

DECLARATION OF RIGHTS, EASEMENTS,
RESTRICTIONS, RESERVATIONS, AND COVENANTS
for THE CROSSING AT LICK CREEK, PHASE 2

§ COUNTY OF BRAZOS
§
§ STATE OF TEXAS

This Declaration is made as of the 6th day of September, 2017, by TDI-Brooks Developments, LLC (hereinafter referred to as the "Declarant"), represented herein by Secretary/Treasurer Bernie B. Bernard. The address of the Declarant is 14391 South Dowling Road, College Station, Texas 77845.

WHEREAS, Declarant declares that it is the owner of certain real property situated in the County of Brazos, State of Texas, which has been heretofore platted, subdivided and designated as **THE CROSSING AT LICK CREEK, PHASE 2**, according to the map or plat thereof filed of record in Volume 14165, Page 224 in the Official records of the County Clerk of Brazos County, Texas; (said property being hereinafter sometimes referred to as "the Property"); and

WHEREAS, Declarant further declares that it desires that the Property be owned, held, sold, conveyed, transferred, leased, mortgaged, occupied, maintained, altered and improved subject to certain reservations, servitudes, restrictions, covenants, charges, liens, easements and conditions as part of a general scheme of development of such properties as a balanced, planned community accommodating a mix of residential and residential common amenity element land uses, and pursuant to a common and general plan for the benefit of Declarant and subsequent owners and occupants of such properties in order to protect and enhance the quality, aesthetics, value and desirability thereof; and

WHEREAS, Declarant further declares that it desires to provide for an automatic-membership non-profit corporation to own, hold, maintain and manage certain real properties within, and to perform functions for the benefit of owners and occupants of, the Property, to assist in the administration and enforcement of the covenants, charges, liens, conditions, and restrictions, hereby and hereafter established, and to promote the recreation, enjoyment, health, safety, security, privacy, and welfare of the owners and occupants of the said properties.

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, transferred, sold, conveyed, leased, occupied, managed, and used subject to the following reservations, servitudes, restrictions, covenants, charges, liens, privileges, easements and conditions which are for the purpose of protecting the value and desirability of and which shall run with title to the Property (collectively, the "The Crossing at Lick Creek Development") and which shall be binding on all parties having any right, title or interest in the real property made subject to this Declaration or any portion thereof, and their respective heirs, successors, successors-in-title, assigns, and shall inure to the benefit of each owner thereof and where provided herein, shall benefit the property on which The Crossing at Lick Creek Development is located.

1. DEFINITIONS:

As used herein, the following terms shall have the following meanings:

- 1.1 "**Architectural Control Committee**" shall mean a committee appointed or elected with the structure and authority to grant or withhold architectural control approval for construction of Improvements in The Crossing at Lick Creek Development, as described herein.
- 1.2 "**Association**" shall mean that automatic-membership, Texas non-profit corporation made up of Owners and called The Crossing at Lick Creek Owners Association, Inc., with membership, powers, and duties as described herein.
- 1.3 "**Board**" shall mean the board of directors of the Association.
- 1.4 "**Business**" shall mean any of the following uses; retail business; professional or commercial office; wholesale business; service, such as gas stations; or small, light manufacturing.

- 1.5 "**Commercial Builder**" shall mean the owner of an Unimproved Lot who holds title for the purpose of building Improvements thereon and the subsequent sale for residential occupancy.
- 1.6 "**Common Area**" shall mean all real property, including but not limited to the land designated as a COMMON AREA on **The Crossing at Lick Creek Development** plat filed of record in Volume 14165, Page 224 in the Official records of the County Clerk of Brazos County, Texas, along with all utility, network, Internet, communications, entertainment, recreational, sports, aesthetic, and other Improvements thereon and servitudes, held or maintained by the Association for the common use and enjoyment of the Owners and occupants of Lots.
- 1.7 "**The Crossing at Lick Creek Development**" shall mean the property subdivided and designated as **THE CROSSING AT LICK CREEK, PHASE 2**, according to the map or plat thereof filed of record in 14165, Page 224 in the Official records of the County Clerk of Brazos County, Texas and any other real property which hereafter becomes subject to this Declaration.
- 1.8 "**Declarant**" shall mean TDI-Brooks Developments, LLC, and its successors and assigns. A person or entity shall be deemed a successor and assign of TDI-Brooks Developments, LLC as Declarant only if such person or entity is specifically designated in a duly recorded instrument as a successor and assign of Declarant under this Declaration, and shall be deemed a successor and assign of Declarant only as to the particular rights or interests of Declarant which are specifically designated in such written instrument. However, a successor to TDI-Brooks Developments, LLC, by consolidation or merger, shall automatically be deemed a successor or assign of TDI-Brooks Developments, LLC as Declarant under this Declaration.
- 1.9 "**Declaration**" shall mean this instrument as it may be amended or supplemented from time to time as hereinafter provided.
- 1.10 "**Governing Documents**" shall mean: This Declaration, the Articles of Incorporation, and the By-Laws of the Association, as the same may be amended from time to time and filed of record, if applicable.
- 1.11 "**Improvements**" shall mean all structures and any appurtenances thereto of every type or kind, including, but not limited to, buildings, out-buildings, swimming pools, patio covers, awnings, painting of any exterior surfaces of any visible structures, additions, walkways, trails, irrigation systems, garages, carports, roads, driveways, parking areas, screening, walls, retaining walls, stairs, decks, fixtures, windbreaks, poles, signs, exterior tanks, solar energy devices and equipment, wind power generators, exterior air conditioning fixtures and equipment, water softener fixtures, exterior lighting, recreational equipment and facilities, playground elements, artistry, and landscaping which is visible from land within The Crossing at Lick Creek Development other than on which the landscaping is located.
- 1.12 "**Lot**" shall mean a lot or parcel of land in The Crossing at Lick Creek Development, with the exception of reserved areas, Common Area and Common Elements, as shown upon the latest recorded subdivision plat or plats filed of record in Brazos County, Texas; provided, however, that prior to such filing of record of all development phases of The Crossing at Lick Creek Development, "Lot" shall also include those lots shown on the most recent preliminary or final plat on file at the City of College Station, Texas.
- 1.13 "**Member**" shall mean an Owner of a Lot in The Crossing at Lick Creek Development who is accordingly a member of the Association, including Declarant.
- 1.14 "**Notice**" shall mean the form of notice provided by law, from time to time, for meetings of members of Texas non-profit corporations; provided that, if more than one Person is the Owner of a Lot, notice to one such Owner whose designation by the Owners of such Lot for that purpose has been notified

in writing to the Association (with the most recent notification controlling) shall constitute notice to all such Owners.

- 1.15 "**Owner**" shall mean the Person, including the Declarant, or if more than one, all Persons collectively, who hold fee simple title of record to a Lot in The Crossing at Lick Creek Development, including sellers under executory contracts of sale and excluding buyers thereunder.
- 1.16 "**Person**" shall mean a natural person, a trust, a corporation, a partnership, or any other entity.
- 1.17 "**Single Family**" shall refer not only to the architectural design of the dwelling but also to the permitted number of inhabitants. No residential dwelling may be occupied by more than one single family. By way of illustration, the following are examples of an approved single family.

EXAMPLE NO. 1: Owners are Husband and Wife.

Approved residents are:
children of husband and/or wife;
no more than a total of 2 parents of the husband or wife;
one unrelated person; and
one household employee

EXAMPLE NO. 2: Owners are Domestic Partner One and Domestic Partner Two.

Approved residents are:
children of either or both domestic partners;
no more than a total of 2 parents of the domestic partners;
one unrelated person; and
one household employee

EXAMPLE NO. 3: Owners are Roommate One and Roommate Two.

Approved residents are:
children of either or both roommates;
no more than a total of 2 parents of the roommates;
one unrelated person; and
one household employee

- 1.18 "**Supplementary Declaration**" shall mean a recordable instrument, complying with the terms of this Declaration, by which one or more of the following are accomplished or changed: supplemental covenants, conditions, restrictions, servitudes and/or destinations imposed on the Owners that take into account the unique, particular, or future aspects of property affected thereby, that are imposed upon such property.
- 1.19 "**Unimproved Lot**" shall mean a Lot upon which no building has been substantially completed for use.

2. SUBJECT PROPERTY, COMMON AREA, AND SERVITUDES

2.1 **Subject Property.** The real property which, as of the date of this Declaration, is and shall hereafter be owned, held, transferred, sold, conveyed, leased, mortgaged, used, occupied, maintained, altered, and improved subject to this Declaration is the property described as The Crossing at Lick Creek Development, herein defined.

