) persons who are responsible for the review of all plans for improvement upon all Lots, including, but not limited to those items specified in Article 6, Section 6.2 below.

**1.2   Association.** “Association” shall mean and refer to Old North Park Phase II Owners’ Association, Inc., a Texas non-profit corporation established for the purposes set forth herein, its successors and assigns.

**1.3 Board.** “Board” shall mean and refer to the Board of Directors of the Association.

**1.4 City.** “City” shall mean the City of Denton, Texas.

**1.5 Common Areas.** “Common Areas” shall mean those areas listed below which the Association shall maintain:

- (A) Any and all Common Areas as may be depicted on the Plat of the Property (or on any Plat of land that may be annexed to the Property in accordance with this Declaration), including the area in Block A of Old North Park Phase II-A, an Addition to the City of Denton, Denton County, Texas, per the Plat recorded as Document Number 2016-2110 in the Plat Records of Denton County, Texas designated as “CA-1 (Open Space Lot)” and the area in Block E of said Addition designated as CA-1 (Open Space Lot, Drainage and Detention Easement)”.
- (B) Any improvements for which Declarant and/or the Association have, or may hereafter become obligated to maintain, improve or preserve.
- (C) Entry areas, and any land near or adjacent to the subdivision entrances on which Declarant and/or Association is granted or reserved any easement for any purposes whatsoever, including, but not limited to, entry signage for the subdivision.

**1.6 County.** “County” shall mean Denton County, Texas.

**1.7 Declarant.** The term “Declarant” shall mean Old North/Misty Wood, LLC, a Texas limited liability company, and any successor and/or assign which is designated as such in writing by the Declarant, and who consents in writing to assume the duties and obligations of the Declarant with respect to the Lots acquired by such successor and/or assign.

**1.8 Declaration.** This Declaration of Covenants, Conditions and Restrictions as it may be hereafter amended and/or supplemented.

**1.9 Development.** The term “Development” shall mean and refer to all land, improvements and fixtures on or within the Property.

**1.10 Home, Dwelling or Residence.** “Home, Dwelling or Residence” shall mean a single-family residential unit constructed upon any Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which the Home, Dwelling or Residence is located.

**1.11 Lienholder.** “Lienholder” or “Mortgagee” shall mean the holder of a first mortgage lien, either on any Home and/or any Lot.

**1.12 Lot.** “Lot” shall mean and refer to any plot of land indicated upon any recorded subdivision map of the Property or any part thereof creating single-family home sites, with the exception of any areas designated as Common Area or deeded to a governmental authority or utility, together with all improvements thereon.

**1.13 Member.** “Member” shall mean and refer to every person or entity that holds membership in the Association. Every Owner of a Lot shall be a Member in the Association for a period of time as described in Article 2 below.

**1.14 Owner.** “Owner” shall mean and refer to the record Owner, including Declarant, whether one (1) or more persons or entities, of fee simple title to any Lot and shall include any homebuilder, but shall exclude those having such interest merely as a security for the performance of an obligation. However, the term “Owner” shall include any Lienholder or Mortgagee who acquires fee simple title to any Lot which is part of the Property, through deed in lieu of foreclosure or through judicial or non-judicial foreclosure.

**1.15 Property.** “Property” shall mean and refer to the real property described in Exhibit “A”, known as Old North Park Phase II-A and such additions thereto as may be brought within the jurisdiction of the Association and made subject to this Declaration.

## ARTICLE 2

### HOMEOWNERS ASSOCIATION

**2.1 Establishment of Association.** The Association was created by the filing of a Certificate of Formation for the Association with the Secretary of State for the State of Texas on November 17, 2016, File No. 802586272.

**2.2 Adoption of By-Laws.** By-laws for the Association will be established and adopted by the Board.

**2.3 Membership.** Every Owner a Lot, including any successive buyer(s), shall automatically and mandatorily become a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association.

**2.4 Voting Rights.** The Association shall have two (2) classes of voting membership.

(A) Class A. Class A Members shall be all Owners, except Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

(B) Class B. The Class B Member shall be the Declarant, who shall be entitled to ten (10) votes for each Lot it owns. The Class B membership shall cease and be converted to Class A membership on the happening of either of the two following events: (i) one hundred twenty (120) days after the conveyance of the Lot which causes the total votes outstanding in the Class A membership to equal the total votes outstanding in the Class B membership, or (ii) seven (7) years from the recording date of this Declaration in the Real Property Records of Denton County, Texas.

(C) Suspension. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in payment of any assessment duly established pursuant to this Article or is otherwise in default hereunder or under the By-Laws or rules and regulations of the Association, and such suspension shall apply to the proxy authority representative, if any. No Owner shall hold office, or perform any management or service related activity for the Association, while suspended.

(D) No Cumulative Voting. At all Association meetings there shall be no cumulative voting. Prior to all meetings, the Board shall determine the total number of votes outstanding and the Members entitled to vote.

**2.5 Notice and Quorum.** The annual meeting of the Association shall be held on the second Tuesday of February of each year, commencing in the year 2018. The annual meeting and any special meeting shall be conducted, and notice given in accordance with the Bylaws of the Association.

**2.6 Funding.** Subject to the terms of this Article, Declarant, for each Lot owned by Declarant, hereby covenants to pay, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) an annual assessment, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Such assessments will remain effective for the full term (and extended term, if applicable) of this Declaration. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made.

**2.7 Assessments.**

(A) Lots Owned by Class A Members. Subject to the terms of this Article, each Lot subject to an annual maintenance assessment of Two Hundred and Forty Dollars (\$240.00) per calendar year, for the purpose of creating a fund to be designed and known as the "maintenance fund," which maintenance charge and assessment will be paid by the Owner or Owners of each Lot in advance on an annual basis, commencing as to any Lot upon the conveyance of such Lot to a non-builder, Class A Member. A Lot which is either vacant and unimproved or improved with a newly constructed Home which has not been occupied (other than for use as "model" Home) and is owned by a person or entity that acquired it for purposes of construction thereon of a Home for sale to the first

occupant thereof (herein referred to as a "builder") shall not be subject to the annual maintenance assessment.