2.2 **Common Area.** Declarant contemplates that from time to time the Association will acquire Common Area consisting of portions of land, or land with Improvements thereon, or rights arising out of grants of the Owners, easements, covenants, conditions and building restrictions established either by acts of transfer and conveyance, this Declaration, or by Supplementary Declarations. Declarant further

contemplates that recorded plats of portions of The Crossing at Lick Creek Development may provide (i) for the installation, repair, maintenance and replacement of utility, Internet, and drainage facilities, walkways and bridges, playgrounds, recreational and exercise structures, lighting, fountains, irrigation, trees, gardens, landscaping, and plantings in areas which may be designated on such plats as Common Area or easements, (ii) within ten feet of the right-of-way of all streets within The Crossing at Lick Creek Development for the installation, repair, maintenance and replacement of utility, Internet, and drainage facilities, walkways, landscapes and plantings in areas which may be designated on such plats as Common Area or easements, and (iii) within ten feet of the right-at-way of all streets within The Crossing at Lick Creek Development for the installation, repair, maintenance and replacement of street lighting, irrigation, and trees, together with associated rights of ingress and egress, all or some of which easements may be acquired by the Association as Common Area.

2.3 **Servitudes.** Declarant declares and acknowledges that it is the intent hereof that such Common Area shall be owned and held by the Association for the common use and enjoyment of The Crossing at Lick Creek Development and the Owners and occupants thereof, for the purposes set forth in the governing Documents of the Association, among others, Internet and networking, communications and security, environmental conservation, recreation and wellness, landscaping and beautification, nature presentation and discovery, child and family activities, and related thematic purposes. To the extent permitted by law and subject to the provisions of this Declaration, the use and enjoyment of Common Area may be subject to the right of the Association to charge reasonable fees to Owners of Lots for the use of any service or facility of the Association associated with the Common Area, to enforce the collection of such fees by the suspension of use or otherwise, and to transfer or dedicate all or part of such Common Area to any public agency, authority or utility on such terms and subject to such conditions as the Association may deem appropriate.

3. DECLARANT'S RIGHTS AND RESERVATIONS

3.1 **Period of Declarant's Rights and Reservations.** Declarant shall have, retain and reserve certain rights as hereinafter set forth with respect to the Association and the Common Area from the date hereto, until the earlier to occur of (i) the Control Transfer Date or (ii) Declarant's written notice to the Association of Declarant's termination of the rights described in Article 7 hereof. The rights and reservations hereinafter set forth shall be deemed accepted and reserved in each conveyance of land by Declarant to an Owner whether or not specifically stated therein and in each deed or other instrument by which any land within the Common Area is conveyed by Declarant. The rights, reservations and easements hereinafter set forth shall be prior and superior to any other provisions of the Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of the Declaration. Declarant's consent to anyone such amendment shall not be construed as consent to any other or subsequent amendment.

3.2 **Right to Construct Additional Improvements in Common Area.** Declarant shall have and hereby reserves the right (without the consent of any other Owner or the Association), but shall not be obligated, to construct additional Improvements within the Common Area at any time and from time to time in accordance with this Declaration for the Improvement and enhancement hereof and for the benefit of the Association and Owners. Declarant shall convey or transfer such Improvements to the Association and the Association shall be obligated to accept title to, care for, and maintain the same as elsewhere provided in this Declaration.

3.3 **Right to Use Common Area for Lot Sales Promotion.** Declarant shall have and hereby reserves the right to reasonable use of the Common Area and of services offered by the Association in connection with Declarant's promotion and marketing of land within the boundaries of The Crossing at Lick Creek Development. Without limiting the generality at the foregoing, Declarant may erect and maintain on any part of the Common Area such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the promotion, development and marketing of land within The Crossing at Lick Creek Development; may use vehicles and equipment within the Common Area for promotional purposes; and may permit prospective purchasers of property within the

boundaries of The Crossing at Lick Creek Development, who are not Owners or Members of the Association, to use the Common Area at reasonable times and in reasonable numbers; and may refer to the services offered by the Association in connection with the development, promotion and marketing of The Crossing at Lick Creek Development.

3.4 Right to Complete Development. No provision of this Declaration shall be construed to prevent or limit Declarant's right (or require Declarant to obtain any approval) to (i) complete development of the real property within the boundaries of The Crossing at Lick Creek Development; (ii) construct, alter, demolish or replace Improvements on any real property owned by Declarant within The Crossing at Lick Creek Development; (iii) maintain model homes, storage areas, offices for construction, initial sales, resales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within The Crossing at Lick Creek Development; (iv) post signs incidental to development, construction, promotion, marketing, sales or leasing of property within The Crossing at Lick Creek Development; (v) excavate, cut, fill or grade any property owned by Declarant; or (vi) require Declarant to seek or obtain the approval of the Architectural Control Committee or of the Association for any such activity or Improvement to property by Declarant on any property owned by Declarant. Nothing in this Article shall limit the reserved rights of Declarant as elsewhere provided in the Declaration.

3.5 Right to Grant and Create Easements. The Declarant reserves for public use the utility easements shown on the Plat or that have been or hereafter may be created by separate instrument recorded in the Office of the County Clerk of Brazos County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, Internet and television cable or fiber, and telephone and security system lines, gas lines, sewers, water lines, storm drainage (surface or underground), or any other utility the Declarant sees fit to install in, across and/or under the Property. All utility easements in the Community may be used for the construction of drainage swells or ditches in order to provide for improved surface drainage of any designated reserves, Common Area and and/or Lots. Notwithstanding anything to the contrary contained in in this section, no sewers, electrical lines, water lines, or other utilities may be installed on the Lots except as initially approved in writing by the Declarant. Should any utility company furnishing a service covered by the general easement herein provided requested a specific easement by separate recordable document, Declarant, prior to the Control Transfer Date, without the joinder of any other Owner, shall have the right to grant such easement on said Lots without conflicting with the terms hereof, provided that such easements do not unreasonably interfere with the Owner's use and enjoyment of such Lots. Any utility company serving the Crossing at Lick Creek Development shall have the right to enter upon any utility easement for the purpose of the installation, repair and maintenance of their respective facilities. Neither Declarant, nor any utility company using the easements herein referred to shall be liable for any damages done by them or their assigns, agents, employees, or serving-staff, to fences, shrubbery, trees and lawns or any other property of the Owner on the property covered by said easements.

3.6 Right to Convey Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the Lots by contract deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water line, gas, sewer, storm sewer, electric lighting, electric power, Internet or television conduit, cable or fiber, or telephone purposes and any other easement hereafter granted affecting the Lots, together with associated rights of reasonable ingress and egress for the maintenance and repair of such. The Owners of the respective Lots shall not be deemed to own pipes, wires, conduits, fiber or other service lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

3.7 Right to Convey Common Elements to the Association. Declarant shall have and hereby reserves the right, but shall not be obligated to, convey additional real property and Improvements thereon, if any, to the Association as Common Area at any time and from time to time in accordance with this Declaration, without the consent of any other Owner or the Association.

4. CONSTRUCTION RESTRICTIONS

4.1 Requirement for Single-Family Residential Dwellings. No building shall be erected, altered, or permitted to remain on any Lot other than one detached permanent single family dwelling used for residential purposes only, not to exceed two and one half (2½) stories in height, with a private garage or other approved covered or enclosed parking facility for not less than two (2) cars. As used herein, the term “residential dwelling” shall be construed to prohibit mobile homes, trailers, or portable buildings being placed on said Lots, or the use of said Lots for duplex houses, condominiums, town houses, garage apartments, or apartment houses. No modular carports shall be erected or permitted to remain on any Lot without the express prior written approval of the Architectural Control Committee. No Lot shall be improved with construction elements for business, professional, classroom, or religious purposes, nor for any commercial or manufacturing purposes. Prior to the commencement of the construction of any Improvements, whether attached to or detached from the main residential structure, must be approved by the Architectural Control Committee in accordance with the provisions of the Declaration.

4.2 Time Requirements for Construction. All residential dwelling construction shall commence within 24 months of purchase of the lot and shall be completed within 24 months after commencement. In the event the owner of a Lot purchased from the Declarant does not commence construction within the required period, the Declarant shall have a right to re-purchase the land. The Declarant shall serve the owner with a notice of such intent and thereafter owner shall have 30 days to prepare necessary closing documents. The price paid to re-purchase the land shall be the sum of the original purchase price minus all special assessments which may have been paid by the buyer or levied against the property after the date of purchase, minus the sum of any unpaid property taxes, prorating of the current year’s property taxes to date of closing, title insurance policy premium and any liens and encumbrances on the property of a definite or ascertainable amount. Conveyance shall be by warranted deed.