(B) Lots Owned by Declarant. Notwithstanding the foregoing, the Declarant shall be exempt from the annual maintenance assessment charged to Owners so long as Declarant owns a Lot. However, Declarant hereby agrees that as long as Declarant owns a Lot, although Declarant's Lot(s) are exempt from assessment as provided above, in the event that the annual maintenance fund revenues are insufficient to pay the operating expenses of the Association, Declarant shall provide the funds necessary to make up the deficit.

(C) Purpose of the Maintenance Fund. The Association shall establish a maintenance fund composed of Owners' annual maintenance assessments and shall use the proceeds of such fund in providing for normal, recurring maintenance for the Common Areas, and for the use and benefit of all Members of the Association. Such uses and benefits to be provided by the Association may include, by the way of clarification and not limitation, any and all of the following: normal, recurring maintenance of the Common Areas (including but not limited to mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for existing landscaping) and the improvements to such Common Areas, such as sprinkler systems, provided the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Areas; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions, and conditions affecting the property to which the maintenance fund applies; and any other necessary or desirable act, in the opinion of the Board, to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the Board in the expenditure of said funds and the determination what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. The Association shall establish and maintain an adequate reserve fund, of not less than ten percent (10%) of the total annual operating expenses of the previous fiscal year. Such reserve shall be to ensure the continuous and perpetual use, operation, maintenance, and/or supervision of all facilities, structures, improvements, systems, areas or grounds that are the Association's responsibility.

(D) Special Assessment for Working Capital Fund, Nonrecurring Maintenance and Capital Improvements. In addition to the annual assessments authorized above, the Association may levy special assessments as follows: In any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any nonrecurring maintenance, or the acquisition, construction, repair, or replacement of a capital improvement upon any Common Area, including the fixtures and personal property related thereto, may be assessed. The Association shall not commingle the proceeds of such special assessment with the maintenance fund. Such proceeds shall be used solely and exclusively to fund the nonrecurring maintenance or improvements in question.

**2.8 Nonpayment of Assessments; Remedies of the Association.** Any Assessment not paid within ten (10) days after the due date shall bear interest from due date at the highest non-usurious rate of interest allowed by Texas law or 12% per annum, whichever is less. The Association shall have the authority to impose late charges to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien retained herein against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his property.

**2.9 Subordinated Lien to Secure Payment.** To secure the payment of the maintenance charge and assessment established hereby and to be levied on individual Lots as above provided, there is hereby reserved a lien for the benefit of the Association, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary; provided however, that each such lien shall be specifically made secondary, subordinate, and inferior to all liens, present and future, granted, and created by or at the insistence and request of the Owner of any such Lot to secure the payment of monies advanced or to be advanced on account of the purchase price and/or the improvement of any such Lot; and further provided that as a condition precedent to any proceeding to enforce such lien upon any Lot upon which there is an outstanding, valid, and subsisting first mortgage lien, said beneficiary shall give the holder of such first mortgage sixty (60) days written notice of such proposed action, such notice to be sent to the nearest office of the lienholder by prepaid U.S. registered mail, containing the statement of the delinquent maintenance charges upon which the proposed action is based. Upon the request of any such first mortgage lienholder, the beneficiary shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular property covered by such first mortgage lien to the holder thereof. Sale or transfer of a Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale, foreclosure, or transfer shall relive such Lot from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall have the right to file notices of liens in favor of the Association in the official records of Denton County, Texas.

**2.10 Foreclosure of Lien.** The Association's lien is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien shall be or is required. By acquiring a Lot, an Owner grants to the Association a power of sale in connection with the Association's lien. By written resolution, the Board of the Association may appoint, from time to time, an officer; agent, trustee, or attorney of the Association to exercise the power of sale on behalf of the Association. The Association shall exercise its power of sale pursuant to Section 51.002 of the Texas Property Code, and any applicable revision), amendments, or recodifications thereof in effect at the time of the exercise of such nonjudicial foreclosure pursuant to the power of sale created hereby. Costs of foreclosure may be added to the amount owed by the Owner of the Association. The Association may bid for and purchase the Lot at the foreclosure sale utilizing funds of the Association. The Association may own, lease, encumber, exchange, sell, or convey a Lot. The purchaser at any such foreclosure sale shall be entitled to sue for recovery of possession of the Lot by an action of forcible detainer without the necessity of giving any notice to the former owner or owners of the

Lot sold at foreclosure. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure or from filing suit to recover a money judgment for sums that may be secured by the lien. At any time before a nonjudicial foreclosure sale, an Owner of a Lot may avoid foreclosure by paying all amounts due the Association.

**2.11 Management Agreements.** The Association shall be authorized to enter into management agreements with third parties in connection with the operation and management of the Development and the performance of its obligations hereunder. A copy of each such agreement shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that the management agreement may be cancelled with or without cause, and without penalty by either party with not more than ninety (90) days written notice. Any and all management agreements shall be for a term not to exceed one (1) year, and shall be made with a professional and responsible party, or parties, with proven management skills and experience managing a project of this type. The Association may, at its discretion, assume self-management of the Development by the Association. Notwithstanding the provisions of this paragraph, no Owner who is currently delinquent on any dues or special assessments may directly or indirectly participate in the management of the Association, or perform any services for the Association.

**2.12 Maintenance of Property.** No property within the Common Area shall be permitted to fall into disrepair, and all of the Common Area, including any improvements and landscaping thereon, shall be kept and maintained in a clean, attractive and sightly condition and in good repair. Maintenance, repair and upkeep of each Lot shall be the responsibility of the Owner of the Lot. Maintenance, repair and upkeep of the Common Areas shall be the responsibility of the Association. Violation of this provision by an Owner shall permit the Association, after notice and hearing, to enter on the Lot of the Owner and cure the violation or cause compliance with this provision and to levy and collect a fine for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of an improvement intended for human occupancy without the consent of the Owner thereof, unless a clear emergency exists.

### ARTICLE 3

#### GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

**3.1 Purpose of Maintenance Fund.** The Board, for the benefit of the Owners, shall provide and shall pay out of the maintenance fund provided in Article 2 above, the following:

(A) Taxes and assessments, and other liens and encumbrances, if any, which shall properly be assessed or charged against the Common Areas rather than against the individual Owners.

(B) Operation, maintenance and supervision of the Common Areas.

(C) The service of a professional person or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board, and the service of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager.

(D) Legal and accounting services.

(E) A policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board, including a policy or policies of insurance as provided in Article 4.

(F) Workers compensation insurance to the extent necessary to comply with any applicable laws.

(G) Such fidelity bonds as may be required by the By-Laws or as the Board determines to be advisable.

(H) Any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes, or assessments (including taxes or assessments assessed against an individual Owner) which the Board is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the enforcement of this Declaration.

**3.2 Powers and Duties of the Board.** The Board, for the benefit of the Owners, shall have the following general powers and duties provided for herein and in the By-Laws of the Association:

(A) To execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.

(B) To borrow funds to pay costs of operation secured by assignment or pledge of assessment rights against Owners if the Board sees fit.

(C) To protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacements.

(D) To make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time; provided that, any rule or regulation may be amended or repealed by an instrument in writing signed by Owners constituting a majority of the votes of the Association, or with respect to a rule applicable to less than all of the Common Areas, by the majority of the votes of the Owners in the portions affected.

(E) To enforce the provisions of any rules, covenants, conditions and restrictions made hereunder and to enjoin and seek damages from any Owner for violation of such covenants, conditions, restrictions or rule.

(F) To collect all assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.

**3.3 Board Powers Exclusive.** The Board shall have the exclusive right to contract for all goods, services and insurance, payment of which is to be made from the Maintenance Fund and the exclusive right and obligation to perform the functions of the Board except as otherwise provided herein.

**3.4 Maintenance Contracts.** The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

## ARTICLE 4

### TITLE TO COMMON AREAS

**4.1 Association to Hold.** The Association shall assume all maintenance obligations with respect to any Common Areas, including Common Areas which may be hereafter established.

**4.2 Liability Insurance.** From and after the date on which title to any Common Area vests in the Association, the Association shall purchase and carry a general comprehensive public liability insurance policy for the benefit of the Association and its Members, covering occurrences on the Common Areas. The policy limits shall be as determined by the Board. The Association shall use its best efforts to see that such policy shall contain, if available, cross-liability endorsements or other appropriate provisions for the benefit of the Members, Board, and any management company and other insureds, as their interests may be determined.

**4.3 Condemnation.** In the event of condemnation or a sale in lieu thereof of all or any portion of the Common Areas, the funds payable with respect thereto shall be payable to the Association and may be used by the Association to purchase additional Common Areas to replace that which has been condemned or to take whatever steps that it deems reasonably necessary to repair or correct any damage suffered as a result of the condemnation. In the event that the Board determines that the funds cannot be used in such a manner due to lack of available land for additional Common Areas or for whatever reason, the Association utilize any remaining funds for the general maintenance fund.

**4.4 Declarant's Rights to Complete Development of Property.** No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete development within the boundaries of the Property; to construct or alter improvements on any property owned

by Declarant within the Property, including temporary buildings; to maintain model homes, temporary buildings, construction trailers, or offices for construction or sale purposes, or similar facilities on any property owned by Declarant or owned by the Association within the Property; or to post signs incidental to development, construction, promotional marketing, or sales of property within the boundaries of the Property. Nothing contained in this Declaration shall limit the right of the Declarant or require Declarant to obtain approvals (a) to excavate, cut, fill, or grade any property owned by Declarant or to construct, alter, demolish, or replace any improvements on any property owned by Declarant; (b) to use any structure on any property owned by Declarant as a construction office, model home, or real estate sales office in connection with the sales of any property within the boundaries of the Property; or (c) to require Declarant to see or obtain the approval of the Committee or of the Association for any such activity or improvement to the Property or any property owned by Declarant. Nothing in the Declaration shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

## ARTICLE 5

### EASEMENTS

**5.1 Declarant's Rights to Grant and Create Easements.** Declarant shall have, and hereby reserves the right to grant or create temporary or permanent easements or to relocate existing easements for (a) access to the egress from or through the Common Areas; (b) utilities, including, but not limited to water, sewer and electrical lines, (c) drainage, including, but not limited to drainage and ditch lateral easements; (d) sidewalks and pedestrian and bicycle trails and paths; and (e) other purposes incidental to the development and sale of the Property (collectively the "Easements"). Such Easements may be located by Declarant in, on, under, over and across (i) Lots within the Property so long as such easements do not lie within any building envelope, and (ii) the Declarant shall further have the right to grant to public or quasi-public entities the right to construct facilities on the Common Areas in connection with the provision of utilities or other services to the Property. Any such facilities so located, and all distribution lines located in any easements created pursuant to the provisions hereof, or otherwise, shall, in all events, belong to the provider of such services.

**5.2 Utility Easements.** As long as Class B membership shall be in effect, the Declarant hereby reserves the right to grant perpetual, nonexclusive easements for the benefit of the Declarant or its designees, upon, across, over, through and under any portion of the Common Area or any portion of any Lot outside of the building envelope for operation of all utility and service lines and service systems, public and private, including, without limitation, cable television. Declarant, for itself and its designee, reserves the right to retain title to any such easements. Upon cessation of Class B membership, the Association shall have the right to grant the easements described herein.

**5.3 Declarant's Easement of Correct Drainage.** As long as Class B membership shall be in effect, Declarant hereby reserves a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and implement other erosion controls in order to maintain reasonable standards of health, safety, and appearance and shall be entitled to remove trees or vegetation, without liability for replacement or damage, as

may be necessary to provide adequate drainage for any portion of the Property. Notwithstanding the foregoing, nothing herein shall be interpreted to impose any duty upon Declarant to correct or maintain any drainage facilities within the Property.

**5.4 Easement for Unintentional Encroachment.** The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any structure upon the Common Area caused by or resulting from, construction, repair, shifting, settlement or movement or any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment as an easement appurtenant to the encroaching property to the extent of such encroachment.

**5.5 Entry Easement.** In the event that the Owner fails to maintain the Lot as required herein, or in the event of emergency repairs and to do the work reasonably necessary for the proper maintenance and operation of the Property, entry upon the Lot as provided herein shall not be deemed a trespass, and the Association shall not be liable for any damage so created unless such damage is caused by the Association's willful misconduct or gross negligence.