4.3 Minimum Size of Residential Dwelling. Lots shall have residential dwellings with a minimum heated area of 2,200 square feet. If the dwelling is more than one story in height, a minimum of 50% of the heated square footage shall be on the ground floor.

4.4 Required Setbacks. No residential structure shall be located on any Lot nearer to the front, rear, side or street-side Lot building line shown on the Plat or nearer to the property lines than the minimum building setback lines stated herein. All Lots shall have residential dwelling front setbacks from the Lot border of at least 35 feet and rear setbacks of at least 20 feet, except for cul-de-sac Lot 16, which shall have front setbacks of at least 20 feet. All Lots with side-streets (the street along the longer Lot dimension) shall have side-street side setbacks of at least 15 feet. All other Lots shall have left and right side setbacks of at least 7.5 feet. For purposes of this Declaration, steps, screened porches (covered or uncovered), storage rooms, stoops, and serving-staff quarters, shall be considered as part of a residential structure or other Improvements. This covenant shall not be construed to permit any portion of a building foundation on a Lot to encroach upon an easement. The main residential structure on any Lot shall face the front of the Lot, except as otherwise approved in writing by the Architectural Control Committee.

4.5 Garage and Garage Doors Requirements. Each house shall have a fully enclosed garage to be constructed at the time of the main residence, and the garage shall be constructed to accommodate not less than two nor more than four automobiles, except by waiver from the Architectural Control Committee. No Owner shall be entitled to enclose a garage for residential dwelling use without plans and specifications having been approved by the Architectural Control Committee for a replacement garage. All garages must be constructed of materials that are compatible with the construction materials used in the primary residential dwelling. All roof materials must be of the same nature as the materials used on the main residential dwelling, and all exterior garage walls must be constructed of the same or similar material as the exterior of the main residential dwelling. All garages must be finished with sheetrock, taped and painted or by other finish approved by the Architectural Control Committee. All residential structures shall have garage doors that open to the side or rear of the Lot, except that a garage door may open to the front of the Lot if the Lot has less than sixty (60) feet of width across the front building line, or

unless three (3) of the following five (5) styling enhancements are effected: (1) decorative handles, straps, and/or other hardware shapes fitting to and blending with the front exterior styling of the residence are installed on the garage door, (2) enhanced landscape lighting to help blend the garage area with the front exterior styling is installed, (3) the garage door is set back at least 12 inches from front-facing garage masonry structure or side-columns, (4) enhanced front landscaping is installed to help blend the garage area with the front exterior styling, and (5) a decorative feature or enhanced gable treatment above the garage door is installed to help blend the garage with the front exterior styling. Otherwise, a front-facing garage door plan must be approved on a case-by-case basis by the Architectural Control Committee.

4.6 Masonry Requirements. All residential dwellings shall be of recognized standard construction quality, and all exteriors (exclusive of doors, windows and similar openings) shall be constructed of at least seventy five percent (75%) masonry or other material specifically approved in writing by the Architectural Control Committee. Masonry includes ceramic tile, brick, rock, stucco, Fiber-Cement siding and all other materials commonly referred to in the College Station, Texas area as masonry. Notwithstanding the foregoing, no home shall be more than forty percent (40%) Fiber Cement. The use of prefabricated materials, including antique homes moved from other locations, shall not be allowed.

4.7 Detached Wall and Fence Approval Restriction. All detached wall and fence designs must be approved by the Architectural Control Committee prior to construction. No such structures shall extend forward past the front plane of the residential dwelling structure. Posts for fences constructed between adjacent lots must touch the property line dividing the lots. Only one set of fence posts shall be used between adjacent lots for stringers and pickets installed on both sides. Therefore, permission shall be granted by adjacent lot owners for use of the set of posts by both parties. Pickets installed on the second side of a fence shall be materially and aesthetically the same height as the first set installed. Picket fences along a street shall be the same height and stained materially the same color as the front Commons HOA fence, that being **Sherwin Williams SuperDeck English Walnut SW 3574**. Fences shall tie into any pillars or columns previously constructed on a lot by the Developer for the purpose of aesthetically breaking up a long fence line, Any such pillars or columns shall be maintained by the lot owner and shall not be removed. The Architectural Control Committee may develop more standards for walls and fences to maintain a consistent, high quality, and an aesthetically pleasing appearance throughout and fitting with the community.

4.8 Landscaping Requirements. All front yards of all Lots must, as a minimum requirement, sodded with grass, irrigated and must have shrubs or other landscaping planted adjacent to the front of all dwellings and garages constructed thereon to screen from view the foundation. In addition, all corner lots must sod and irrigate from property line to the curb and/or sidewalk. Moreover, before any initial landscaping (including the planting of grass) shall be done in the front yard of any newly constructed dwelling, the general layout, and plant types and sizes shall first have been approved in writing by the Architectural Control Committee. All Lots will be required to also install or persevere a minimum of two shade trees in the front yard of each Lot, with the total diameter of trees no less than six inches, with no one tree being less than three inches in diameter if installed. All approved initial landscaping shall be completed not later than sixty (60) days after substantial completion of the dwelling, except for emergency situations as approved by the Architectural Control Committee. All landscaping installed by Owner shall comply with the landscape criteria ("Landscape Criteria") established by the Architectural Control Committee, as such Landscape Criteria may be amended from time to time. However, any landscaping installed by the Owner that is approved by the Architectural Control Committee prior to the establishment of the Landscape Criteria or at any time after such Landscape Criteria is established shall be maintained by the Owner in a neat and attractive condition at all times. Any replacement landscaping which complies with the Landscape Criteria does not need to be approved by the Architectural Control Committee; however, an Owner may submit a landscape layout and plans for replacement landscaping to the Architectural Control Committee for approval. The Architectural Control Committee shall, in its sole discretion and authority, determine whether the landscape layout and plans submitted to it for review, including but not necessarily limited to, drainage, grass, shrub and tree planting, are acceptable. The Architectural Control Committee

may require additional and/or different types of landscaping should the Architectural Control Committee deem it to be necessary.

4.9 Irrigation System Requirements. Each improved Lot shall have and contain an underground water sprinkler system for the purpose of providing sufficient water to, at a minimum, the front yard, and, in the case of corner lots, any yard area facing a street. The sprinkler system for each Lot shall be designed and installed adequately to irrigate the area (the "Curbside Area") between the boundary of such lot and the curb of any street that immediately adjoins such lot. Each Owner of a Lot shall be responsible for the maintenance of the Curbside Area which immediately adjoins such lot, except to the extent such irrigation or maintenance is expressly undertaken by the Association.

4.10 Roofing Requirements. The surface of all roofs of principal and secondary structures shall be shakes, tile, quality composition shingle, or approved metal roof. The Architectural Control Committee shall have authority to approve other roof treatments and materials if the form utilized will not be a detriment to the quality of the neighborhood. The minimum pitch on roofs shall be 8 to 12 except by waiver of the Architectural Control Committee. The Architectural Control Committee must approve roof fans, attic fans, attic ventilators or other roof penetrations if any portion of the Improvement is visible from the front street.

4.11 Driveway Requirements. Driveways shall be constructed entirely of concrete, exposed aggregate concrete or brick pavers.

4.12 Exterior Lighting Restriction. No exterior lighting may be constructed or installed on any Lot without the prior written approval of the Architectural Control Committee.

4.13 Concrete Slab Requirements. The foundation of all residential dwellings shall be concrete slab. The slab elevation of all constructed dwelling units; garages and related Improvements shall not be less than three feet above the 100-year flood plain elevation of such Lot. Not more than one foot of vertical surface of concrete slab shall be exposed to view from any public view or adjacent Lots. Any slab in excess of one foot in height above finished grade shall have at least that excess in height covered with masonry used in constructing the dwelling. Any dwelling with an elevated deck shall have its open space below such deck screened from public view and view from adjacent Lots. The Architectural Control Committee, in its sole discretion, will determine the adequacy of any screening technique employed.

4.14 Combined-Lots Building Site. Any Owner of two adjoining Lots may, with the prior written approval of the Architectural Control Committee, consolidate such Lots or portions into one building site, with the privilege of placing or constructing Improvements on such resulting site, in which case the side setback lines shall be measured from resulting side Lot lines rather than from the Lot lines as indicated on the Plat. Any such combined Lots building site must have a frontage at the building setback line of not less than the minimum frontage of all Lots in the same block. In addition, the side lot utility easement, if applicable, must be abandoned or released in accordance with applicable law, and the Owner shall be responsible for the cost of relocating any utility lines and restoring the surface of any abandoned or relocated utility easements. Upon such abandonment or release and upon the receipt of written approval of the Architectural Control Committee, such resulting composite building sites shall thereupon be regarded as one Lot for all purposes hereunder.