**5.6 Drainage Easements.** Easements for the installation and maintenance of utilities and drainage are reserved as may be shown on the recorded plat. Within these easement areas, no structure, plant or material shall be placed or be permitted to remain if it may hinder or change the direction of flow or drainage channels or slopes in the easements. The easement area of each Lot and all improvements contained therein shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

**5.7 Temporary Completion Easement.** All Lots shall be subject to easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side or rear yards of the Property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon Lots adjacent to the Property, provided that such easement shall terminate twelve (12) months after the date such Lot is conveyed to the Owner by the Declarant.

## ARTICLE 6

### ARCHITECTURAL CONTROL COMMITTEE

**6.1 Appointment of Members.** The Declarant shall, until such time as plans for residential structures have been approved on all Lots, appoint an Architectural Control Committee (the "Committee"), which shall consist of three (3) members who shall be natural persons, and who may or may not be employed by Declarant. All matters before the Committee shall be decided by majority vote of its members. In the event of death, incapacity or resignation of a member of the Committee, a successor for such member shall be appointed. After plans for a residential structure have been approved on all Lots, the Association shall assume the right of appointment of the Committee.

**6.2 Submission of Plans to Architectural Control Committee for Approval.** No building, fence, wall, parking area, swimming pool, spa, pole, mail box, driveway, fountain, pond, or modification of a structure, or specifications, including a change in the exterior color, and shall be commenced, erected or maintained upon any Lot after the purchase of the Lot from Declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to and approved by the Committee. Plans and specifications shall be submitted to the Committee at least thirty (30) days prior to the commencement of any construction or modification. The following shall be submitted for approval: (1) a site plan showing the (a) proposed Lot drainage, (b) lot and building dimensions, (c) detached out-structures, (d) fencing specifications including a change in the exterior in color and location, (e) walkways, (f) driveways, (g) easements, (h) any on-site utilities at 1" = 20' scale or larger, (2) floor plan and elevations of all faces of the proposed structure, (3) a description of all exterior construction materials to be used. A copy of the above described plans and specifications may be retained by Declarant.

**6.3 Approval of Builder.** Subject to the provisions herein, approved builders shall have the right to construct or alter improvements on any Lots owned by the builder within the Property, provided it has first received the approval from the Committee, including temporary buildings; to maintain model homes, temporary buildings or offices for construction or sales purposes, or similar facilities on any Lot owned by the builder within the Property; or to post signs subject to the approval of the Committee incidental to development, construction, promotion, marketing or sales of property within the boundaries of the Property. Nothing contained in the Declaration shall limit the right of any builder or require any builder to obtain approvals (a) to excavate, cut, fill or grade any Lot owned by any builder or to construct, alter, demolish, or replace any improvement on any Lot owned by any builder; (b) to use any structure on any Lot owned by any builder for storage of construction material, model home, or real estate sales office in connection with the sale of any Lot within the boundaries of the Property.

**6.4 Approval of Plans.** The Committee shall review the plans and specifications and notify the Owner, in writing, of its approval or disapproval. If the Committee fails to approve or disapprove said plans and specifications within thirty (30) days after the same has been submitted to it, they will be deemed to have been approved by the Committee. Any disapproval shall set forth the elements disapproved and the reason or reasons thereof. The judgment of the Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive and the Owner shall promptly correct the plans and specifications (if disapproved) and resubmit them for approval. No construction, alteration, change or modification shall commence until approval of the Committee is obtained. The Committee may approve any deviation from these covenants and restrictions, as the Committee, in its sole and absolute discretion, deems consistent with the purpose hereof. No member of the Committee shall be liable to any Owner for any claims, causes of action or damages arising out of the denial of any submittal or grant of any deviation to any Owner. Future requests for deviations submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a deviation to any Owner shall not constitute a waiver of the Committee's rights to strictly enforce the Declaration and the architectural standards provided herein against any other Owner. Approval by the Committee of the plans and specifications or its determination that the completed construction or modification

has been constructed in accordance with the plans and specifications shall be deemed to be an acknowledgement by the Committee that such are in accordance with this Declaration and such acknowledgment shall be binding against the Owners of the Lots and the Property.

**6.5 Committee Members Liability.** Neither the Declarant, the Association, the Board, the Committee or any employees, advisors, consultants, officers, directors or members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval or to any Owner affected by this Declaration by reason of mistake of judgment, negligence or nonfeasance arising out or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors or omissions from the plans of the site plan submitted to the Committee shall be the responsibility of the Owner of the Lot to which the improvements relate, and the Committee shall have no obligation to check for errors in, or omissions from, any such plans, or to check for such plans compliance with the general provisions of this Declaration, City codes, state statutes or the common law, whether the same relate to Lot lines, building lines, easements or any other issue.

**6.6 Design Guidelines.** The Committee has the right to issue Design Guidelines from time to time which will contain the specific provisions applicable to all of the Lots regarding style, basic site design issues, aesthetics of each home, the use of quality exterior finish materials and minimum landscaping for the Lots. The Design Guidelines will be used by the Committee with the Declaration to determine the approval of all plans.

## ARTICLE 7

### CONSTRUCTION OF IMPROVMENTS AND USE OF RESIDENTIAL PROPERTY

**7.1 Residential Use.** The Property shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family residential family residence per Lot, and a private garage as provided below.

**7.2 Single Family Use.** Each home shall be limited to occupancy by only one family; provided that unrelated persons residing together as a single housekeeping unit shall not be prohibited, nor shall occupancy by household or personal servant staff, or students, provided such occupancy is not prohibited by the applicable zoning ordinance.

**7.3 Garage Required.** Each Home shall have an attached, enclosed garage suitable for parking a minimum of one standard size automobile.

**7.4 Restrictions of Resubdivision.** No Lot shall be subdivided into smaller Lots.

**7.5 Driveways.** All driveways shall meet the minimum requirements of the City of Denton.

**7.6 Maintenance of Drainage.** There shall be no interference with the established drainage pattern over any property within the Common Area, except as approved in writing by the

Committee. Approval shall not be granted unless provision is made for adequate alternate drainage. The "established drainage pattern" shall mean the drainage pattern which exists at the time the overall grading of any Property is completed and shall include any established drainage pattern shown on any plans approved by the Committee. The established drainage area may include the drainage pattern (a) from the Common Area over any Lot; (b) from any Lot over the Common Area; (c) from any property owned by the City or other persons over any Lot; (d) from any Lot over property owned by the County or other persons; or (e) from any Lot over another Lot. The Owner of each Lot shall maintain the drainage abutting is property to prevent erosion and the Association and/or Declarant shall have the right to correct any deficiency in the maintenance by the Owner, at the Owner's sole cost and expense.

**7.7 Uses Specifically Prohibited.**

**(A) Residential Lots.**

(i) No temporary dwelling, shop trailer or mobile home of any kind or any improvement of a temporary character or storage building shall be permitted on any Lot except that the builder or contractor may have temporary improvements (such as a sale office and/or construction trailer) on a specifically permitted Lot during construction of the residence on that Lot. No building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence, and then such material shall be placed totally within the property lines of the Lot upon which the improvements are to be erected.

(ii) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle or equipment may be parked for storage in the driveway or front yard of any dwelling, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view. No such vehicle or equipment shall be used as a residence or office temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use for the construction, maintenance or repair of a residence on the Property.

(iii) Trucks with tonnage in excess of one and one-half (1.5) tons shall not be permitted to park overnight on the Property, except those used by a builder during the construction of improvements.

(iv) No vehicle of any size, which transports flammable or explosive cargo, may be kept on the Property at any time.

(v) No motorized vehicle or similar equipment shall be parked or stored in an area visible from any street on the Property except passenger automobiles, passenger vans, motorcycles, pick-up trucks (including those with attached bed campers) that are in operating condition and have current license plates and inspection stickers and are in current use.

(vi) No structure of a temporary character, such as a trailer, tent, shack, barn, underground tank or other out-building shall be used on the Property at any time as a dwelling house; provided, however, that any builder may maintain and occupy model houses, sales offices and construction trailers during the construction period, but not as a residence.

(vii) No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted in or on the Property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon, or in any part of the Property. No derrick or other structure designed for use in quarrying or boring for oil, natural gas or other minerals shall be erected, maintained or permitted on the Property.

(viii) No animals, livestock or poultry of any kind shall be raised, bred or kept on the Property except that dogs, cats or other qualified animals may be kept as household pets,. Animals are not to be raised, bred or kept for commercial purposes or for food. It is the purpose of these provisions that restrict the use of the Property so that no person shall quarter on the premises cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, chickens, turkeys, skunks or any other animals that may interfere with the peace and quiet and health and safety of the community. No more than three (3) pets will be permitted on each Lot. Pets must be restrained or confined to the homeowner's rear yard within a secure fenced area, or within the house. It is the pet owners' responsibility to keep the Lot clean and free of pet debris or odor noxious to adjoining Lots. All animals must be properly registered and tagged for identification in accordance with the local ordinances.

(ix) No Lot, or other area of the Property shall be used as a dumping ground for rubbish or accumulation of unsightly materials of any kind, including without limitation, broken or rusty equipment, disassembled or inoperative cars and discarded appliances and furniture. Trash, garbage or other waste shall not be kept except in sanitary containers. All containers for the storage for other disposal of such material shall be kept in clean and sanitary condition. Materials incident to construction of improvements may only be stored on Lots during construction of the improvement thereon.

(x) No garage, garage house, or other out-building (except for sales offices and construction trailers during the construction period) on the Property shall be occupied by any Owner, tenant or other person prior to the erection of a residence. No garage on the Property shall be converted into living area by any Owner.

(xi) No air-conditioning apparatus shall be installed on the ground in front of a Home on a Lot. No air-conditioning apparatus shall be attached to any front wall or window of a Home on a Lot. No evaporative cooler shall be installed on the front wall or window of a Home on a Lot.

(xii) Except with the written permission of the Committee, or as preempted by the FCC or other governmental agency, no antennas, satellite dishes or other equipment for receiving or sending sound or video signals shall be permitted in or on the Property, except that one satellite dish or similar antenna that must be no greater than one (1) meter in diameter and must be placed in the least conspicuous location on the Lot where an acceptable quality signal can be received as long as it is completely screened from view from any adjacent street or other public area.

(xiii) No Lot or improvement thereon shall be used for a business, professional, commercial, or manufacturing purpose of any kind for any length of time. No business activity shall be conducted on the Property that is not consistent with single-family residential purposes. No noxious or offensive activity shall be undertaken on the Property, nor shall anything be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this subparagraph shall prohibit a builder's temporary use of a residence as sales/construction office for so long as such builder is actively engaged in construction on the Property. Nothing in this subparagraph shall prohibit an Owner's use of a Home on a Lot for quiet, inoffensive activities such as tutoring or giving art lessons so long as such activities do not materially increase the number of cars parked on the street, or interfere with adjoining homeowners' peaceful use and enjoyment of their residences and yards.

(xiv) No fence, wall, hedge or shrub planting which obstructs sight lines at an elevation between three (3) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines, or in the case of a rounded property corner, from the intersection on the street right-of-way lines as extended. The same sight-line limitations shall apply on any Lot within that area that is ten feet (10') from the intersection of a street right-of-way line with the edge of a private driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a maximum height of six feet (6') above the adjacent ground line.

(xv) Except for doghouses, no building previously constructed elsewhere shall be moved onto any Lot, it being the intention that only new construction be placed and erected on the Property. Any construction shall comply with Design Guidelines, as set forth in Section 6.6 above, in effect at the time of such construction.

(xvi) Within those easements on each Lot as designated on the Plat of the Property, no improvement, structure, planting or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation and maintenance of public utilities, or which might alter the direction of flow within drainage channels or which might obstruct or retard the flow of water

through drainage channels. The general grading, slope and drainage plan of the Lot, as established by the Declarant and homebuilder approved development plans may not be altered without the approval of the City and/or other appropriate agencies having authority to grant such approval.