4.15 Removal of Trees. Unless located within ten feet of a building, no Owner other than Declarant shall be entitled to cut, remove or mutilate any trees, shrubs, bushes or other vegetation having a trunk diameter of six inches or more at a point of four feet above ground level, without obtaining the prior written approval of the Architectural Control Committee, except that dead, dying, or diseased trees that are inspected and certified as dead, dying, or diseased by the Architectural Control Committee, as well as other dead, dying, or diseased shrubs, brushes, or other vegetation, shall be cut and removed promptly from any Lot, by the Owner of such Lot. All Owners, during their respective construction of a residential dwelling, are required to remove and haul from the Lot all tree stumps, trees, limbs, branches, underbrush

and all other trash or rubbish cleared from the Lot for construction of the residential dwelling, construction of other improvements and landscaping. No burning is allowed on the Lot and no materials or trash hauled from the Lot may be placed elsewhere in the Property.

4.16 Trash and Debris Management. All Owners, during construction of a residential dwelling, are required to place an approved trash receptacle on each lot to contain all debris and garbage associated with building construction. Other usable building materials are to be kept stacked and organized in a safe and reasonable manner upon the Lot. In the event of any default by the Owner or other occupant of any Lot in observing the above requirements, which default is continuing after ten (10) days written notice thereof to Owner or occupant, as applicable, the Declarant, or the Association or their designated agents may, without liability to the Owner, Contractor or any occupants of the Lot, may trespass or otherwise enter upon (or authorize one or more others to enter upon) said Lot, to clean, or cause to be cleaned, such debris and garbage and remove, or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner, Commercial Builder or occupant of such Lot for the cost of such work and removing such associated materials. The cost of such work and removal shall constitute a Reimbursement Assessment. All Owners shall keep streets and street ditches free from trash, materials, and dirt. Any such trash, materials, or excess dirt or fill inadvertently spilling or getting into the streets or street ditch shall be removed, without delay, not less frequently than daily. No Owner or Contractor may enter onto a Lot adjacent to the Lot upon which he is building for purposes of ingress and egress to his Lot without approval of the adjacent Lot owner, and all such adjacent Lots shall be kept free of any trees, underbrush, trash, rubbish and/or any other building or waste materials during or after construction of Improvement by the Owner of an adjacent Lot. During construction on any Lot, each builder must coordinate with his cement contractor to conduct all cement washing only on the lot in which construction is taking place or in a portable washout container.

4.17 No Visual Obstruction at Street Intersections. No planting or object which obstructs sight lines at elevations between two feet and six feet above the roadways within the triangular area formed by the intersecting street property lines and a line connecting them at points twenty-five feet from the intersection of the street property lines or extension thereof shall be placed, planted or permitted to remain on any corner Lots.

4.18 Construction over Utility Easement Restrictions. No structure shall be located over, under, upon or across any portion of any utility easement, however, the Owner of each Lot shall have the right to construct, keep and maintain concrete drives and similar Improvements across the utility easement along the front of the Lot and/or along the side of corner Lots adjacent to street right-of-ways and shall be entitled to cross such easements at all time for purposes of gaining access to and from such Lots. The Owner of each Lot shall indemnify and hold harmless Declarant, the Association, and public utility companies having facilities located over, across or under utility easements from any loss, expense, suit or demand resulting from injuries to persons or damage to property in any way occurring, incident to, arising out of, or in connection with said Owner's installation, maintenance, repair or removal of any permitted Improvements located within utility easements, including where such injury or damage is caused or alleged to be caused by the sole negligence of such entities or their employees, officers, contractors, or agents.

4.19 Window Air Conditioner Restrictions. No window or wall type air conditioning units shall be permitted to be used, installed, placed or maintained in or on any building in any part of the Development without the prior approval of the Architectural Control Committee. The committee will evaluate requests based on whether the proposed unit avoids being (i) an eyesore or visible from public streets or common areas, (ii) in continuous operation, (iii) an annoyance or nuisance to any neighbor, (iv) supplemental to the primary heating and cooling system of a residential dwelling. The Association reserves the right, with proper notification to the Owner, to revoke or remove any device that is deemed in violation of or an abuse of the privilege or intent of using this equipment.

4.20 **Swimming Pool Restrictions**. No swimming pool may be constructed on any Lot without the prior written approval of the Architectural Control Committee. Each application shall be accompanied by two sets of plans and specifications for the proposed swimming pool construction to be done, including a plot plan showing the location and dimensions of the swimming pool and all related improvements, together with the plumbing and excavation disposal plan. The Architectural Control Committee's approval or disapproval of such swimming pool shall be made in the same manner as described in the Declaration hereof for other building improvements. Then Owner shall be responsible for all necessary temporary erosion control measures required during swimming pool construction on said Lot to insure that there is no erosion into the streets, Common Areas, or other Lots. Swimming pool drains shall be piped into the storm sewer drainage system. In no event shall swimming pools be drained or discharge water into the Common Areas or other Lots. All swimming pools must be enclosed with a fence and must otherwise comply with ordinances of the City of College Station.

4.21 **Solar Energy Device Restrictions**. The term "Solar Energy Devices" is defined as a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power. The installation of a Solar Energy Device requires the prior written approval of the Architectural Control Committee. A Solar Energy Device is not permitted anywhere on a Lot except on the roof of the residential dwelling or on other permitted structures on the Lot or in a fenced yard or patio within the Lot. A solar Energy Device mounted on the roof of the residential dwelling or other permitted structure on a Lot shall (i) be a monocrystalline panel with a black back sheet; (ii) not extend higher than or beyond the roofline on which it is mounted; (iii) have a low profile roof mount, and must conform to the slope of the roof on which it is mounted and have a top edge that is parallel to the roofline on which it is mounted; (iv) have frames and support brackets that are bronze or black in color, as commonly available in the marketplace, to best match the color of the roof shingles, and all unfinished hardware must be painted to match the roof shingles; (v) have piping, connections, and/or wiring within the attic rather than on the exterior of the home; and (vi) have flashing that is a color that will best match the color of the roof shingles along the bottom of the array as well as along the side of the array visible from the public street in front of the home. Notwithstanding the foregoing, no Solar Energy Device may be installed on the front facing roof of the home. A Solar Energy Device and any related frame, brackets, support system, piping, and wiring located in a fenced yard or patio shall not be taller than or extend above the fence line of the fence enclosing the yard or patio. A Solar Energy Device is not permitted on a Lot if, as adjudicated by a court, it threatens the public health or safety or violates a law.

4.22 **Mail Box Restriction**. The United States Postal System requires cluster box mailboxes, and as such individual mailboxes shall not be permitted on any Lot.

4.23 **Out-Building Restriction**. All permanent out-buildings, sheds, barns, garages, or other structures must comply with the aesthetic rules that apply to the main building, including construction materials, colors, and percentage of masonry. Prior written approval of the Architectural Control Committee is required before any such building can be erected or placed on a Lot.

5. GENERAL RESTRICTIONS

All real property within The Crossing at Lick Creek Development shall be held, used and enjoyed subject to the following limitations and restrictions, and subject to the exemptions of Declarant set forth in this Declaration.

5.1 **Maintenance of Property**. No property within The Crossing at Lick Creek Development shall be permitted to fall into disrepair, and all property within The Crossing at Lick Creek Development, including any Improvements thereon, shall be kept and maintained in a clean, safe, attractive and slightly 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 Common Area shall be the responsibility of the Association.

Violation of this provision by an Owner (or any Person occupying such Lot through such Owner) shall permit the Association, after Notice and Hearing, to enter onto the Lot of the Owner and cure the violation or cause compliance with this provision and to levy and collect a Reimbursement Assessment for the costs and expenses of the Association in so doing; provided, however, that there shall be no entry into the interior of a completed Improvement intended for human occupancy without the consent of the Owner or occupant thereof unless a clear emergency exists.

5.2 Prohibition of Offensive Activities. No activity, whether for profit or not, shall be conducted on any Lot which is not related to residential purposes. No noxious or offensive activity shall be carried on upon any property within The Crossing at Lick Creek Development nor shall anything be done or placed thereon which is or may become a nuisance or cause an unreasonable embarrassment, disturbance or annoyance to others. No sound or odor shall be emitted from any property within The Crossing at Lick Creek Development which is noxious or unreasonably offensive. The Board shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance. Without limiting the generality of the foregoing, no horns, whistles, bells or other sound and fire devices, other than security and fire devices used exclusively for security and fire purposes and intercoms, shall be located or used on any property except with the prior written approval of the Architectural Control Committee or as permitted by the Rules and Regulations. Exterior speakers may be located, used or placed on a Lot provided that the use of such exterior speaker does not constitute a nuisance or annoyance. The drying of clothes in public view, whether from Common Areas streets, is prohibited. No outside toilets will be permitted, and no installation of any type of device for disposal of sewage shall be allowed which would result in raw or untreated or unsanitary sewage being carried in the streets or into any body or stream of water.