(xvii) No sign of any kind or character, including (i) any signs in the nature of a "protest" or complaint against Declarant or any homebuilder, (ii) or that describe, malign or refer to the reputation, character of building practices of Declarant or any homebuilder, or (iii) discourage or otherwise impact of attempt to impact anyone's decision to acquire a Lot or residence in the Development shall be displayed to the public view on any Lot, or within the Property or from any Home on any Lot except for one professionally fabricated sign of not more than five (5) square feet advertising the property for rent or sale, or signs used by a builder to advertise the property during the construction and sales period. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from public view without the prior written approval of the Committee.

(xviii) Outdoor clotheslines and drying racks visible to adjacent Lots and public view are prohibited on the Property.

(xix) Except within fireplaces in the main residential dwelling and equipment for outdoor cooking, no burning of anything shall be permitted anywhere on the Property.

(xx) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done which may be or may become an annoyance or nuisance to the Property, or Lot, or Dwelling, or any part thereof.

(xxi) No vehicles, trailers, implements or apparatus may be driven or parked in the Common Area or on any easement.

(xxii) No aluminum foil, reflective film or similar treatment shall be placed on window or glass doors.

(B) Common Areas. Except the portion of the two Common Area Lots designated on the Plat that are intended for drainage and utility easements, the Common Areas are for the use and enjoyment of all homeowners. The objective is to preserve open views, plantings, trees and habitat. In order to accomplish this goal, the following will be prohibited.

(i) No camping.

(ii) No motorized vehicles, which includes the use of, but is not limited to, motorcycles, ATV, skooters, remote control cars.

(iii) No playground equipment shall be placed on the Common Area, including, but not limited to, tents and tree houses.

(iv) No organized sporting events (i.e., soccer, football, baseball, rugby).

**7.8 Minimum Floor Area.** The total air-conditioned living area of a single story main residential structure on a Lot, as measured to the outside of exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings), shall not be less than 1,300 square feet, or the minimum floor area as specified by the City, whichever is greater. If the main residential structure is a two story then the minimum air-conditioned living area for the ground floor shall be 1,300 square feet, with a maximum height not to exceed the maximum height requirements as defined by the City.

**7.9 Building Materials.** The exterior wall area (excluding windows, doors and gables) of each residence constructed on a Lot shall be brick veneer, stone, stucco, stone veneer, or HardiePlank (or substantially equivalent product), or other masonry or cementitious material approved by the Committee. All roofing shall be, at a minimum, twenty (20) year warranty, and shall comply with the requirements of the City and the Committee.

**7.10 Setback Requirements.** No dwelling shall be located on any Lot nearer to the front lot line than ten (10) feet.

**7.11 Waiver of Setback Requirements.** With the written approval of the Committee and subject to plat and zoning restrictions, other than the setback stated in Paragraph 7.10 above, any building may be located where, in the opinion of the Committee, the proposed location of the building will enhance the value and appearance of the Lot, and will not negatively impact the appearance of the adjoining Lots.

**7.12 Fences and Walls.** Any decorative or screening wall to be constructed must have the approval of the Committee, and must be constructed of stained wood, on metal posts, and be at least six (6) feet in height. Black tubular steel fencing shall also be permitted. No fence or wall on any Lot shall extend nearer to street than the front of the residence thereon. Except as otherwise specifically approved by the Committee, all street-side side yard fencing on corner Lots shall be set not closer to the abutting side street than the building line shown on the Plat. Any fence, or portion thereof, that faces a public street shall be constructed so that all structural members and, unless Declarant determines otherwise, support posts will be on the side of the fence away from the street and are not visible from any public right-of-way.

**7.13 Mailboxes.** The Committee shall adopt a standardized mailbox design for the Property.

**7.14 Roof.** The entire roof of each Home shall have a pitch of at least four (4) inches of rise to every twelve (12) inches of run, unless otherwise approved by the Committee. All roofs shall be pitched in gable and hip form, unless prior written approval is received from the Committee.

**7.15 Landscaping.** Landscaping of each Lot shall be completed the earlier of sixty (60) days after the home construction is substantially completed or occupied, and shall include irrigated, grassed, front yards. Side yards may be surfaced with gravel or similar material. Extensions for delays caused by inclement weather may be requested from the Committee. The use of appropriate shrubs, ground cover, flowers and ornamental trees is encouraged. All landscaping within public view is to be approved by the Committee. Unnecessary removal of existing trees from any Lot is prohibited, except as approved by the Committee and/or City of Denton.

**7.16 Retaining Walls.** Retaining walls of four feet (4') or higher shall require plans sealed by a Professional Engineer. If a retaining wall is between two lots, the Lot Owner of the high side of the wall shall have the financial responsibility for the wall retaining any "fill" from the natural grade. The Lot Owner on the low side shall bear the financial responsibility for the construction of the wall retaining any "cut" from the natural grade. The use of railroad ties or wooden "cross-ties" is not permitted.

**7.17 General Maintenance of Lots.** Following occupancy of the Home upon any Lot, each Owner shall maintain and care for the Home, all improvements and all trees, foliage, plants, and lawns on the Lot and otherwise keep the Lot and all improvements thereon in good condition and repair and in conformity with the general character and quality of the properties in the immediate area, such maintenance and repair to include but not be limited to (i) the replacement of worn and/or rotted components, (ii) the regular painting of all exterior surface, (iii) the maintenance, repair and replacement of roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, drive, parking areas and other exterior portions of the improvements to maintain an attractive appearance, and (iv) regular mowing edging of lawn and grass areas.

**7.18 Restoration in the Event of Damage or Destruction.** In the event of damage or destruction of any improvement on any Lot, the Owner thereof shall cause the damaged or destroyed improvement to be restored or replaced to its original condition, or such other condition as may be approved in writing by the Committee, or the Owner shall cause the damaged or destroyed improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Committee, so as to present a pleasing and attractive appearance.

**7.19 Basketball Goals.** Basketball goals, backboards and nets shall only be permitted if they are not visible from any street.

**7.20 Swimming Pools and Pool Equipment.** No pool may be constructed or installed without the prior written consent of the Committee.