5.3 No Hazardous Activities. No activity shall be conducted on, and no Improvements shall be constructed on, any property within The Crossing at Lick Creek Development that is unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires shall be lighted or permitted on any property except (i) in a contained barbecue unit while attended, (ii) within a safe and well-designed interior or exterior fireplace or firepit, or (iii) as otherwise approved in writing by the Association. The fact that the Association approves the lighting of an open fire on any property on any given occasion shall not require the Association to thereafter approve similar lighting of fires on such Property or any other property within The Crossing at Lick Creek Development at any later date.

5.4 Vehicles Permitted to Use Roads and Streets. The only motorized vehicles allowed on the roads and street easements in the Development shall be motor vehicles currently licensed and inspected for use on public highways or golf carts; provided, however golf carts shall be operated in the Development solely for purposes of access to and from the Common Areas. The use of non-licensed motor vehicles including, but not limited to, automobiles, trucks, motorcycles, dirt bikes, off-road vehicles, and go-carts is expressly prohibited.

5.5 Rental and Leasing Requirements. Owners must notify the Association if their Lots are leased or rented. Owners must also provide the Association with the name of the tenant, a copy of the lease and the current mailing address of the Owner. In no event, however, shall any rental or leasing be allowed except pursuant to a written agreement or form approved by the Association Board that affirmatively obligates all tenants and other residents of the Lot to abide by this Declaration, the Declaration, and the Rules and Regulations of the Association. Renting to roomers or to a second family occupying the Lot is prohibited.

5.6 Lot Maintenance Requirements. All Lots shall be kept at all times in a neat, attractive, healthful and sanitary condition, and the Owner or occupant of all Lots shall keep all weeds and grass thereon cut and shall in no event use any Lot for storage of materials or equipment except for normal residential requirements or incident to construction of Improvements thereon as herein permitted, or permit the accumulation of garbage, trash or rubbish of any kind thereon. All yard equipment or storage piles shall be kept screened so as to conceal them from view of adjacent Lots or streets. In the event of any default

by the Owner or other occupant of any Lot in observing the above requirements, which default is continuing after ten (10) days written notice thereof to Owner or occupant, as applicable, the Declarant or the Association or their designated agents may, without liability to the Owner, Contractor or any occupants of the Lot may trespass or otherwise, enter upon (or authorize one or more others to enter upon) said Lot, to cut, or cause to be cut, such weeds and grass and remove, or cause to be removed, such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Declaration, so as to place said Lot in a neat, attractive, healthful and sanitary condition, and may charge the Owner, Commercial-Builder or occupant of such Lot for the cost of such work and removing such associated materials. The cost of such work and removal shall constitute a Reimbursement Assessment.

5.7 Restrictions on Garbage and Trash. At any time prior to the commencement of construction of Improvements on a Lot and at all times following the completion of construction of such Improvements, no refuse, garbage, trash, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any Lot except within an enclosed structure or appropriately screened from view, except that any such container (approved by the Association) may be placed in a designated area for garbage or trash pickup no earlier than 6 PM on the day preceding trash pickup of such garbage and trash and shall be returned to an enclosed structure or an area appropriately screened from view no later than noon on the day following the pickup of such garbage and trash.

5.8 Restrictions on Temporary Structures. Except as specified for purpose elsewhere in this Declaration, no tent, shack, temporary structure or temporary building shall be placed upon any property within The Crossing at Lick Creek Development except with the prior written consent of the Architectural Control Committee obtained in each instance.

5.9 Restrictions on Antenna, Pipes, Conduits, and Utility Lines. Pipes for water, gas, sewer, drainage or other utilities, and wires, conduits, poles, antennae and other facilities for the transmission or reception of telephone, audiovisual or Internet signals, electricity, or other power and network information shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure. A master networked antenna, cable, or fiber-optic system for audiovisual and/or Internet service may, but need not, be provided by the Association for use by all Owners or by a group of subscribing Owners, and Declarant may grant easements for such purposes.

5.10 Restrictions on Signs and Advertising Devices. No sign, poster, billboard, or advertising display of any kind shall be erected or maintained anywhere within The Crossing at Lick Creek Development so as to be evident to public view except signs as may be approved in writing by the Architectural Control Committee or as specified herein. A sign advertising a Lot for sale or for lease may be placed on such Lot; provided, however, that the Association may regulate the dimensions, color, style and location of such signs. Members of the Architectural Control Committee shall have the right to enter and remove any such signs, advertisement, billboard, and/or structure that is placed on any Lot without said consent, and in so doing, shall not be liable and is expressly relieved from any liability for trespass or other sort in connection therewith or arising from such removal. Security Signs/Stickers provided to an Owner by a commercial security or alarm company providing service to the dwelling shall be permitted so long as the sign is not more than 8" x 8" or the sticker is no more than 4" x 4". There shall be no more than one sign and no more than six (6) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for a "Child Find" program or a similar program sponsored by a local police and/or local fire department.

5.11 Drainage Restrictions. There shall be no interference with the established drainage pattern over any Lot except as approved in writing by the Architectural Control 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 Architectural

Control Committee. The established drainage pattern may include the drainage pattern from Common Area over any Lot, from any Lot over the Common Area, or from any Lot over another Lot.

5.12 Vehicles and Equipment Storage Restrictions. No motor vehicle or non-motorized vehicle (including, without limitation, trucks and recreational vehicles), boat, trailer, camper, marine craft, machinery or equipment of any kind may be parked or stored for longer than twenty four (24) hours or on a semi-permanent daily basis on any part of any Lot, private or public road or street, easement, right-of-way, or Common Area unless such vehicle or object (i) is completely concealed from public view inside a garage or approved enclosure or (ii) is owned by an overnight guest of the Owner and such use does not extend for more than three (3) days. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that are in operating condition, having current license plates and inspection stickers, and that are in daily use as motor vehicles on the streets and highways of the State of Texas are exempt from the parking restriction only as it pertains to parking of vehicles on the driveway portion of any Lot. No vehicle shall be parked in a yard or in the street or along the side of a street so that it blocks the flow of traffic. No vehicle may be repaired on a Lot unless such vehicle is concealed inside a garage or other approved enclosure during the repair thereof. This restriction shall not apply to any vehicle, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of residential dwellings and related Improvements or utility Improvements.

5.13 Animal Husbandry Restrictions. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other common household pets may be kept provided that they are not kept, bred or maintained for commercial purposes and do not become a nuisance or threat to other Owners. No more than four (4) total animals shall be kept as household pets. No Owner shall permit any dog, cat or other domestic pet under his ownership or control to leave such Owner's Lot unless such pet is leashed and accompanied by a member of such Owner's household.

5.14 Compliance with Insurance Requirements. Except as may be approved in writing by the Association, nothing shall be done or kept on property within The Crossing at Lick Creek Development which may result in a material increase in the rates of insurance or would result in the cancellation of any insurance maintained by the Association.

5.15 Compliance with Laws. Nothing shall be done or kept on any property within The Crossing at Lick Creek Development in violation of any law, ordinance, rule or regulation of any governmental authority having jurisdiction.

5.16. Sewage Disposal Restrictions. No septic or other sewage disposal system shall be installed within The Crossing at Lick Creek Development except a central sewer disposal system installed and maintained by a private utility company, water district, municipal utility district or similar agency for the benefit of The Crossing at Lick Creek Development.

5.17 Restoration Requirements. In the event of damage or destruction of any Improvement on any Lot, the Owner thereof shall promptly cause the damaged or destroyed Improvement to be (i) restored or replaced to its original condition or such other condition as may be approved in writing by the Architectural Control Committee, or (ii) demolished and the Lot suitably cleared and landscaped subject to the approval of the Architectural Control Committee so as to present a safe and appropriate appearance.

6. ARCHITECTURAL CONTROL

6.1 Restriction on Architectural Design. No building or other improvement of any character shall be erected or placed, or the erection or placing thereof commenced or changes made in the design or exterior appearance thereat (including, without limitation, painting, staining or siding), or any addition or exterior alteration made thereto after original construction, or demolition or alteration by voluntary action made thereto after original construction on any land within the Property, including the Common Area, until the obtaining of the necessary approval from the Architectural Control Committee of the construction

plans and specifications for the construction or alteration of such Improvements or demolition or destruction of existing Improvements by voluntary action. Approval shall be granted or withheld based on matters of compliance with the provisions of this Declaration and any Supplementary Declaration, quality and color of materials, drainage, harmony of external design and color with existing and proposed structures and location with respect to topography and finished grade elevation, so as to (i) promote those qualities to enhance the value of the Lots, (ii) foster the attractiveness and functional utility of The Crossing at Lick Creek Development as a place to live, and (iii) foster a harmonious relationship among structures, vegetation and topography and the overall design of the Property.

6.2 Application and Submittal Requirements. Each application made to the Architectural Control Committee shall be accompanied by two sets of plans and specifications for all proposed construction (initial or alterations) to be done on such Lot, including the drainage plan, plot plan showing the location and elevation of the Improvements on the Lot, and dimensions of all proposed walkways, driveways, fences, and all other elements as may be requested by the Architectural Control Committee relevant to architectural approval. The address of the Architectural Control Committee shall be the address of the principal office of the Association.

6.3 Criteria for Approval. In making its decision as to any Improvements or alterations, the Architectural Control Committee shall consider the following design standards: (i) validity of the design concept; (ii) effect on landscape and environment; (iii) relationship of structures and open spaces; (iv) protection of neighbors with respect to access, drainage, sound and sight buffers, preservation of views and landscaping during and after completion of construction of the Improvements; (v) design compatibility with respect to scale, materials, color and construction details; (vi) quality of workmanship; and (vii) construction timetable. All approvals of the Architectural Control Committee shall be in writing.

6.4 Committee Structure and Authority. The authority to grant or withhold architectural control approval is vested in the Architectural Control Committee, which will be selected by the Declarant until the Control Transfer Date. The Architectural Control Committee shall be composed of not less than three (3) nor more than five (5) members. Prior to the Control Transfer Date, it is not necessary for the Architectural Control Committee to be composed of any Owners of Lots other than the Declarant. The authority of the Declarant to select the Architectural Control Committee shall cease and terminate upon the occurrence of the Control Transfer Date, in which event such authority shall be vested in and exercised by the Architectural Control Committee elected by the Members. Additionally, until the election of the Architectural Control Committee by the Members, the Architectural Control Committee selected by the Declarant shall continue to exercise architectural control authority.

6.5 Transfer of Architectural Control. Upon the occurrence of the Control Transfer Date, the Declarant shall cause a statement of such transfer and date to be placed of record in the Office of the County Clerk of Brazos County, Texas. The Declarant shall be obligated to arrange for the holding of such election by the Members within sixty (60) days following the filing of the aforesaid statement and to give notice of the time and place of such election (which shall be in Brazos County, Texas) not less than thirty (30) days prior to the holding thereof. Thereupon, the Owners by vote, as hereinafter provided, shall elect the Architectural Control Committee. From and after the Control Transfer Date, at least a majority of the members of the Architectural Control Committee elected by the Members must be an Owner of a Lot. Each Owner shall be entitled to one vote for each whole Lot owned. In the case of any building site composed of more than one Lot, such building site Owner shall be entitled to one vote for each whole Lot contained within such building site. The Declarant also shall be entitled to vote for the election of Architectural Control Committee members in accordance with its voting rights specified in this Declaration. Additionally, the Declarant shall have the right to discontinue the exercise of architectural control privileges and arrange for the election by the Members at any time prior to the Control Transfer Date by filing a statement and date to such effect in the Office of the County Clerk of Brazos County, Texas.

6.6 Election, Term, Removal, and Replacement. For the initial election, votes of the Members, including the Declarant, shall be evidenced by written ballot furnished by the Declarant (and by the Board for election subsequent to the Initial election). The Declarant and/or the Board may elect to conduct such election by mail. The Board shall maintain said ballots as a permanent record of such election for a period of not less than three (3) years after such election. Any Member may appoint a proxy to cast his ballot in such election, provided that his written appointment of such proxy is attached to the ballot as a part thereof. The Architectural Control Committee members initially so-elected by the Members shall serve a two (2) year term. Thereafter, the Board shall determine the length of the term of said Architectural Control Committee members, which in no event shall be less than one year or more than two years. The results of each such election shall promptly be determined on the basis of a plurality vote of those Members voting in such election. The results of any such election and of any removal or replacement of any member of the Architectural Control Committee may be evidenced by the recording of an appropriate instrument properly signed and acknowledged on behalf of the Declarant or by a majority at the Board. After the first such election shall have been held, the Board thereafter shall be obligated to arrange for elections (in the manner and after notice as set forth above), including elections requested in writing by ten (10) or more Members to remove a member of the Architectural Control Committee. No member of the Architectural Control Committee may be removed except upon a majority vote (voting in favor of removing said Architectural Control Committee member) of those voting in an election called for said purpose. Upon the death, resignation, refusal, or inability of any member of the Architectural Control Committee to serve, the Board, by majority vote, shall fill the vacancy by appointment and the person appointed shall complete the unexpired term of his predecessor. If the Board should fail or refuse to take any action herein provided to be taken by the Board with respect to setting elections, conducting elections, counting votes, determining results and evidencing such results, or naming successor Architectural Control Committee members, and such failure or refusal continues for a period which is unreasonably long (in the exclusive judgment of the Declarant), then the Declarant may validly perform such function.

6.7 Compensation and Expenses. The members of the Architectural Control Committee shall be entitled to such compensation for services rendered and for reasonable expenses incurred as may, from time to time, be authorized or approved by the Association, and shall be entitled to retain architects, engineers and contractors on a fee basis to assist the Architectural Control Committee in reviewing plans and specifications and inspecting Lots and Improvements. All such sums payable as compensation and/or reimbursement shall be payable only out of the Maintenance Fund.

6.8 Effect of Inaction. Approval or disapproval as to architectural control matters as set forth in the preceding provisions shall be in writing. In the event that the Architectural Control Committee fails to approve or disapprove in writing any plans and specifications and plats received by it in compliance with the preceding provisions within thirty (30) days following such submission, such plans and specifications and plot plan shall be deemed approved and the construction of any such building and other Improvements may be commenced and proceeded with in compliance with all such plans and specifications and plot plan and all of the other terms and provisions hereof; provided, however, that no such deemed approval shall operate to permit any Owner to construct or maintain any improvement that violates any provision of this Declaration or any Supplementary Declaration, the Architectural Control Committee at all times retaining their right to object to any improvement that violates this Declaration or any Supplementary Declaration.

6.9 Effect of Approval. The granting of the aforesaid approval (whether in writing or by lapse of time) shall constitute only an expression of opinion by the Architectural Control Committee that the terms and provisions hereto shall be complied with if the building and/or other Improvements are erected in accordance with said plans and specifications and plot plan; and such approval shall not constitute any nature of waiver or estoppel either as to the persons expressing such approval or any other person in the event that such building and/or Improvements are not constructed in accordance with such plans and specifications and plot plan or in the event that such building and/or Improvements are constructed in

accordance with such plans and specifications and plot plan, but, nevertheless, fail to comply with the provisions hereof or with the intended structural or design purpose. Upon approval of the Owner's plans and specifications, no further architectural approval shall be required with respect thereto, unless such construction has not substantially commenced within ninety (90) days of the approval, such plans and specifications are materially altered or changed during the construction of the Improvements, or the Improvements are not constructed in accordance with the approved plans and specifications. During the construction process, the Owner shall not permit delays, other than Excused Delays, of more than forty-five (45) consecutive days.

6.10 Minimum Construction Standards and Inspections. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards; provided, however, that such outline will serve as a minimum guideline only and such Architectural Control Committee shall not be bound thereby. In order to control the quality of construction and to reasonably ensure that all residential construction (including the construction of the residential dwelling and all other Improvements on the Lot) are constructed in accordance with the Plat, this Declaration, Brazos County and other governmental regulation, minimum acceptable construction standards as promulgated from time to time by the Architectural Control Committee, and Architectural Control Committee regulations and requirements. The Architectural Control Committee may conduct certain building Inspections and the Owner, in the construction of all Improvements, shall hereby be subject to such building inspections and building inspection policies and procedures as established from time to time by the Architectural Control Committee.

6.11 Variances. The Architectural Control Committee may authorize variances from compliance with any provisions of the Declaration (except for the provisions relating to single-family residential dwelling use) or minimum, acceptable construction standards or regulations and requirements as promulgated from time to time by the Architectural Control Committee, when circumstances such as topography, natural obstructions, hardship, disability, aesthetic or environmental considerations may require a variance. Such a variance must be evidenced in writing and shall become effective when signed by the Declarant or by a majority of the members of the Architectural Control Committee. If any such variances are granted, no violation of the provisions of this Declaration shall be deemed to have occurred with respect to the matter for which the variance is granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of the Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall the granting of any variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned and the Plat.