## ARTICLE 8

### PROPERTY RIGHTS

**8.1 Owner's Easement of Enjoyment.** Every Owner shall have a right and easement in and to the Common Areas and a right and easement of ingress and egress to, from and through

said Common Areas, and such easement shall be appurtenant to and shall pass with the title of every Lot, subject to the following provisions:

(A) The easement rights that any public agency, authority or utility may have in and to the Common Areas;

(B) The right of the Association to establish and publish rules and regulations governing the use the Common Areas affecting the welfare of Association Members;

(C) The right of the Association to suspend the right of use of the Common Areas and the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(D) The right of the Association, subject to the provisions hereof, to dedicate or transfer all or any part of the Common Areas, to any public agency, authority or utility for such purposes and subject to the conditions as may be agreed by the Association. No such dedication or transfer shall be effective unless an instrument in writing signed by Owners entitled to cast two-thirds (2/3) of the votes or each class of membership and by a duly authorized representative of the City has been recorded agreeing to such dedication or transfer;

All easements herein described are easements appurtenant to and running with the land; they shall at all times inure to the benefit of and the binding upon the Owners, and all of their grantees, and their respective heirs, successors, personal representatives and assigns, perpetually and in full force.

**8.2 Effect of Declaration.** Reference in any deed, mortgage, trust deed or any other recorded documents to the easements, conditions, restrictions and covenants herein described or to this Declaration shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgages, or trustees of said parcels as fully and completely as if those easements, conditions, restrictions and covenants were fully related and set forth in their entirety in said documents.

**8.3 Rezoning Prohibited.** No Lot shall be rezoned to any classification allowing commercial, institutional or other non-residential use without the express, written consent of the Association and Declarant (as long as Declarant owns any Lot subject to this Declaration), which may be withheld in Declarant's sole discretion. Declarant or the Association may enforce this covenant by obtaining an injunction against any unapproved rezoning at the expense of the enjoined party.

## ARTICLE 9

### ANNEXATION

**9.1 Annexation by Declarant.** At any time during the initial term of this Declaration, the Declarant may annex property to this Declaration to be subject to the terms hereof to the same extent as if originally included herein and subject to such other terms, covenants, conditions, easements and restrictions as may be imposed thereon by Declarant, provided such annexed property shall be adjacent to the Property or any previously annexed property. Annexation shall be evidenced by a written Declaration of Annexation executed by Declarant setting forth the legal description of the property being annexed and the restrictive covenants to be applied to such annexed property.

**9.2 Annexation by Action of Members.** At any time the Board may request approval of the membership for the annexation of additional property into the Association to be subject to all of the terms of this Declaration to the same extent as if originally included herein. No such annexation shall be effective unless approved in writing by members entitled to cast two-thirds (2/3) of the total votes in both classes of membership, by a duly authorized representative of the City. Any property that is contiguous to the Property to this Declaration may be annexed here to according to the foregoing requirements, provided however, that no such annexation shall be effective without the consent and joinder of the owners of the property to be annexed. Such annexation must be evidenced by a Declaration of Annexation as set forth in Section 9.1 above executed by the parties herein described.

**9.3 No Duty to Annex.** Nothing herein contained shall establish any duty or obligation on the part of the Declarant or any other Member to annex any property to this Declaration and no Owner of Property excluded from the Declaration shall have any right to have such property annexed thereto.

**9.4 Effect of Annexation on Class B Membership.** In determining the number of Lots owned by Declarant for the purpose of Class B Membership status according to Article 2, Section 2.4(B), the total number of Lots covered by the Declaration, including all Lots annexed thereto shall be considered.

## ARTICLE 10

### GENERAL PROVISIONS

**10.1 Remedies.** In the event of any default by any Owner under the provisions of the Declaration, By-Laws or rules and regulations of the Association, the Association and any Owner shall have each and all of the rights and remedies which may be provided for in this Declaration, the By-Laws and said rules and regulations, and those which may be available at law or in equity and may prosecute any action or other process against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for the payment of the money and collection

thereof, or for any combination of the remedies or for any other relief. No remedies herein provided or available at law or in equity shall be deemed mutually exclusive or any other such remedy. All expenses of the Association in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses, and all damages, permitted by law, including interest thereon at a rate equal to the lesser of 12% per annum or the highest lawful rate, from the date due until paid, shall be charged and assessed against such defaulting Owner, and shall be added to and deemed part of respective maintenance assessment (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of the additions and improvements thereto, and upon all personal property upon the Lot. The Association, or any owner may exercise any and all of such right and remedies at any time and from time to time cumulatively or otherwise.

**10.2 Term and Amendments.** This Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically renewed for successive periods of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have voted to terminate this Declaration and the prior written consent has been obtained from the City upon the expiration of the initial twenty-five (25) year period or any extension thereof, which termination shall be by written instrument signed by seventy-five percent (75%) of the Owners and countersigned by a duly authorized representative of the City and properly recorded in the Denton County, Texas land records. This Declaration may be amended by an instrument signed by Owners constituting not less than seventy-five (75%) of the votes of the Association and countersigned by a duly authorized representative of the City, provided, that as long as there is a Class B Membership, such amendment has been approved by the Declarant. Any amendment must be recorded. The Association may not be dissolved without the prior written consent of the City.

**10.3 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

**10.4 Rights and Obligations.** The provisions of this Declaration and the Articles of Incorporation and By-Laws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording of the acceptance of a deed conveying a Lot of any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by the subject to all of the provisions of this Declaration and the Articles of Incorporation and By-Laws, whether or not mention thereof is made in said deed.

**10.5 Miscellaneous Provisions.** Any provisions of this Declaration or of the Articles of Incorporation and By-Laws to the contrary notwithstanding, the following provisions shall control:

(A) The following actions will require notice to all institutional holders of first mortgage liens, provided the holders have made written request to the Association to be

notified of such action: (1) abandonment or termination of the Association; or (2) material amendment to the Declaration.

(B) Upon the request of any first mortgagee of a Dwelling on a Lot, the Association shall furnish to such mortgagee a written notice of any default by the Owner of such Dwelling in the performance of such Owner's obligations under this Declaration or the By-Laws or Association rules and regulations which is not cured within thirty (30) days. Any first mortgagee of a Dwelling who comes into possession of such Dwelling pursuant to the remedies provided in the mortgage, a foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Dwelling which accrued prior to the time such holder comes into possession of the Dwelling.