6.12 Notice of Completion and of Noncompliance. Each Owner shall send a written notice of the completion ("Notice of Completion") of such Owner's construction of Improvements to the Architectural Control Committee and to the Association within fifteen (15) days after completion of such Owner's construction. If, as a result of inspections or otherwise, the Architectural Control Committee, at any time following the commencement of construction of Improvements, finds that any construction (i) has been done without obtaining the approval of the Architectural Control Committee, (ii) was not done in conformity with the approved plans and specifications and plot plan, or (iii) is not being prosecuted in the manner required by this Declaration and applicable construction guidelines, the Architectural Control Committee shall notify the Owner in writing of the noncompliance, which notice ("Notice of Noncompliance") shall be given. In any event, within sixty (60) days after the Architectural Control Committee receives a Notice of Completion. The Notice of Noncompliance shall specify the particulars of the noncompliance and shall require the Owner to take such action as may be necessary to remedy the noncompliance. If for any reason other than Owner's act or neglect, the Architectural Control Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt by the Architectural Control Committee and the Association of the Notice of Completion, the Improvements constructed by such Owner on the Lot shall be deemed in compliance with plans and specifications approved by the Architectural Control Committee if such Improvements were in fact completed as of the date of the Notice

of Completion. If, however, the Architectural Control Committee issues a Notice of Noncompliance, the Owner shall commence to correct the noncompliance without delay. If the Owner does not correct the noncompliance with forty-five (45) days after receipt of the Notice of Noncompliance or commence within ten (10) days after receipt of the Notice of Noncompliance, the correction of such noncompliance in the case of a noncompliance which cannot reasonably be expected to be corrected within forty-five (45) days (provided that such Owner diligently continues the removal of such noncompliance) the Board may, at its option, record a Notice of Noncompliance against the Lot on which the non-compliance exists, and/or may otherwise remove or correct such non-compliances (including, without limitation, removing any Improvements which are not completed within the required time following the commencement of construction, and any such action by the Board or by representatives of the Board, shall not constitute trespass, conversion or otherwise result in the imposition of liability against the Architectural Control Committee, Board or designated representative of the Board who removed such Improvements) and the Owner shall reimburse the Association, upon demand, for all expenses incurred, which reimbursement obligation shall constitute a Reimbursement Assessment and shall be In addition to all other rights and remedies which the Board may have at law, in equity, or under this Declaration to cure such noncompliance.

6.13 No Implied Waiver or Estoppel. No action or failure to act by the Architectural Control Committee or by the Board shall constitute a waiver or estoppel with respect to future action by the Architectural Control Committee or Board with respect to the construction of any Improvements. Specifically, the approval by the Architectural Control Committee or Board of any such construction shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar construction or any similar proposals, plans, specifications or other materials submitted with respect to any other construction by such Person or other Owners.

6.14 Disclaimer. No approval of plans and specifications and no publication or designation of architectural standards shall ever be construed as representing or implying that such plans, specifications or standards will result in a properly designed structure or satisfy any structural, functional, or legal requirements. No person exercising any prerogative of approval or disapproval shall incur any liability by reason of the good faith exercise thereof. Further, neither Declarant, the Association nor the Architectural Control Committee shall be responsible or liable for any defects in any plans and specifications submitted, revised, or approved pursuant to the terms of this Declaration, any loss or damage to any person arising out of the approval or disapproval at any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any Governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such approved plans and specifications.

6.15 Inspection of Work. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee or its duly authorized representative shall have the right to Inspect any Improvement before or after completion, provided that the right of Inspection shall terminate sixty (60) days after the Architectural Control Committee shall have received a Notice of Completion from the Owner.

7. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

7.1 Members. Every Owner of a Lot shall be a Member of the Association which Declarant is causing to be formed by this Declaration. With respect to the Owners, membership shall be appurtenant to and may not be separated from ownership of any Lot.

7.2 Voting Rights. Members shall be entitled to one vote for each Lot owned.

7.3 Multiple Owners of a Lot. When more than one Person owns an interest in a Lot, all such Persons shall be Members, however, there shall be but one vote for each Lot so owned. The vote of such Lot shall be exercised as they determine and so notify the Association In writing, with the most recent written notification controlling. After a Person is designated by the Members as the representative at such

Members, the Board shall have the right to rely on such designation until a written notice revoking such appointment, signed by all of the Owners of such Lot, is received by the Board. If the Owners are unable to agree upon one of their number to be designated as their representative to the Association, then none of such Owners shall have any vote, fractional or otherwise, in the Association.

7.4 **Members' Rights of Enjoyment.** Every Member shall have a beneficial interest of use and enjoyment in and to the Common Area and such right shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions: (i) the right of the Association, with respect to any facilities situated upon the Common Area, to limit the number of guests of Members; (ii) the right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area; (iii) the right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving and maintaining the Common Area and facilities, (iv) the right of the Association to suspend the Member's voting rights and the Member's and "Related User's" (as hereinafter defined) right to use any facilities situated upon the Common Area during any period in which the Maintenance Charge or any assessment against Member's Lot remains unpaid, (v) the right of the Association to suspend the Member's voting rights and the Member's and Related User's right to use any facilities situated upon the Common Area, after notice and hearing by the Association's Board, for the infraction or violation by such Member or Related User of this Declaration or the Rules and Regulations established for The Crossing at Lick Creek Development, which suspension shall continue for the duration of such infraction or violation, plus a period not to exceed sixty (60) days following the cessation or curing of such infraction or violation; and (vi) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility, for such purposes and subject to the provisions of this Declaration.

7.5 **Delegation of Use.** Any Member may delegate, in accordance with the Bylaws, Member's right of enjoyment to the Common Area and facilities to the members of Member's "family" (defined herein as those of the Member's immediate family living in the Member's residential dwelling), his tenants, or contract purchasers who reside on the Lot (collectively, the "Related Users").

8. ASSOCIATION DUTIES AND POWERS

8.1 **General Duties and Powers.** The Association has been formed to further the common interests of the Members. The Association, acting through the Board or through persons to whom the Board has delegated such powers, and subject to the provisions of the By-Laws, shall have the duties and powers hereinafter set forth and, in general, the power to do anything that may be necessary or desirable to further the common interests of the Members, to maintain, improve and enhance the Common Area and to improve and enhance the attractiveness, desirability, property value, and safety of The Crossing at Lick Creek Development. The Association shall have the authority to act as the agent and attorney-in-fact for all Members and to enter into any and all contracts on behalf of the Members in order to carry out the duties, powers and obligations of the Association as set forth in this Declaration.

8.2 **Duty to Accept Property and Improvements.** The Association shall accept title to any property, including any Improvements thereon and personal property transferred to the Association by Declarant and equipment related thereto together with the responsibility to perform any and all administrative and maintenance functions and recreation functions associated therewith (collectively herein referred to as "Functions"), provided that such property and Functions are not inconsistent with the terms of this Declaration. Property interests transferred to the Association by Declarant may include fee simple title, easements, leasehold interests and licenses to use such property. Any property or interest in property transferred to the Association by Declarant shall be within the boundaries of The Crossing at Lick Creek Development. Any property or interest in property 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 and mortgages other than the lien for property taxes and assessments not then due and payable, but shall be subject to the terms of this Declaration, the terms of any Supplementary Declaration, and all easements, covenants, conditions, restrictions and other encumbrances which do not materially affect the use and enjoyment of such property by the Association

or by the Owners authorized to use such property. Except as otherwise specifically approved by resolution of the Board, no property or interest in property transferred to the Association by the Declarant shall impose upon the Association any obligation to make monetary payment to Declarant or any affiliate of Declarant including, but not limited to, any payments to purchase price, rent, charge or fee.

8.3 Duty to Manage Care for the Common Area. The Association shall manage, operate, care for, maintain and repair all Common Area and keep the same in a safe, attractive and desirable condition for the use and enjoyment of the Members. The duty to operate, manage and maintain the Common Area may or may not include the following: establishment, operation and maintenance of a neighborhood security system and/or security patrol; operate recreational facilities; landscaping maintenance, including of irrigation systems; maintenance, repair and replacement of any private trails and paths, roadside ditches and culverts, conduits underneath streets, bridges, recreational and aesthetic structures, and water features; maintenance of any community-based Internet or security infrastructure, and upkeep of street right-of-ways and roadside ditches.