**10.6 Gender Neutral.** All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular include the plural, and vice versa.

**10.7 Headings.** The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

**10.8 Conflicts.** In the event of conflict between the terms of this Declaration and the By-Laws, rules, regulations or Articles of Incorporation of the Association, this Declaration shall control.

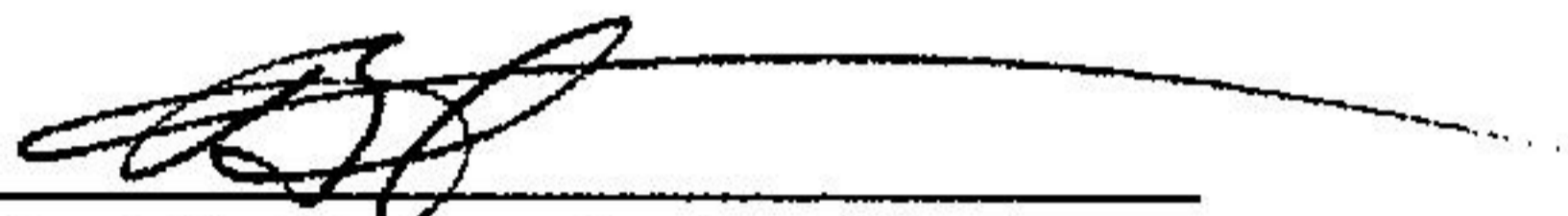
**10.9 Failure of Association to Perform Duties.** Should the Association fail to carry out its duties as specified in this Declaration, the City or its lawful agents shall have the right and ability, after due notice to the Association, to remove any landscape systems, features or elements that cease to be maintained by the Association; to perform the responsibilities of the Association if the Association fails to do so in compliance with any of the provisions of this Declaration, the agreements, covenants or restrictions of the Association, or of any applicable City codes or regulation; to assess the Association for all costs incurred by the City in performing said responsibilities if the Association fails to do so; and/or to avail itself of any other enforcement actions available to the City pursuant to state law or City codes and regulations. Should the City exercise its rights as specified above, the Association shall indemnify and hold the City harmless from any and all costs, expenses, suits, demands, liabilities or damages, including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements that cease to be maintained by the Association or from the City's performance of the aforementioned operation, maintenance or supervision responsibilities of the Association due to the Association's failure to perform said duties.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed on its behalf, as of the \_\_\_ day December, 2016.

OLD NORTH/MISTY WOOD, LLC,  
a Texas limited liability company

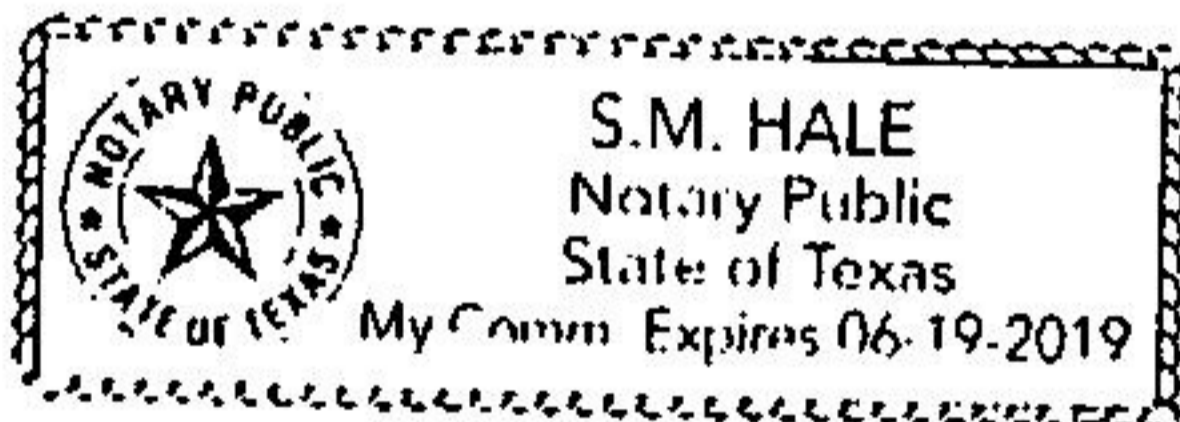
By: Bob Shelton Enterprises, Ltd.  
a Texas limited partnership,  
its Manager

By: Bob Shelton Enterprises Management Company, LLC,  
a Texas limited liability company,  
its General Partner

By:   
Robert B. Shelton, Jr., President

THE STATE OF TEXAS §  
  §  
COUNTY OF DENTON §

This instrument was acknowledged before me on this 6 day of December 2016, by Robert B. Shelton, Jr., President of Bob Shelton Enterprises Management Company, LLC, a Texas limited liability company, General Partner of Bob Shelton Enterprises, Ltd., a Texas limited partnership, Manager of Old North/Misty Wood, LLC, a Texas limited liability company, on behalf of said limited liability companies and limited partnership.



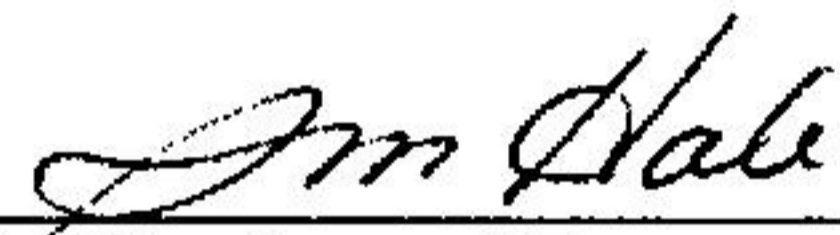
  
Notary Public, State of Texas

EXHIBIT A

Lots 10-18 and CA-1 in Block A; Lots 14-27 in Block C; Lots 1-9 and 28-36 in Block D and CA-1 in Block E of Old North Park Phase II-A, an Addition to the City of Denton, Denton County, Texas, per the Plat recorded as Document Number 2016-2110 in the Plat Records of Denton County, Texas