8.4 Duty to Pay Taxes. The Association shall pay all taxes and assessments levied upon the Common Area and shall have the right to contest any such taxes or assessments provided that the Association shall contest the same by appropriate legal proceedings which shall have the effect of preventing the collection of the tax or assessment or the foreclosure of any lien for such tax or assessment, and provided that the Association shall keep and hold sufficient funds to pay and discharge the taxes and assessments, together with any interest and penalties which may accrue with respect thereto, if the contest of such taxes is unsuccessful.

8.5 Duty to Maintain Casualty Insurance. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, casualty, fire and extended coverage insurance with respect to all insurable Improvements and personal property owned by the Association, including coverage for vandalism and malicious mischief and, if available and if deemed appropriate, coverage for flood, earthquake and war risk. Casualty, fire and extended coverage insurance with respect to insurable Improvements shall, to the extent reasonably obtainable, be for the full insurable value based on current replacement cost.

8.6 Disbursement of Proceeds. Proceeds of insurance policies shall be used to replace, repair or reconstruct damaged portions of the Common Area. Any proceeds remaining after defraying such costs of repairs, replacement or reconstruction of the Common Area shall be retained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of a Lot and may be enforced by such mortgagee.

8.7 Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Common Area covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates for the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction as used in this Section 8.7 means repairing or restoring the damaged or destroyed property to substantially the same condition in which it existed prior to the fire or other casualty.

8.8 Repair, Replacement and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired, replaced or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall without the necessity of a vote of the Members, levy a Special Assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from said Special Assessment exceed the cost of such repair, replacement or reconstruction, such excess shall be deposited for the benefit of the Association.

8.9 **Duty to Maintain Liability Insurance**. The Association shall obtain and keep in full force and effect at all times, to the extent reasonably obtainable, broad form comprehensive liability insurance covering public liability for bodily injury and property damage including, but not limited to, public liability for bodily injury and property damage arising as a result of the ownership and operation of motor vehicles.

8.10 **General Provisions Respecting Insurance**. Insurance obtained by the Association may contain such deductible provisions as good business practice may dictate. Insurance obtained by the Association shall, to the extent reasonably possible without undue cost, contain a waiver of rights of subrogation as against the Association, each Member and any person claiming by, through or under such Member and as against any officer, director, agent or employee of any of the foregoing. Insurance obtained by the Association shall, to the extent reasonably possible, and provided Declarant reimburses the Association for any additional premium payable on account thereof, name Declarant as an additional insured and shall contain a waiver of rights of subrogation as against Declarant. Insurance policies and insurance coverage shall be reviewed at least annually by the Board to ascertain whether coverage under the policies is sufficient in the light of the current values of the Common Area and in light of the possible or potential liabilities of the Association. Casualty, fire and extended coverage insurance may be provided under blanket policies covering the Common Area and other property of Declarant.

8.11 **Other Insurance and Bonds**. The Association shall obtain such other insurance as may be required by law, including worker's compensation insurance for any direct employees, and shall have the power to obtain director's insurance and such other insurance and such fidelity, indemnity or other bonds as the Association shall deem necessary or desirable.

8.12 **Duty to Prepare Budgets**. The Association shall prepare budgets for the Association, which budgets shall include a reserve fund for the maintenance of all Common Area.

8.13 **Duty to Levy and Collect Fees, Charges and Assessments**. The Association shall levy, collect and enforce the Maintenance Assessments, Special Assessment, and other charges and assessments as elsewhere provided in the Declaration.

8.14 **Power to Acquire Property and Construct Improvements**. The Association may acquire property or an interest in property including leases for the common benefit of Owners including Improvements and personal property. The Association may construct Improvements on the Property and may demolish existing Improvements.

8.15 **Power to Adopt Rules and Regulations**. The Association may adopt, amend, repeal and enforce rules and regulations ("Rules and Regulations"), fines, levies and enforcement provisions as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration, the operation of the Association, the use and enjoyment of the Common Area and the use of any other property within the Common Area. Any such Rules and Regulations shall be reasonable and uniformly applied to all Owners. Such Rules and Regulations shall be effective only upon adoption by resolution of the Board. Notice of the adoption, amendment or repeal of any Rule and Regulation shall be given by posting any such Rule or Regulation for thirty (30) days after the date of adoption in the Association office, and copies of the currently effective Rules and Regulation shall be made available to each Member upon request and payment of the reasonable expense of copying the same. Each Member shall comply with such Rules and Regulations and shall see that such Member's "Related Users" comply with such Rules and Regulations. Such Rules and Regulations shall have the same force and effect as if they were set forth in and were part of the Declaration. In the event of conflict between the Rules and Regulations and the provisions of the Declaration, the provisions of the Declaration shall prevail.

8.16 **Power to Enforce Restrictions, Rules, and Regulations**. The Association or the Declarant (and any Owner with respect only to the remedies described in (ii) or (iii) below) shall have the power to enforce the provisions of this Declaration and the Rules and Regulations and shall take such action as the Board deems necessary or desirable to cause such compliance by each Member and each "Related

User" (defined herein as a Member's tenant, guest, invitee or contract purchaser who occupies the Owner's Lot). Without limiting the generality of the foregoing, the Association shall have the power to enforce the provisions of the Declaration and the Rules and Regulations of the Association by anyone or more of the following means: (i) by entry upon any property after notice and hearing (unless a bona fide emergency exists in which event this right of entry may be exercised without notice to the Owner in such manner as to avoid any unreasonable or unnecessary interference with the lawful possession, use or enjoyment of the Improvements situated thereon by the Owner or any other person), without liability by the Association to the Owner thereof, for the purpose of enforcement of this Declaration or the Rules and Regulations; (ii) by commencing and maintaining actions and suits to restrain and enjoin any breach or threatened breach of the provisions of this Declaration or the Rules and Regulations, by mandatory injunction or otherwise; (iii) by commencing and maintaining actions and suits to recover damages for breach of any of the provisions of this Declaration or the Rules and Regulations; (iv) by exclusion, after notice and hearing, of any Member or Related User from use of any recreation facilities within the Common Area during and for up to sixty (60) days following any breach of this Declaration or such Rules and Regulations by such Member or any Related User, unless the breach is a continuing breach in which case such exclusion shall continue for so long as such breach continues; (v) by suspension, after notice and hearing, of the voting rights of a Member during and for up to sixty (60) days following any breach by such Member or a Related User of a provision of the Declaration or such Rules and Regulations, unless the breach is a continuing breach in which case such suspension shall continue for so long as such breach continues; (vi) by levying and collecting, after notice and hearing, an assessment against any Member for breach of this Declaration or such Rules and Regulations by such Member or a Related User (which assessment reimburses the Association for the costs incurred by the Association occasioned by the conduct of an Owner or by the family, tenants, agents, guests or invitees of any Owner), such assessment being hereinafter referred to as the "Reimbursement Assessment; (vii) by levying and collecting, after notice and hearing, reasonable and uniformly applied fines and penalties, established in advance in the Rules and Regulations of the Association, from any Member or Related User for breach of this Declaration or such Rules and Regulations by such Member or a Related User; and (viii) by taking action itself to cure or abate such violation and to charge the expenses thereof, if any, to such violating Members, plus attorney's fees incurred by the Association with respect to exercising such remedy. The Reimbursement Assessment herein provided for shall be levied by the Board and the payment thereof enforced in the same manner as the payment of Maintenance Assessments. Before the Board may invoke the remedies provided above, it shall give registered notice of such alleged violation to Owner and afford the Owner a hearing, as more particularly described in the By-Laws. If after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation. Failure of the Association, the Declarant, or of any Owner to take any action upon any breach or default with respect to any of the foregoing violations shall not be deemed a waiver of their right to take enforcement action thereafter or upon a subsequent breach or default.

8.17 Power to Provide Public Functions. The Association shall have the power, but no obligation, to acquire, construct, operate, manage, maintain, repair and replace utilities, and additional public facilities, and to provide other functions as more particularly described in this Declaration.

8.18 Power to Provide Special Services for Members. The Association shall have the power, but no obligation, to provide services, including Internet services, security monitoring services, and services anticipated by future technical developments not currently available, to a Member or group of Members. Any service to a Member or group of Members shall be provided pursuant to an agreement in writing, which shall provide for payment to the Association by such Member or group of Members of the reasonably estimated costs and expensed of the Association of providing such services, including its proportionate share of the overhead expenses of the Association and shall contain reasonable provisions assuring that the obligation to pay for such services shall be binding upon any heirs, personal representatives, successors or assigns of the Member or group of Members and that the payment for

such services shall be secured by a lien on the property of the Member or group of Members as provided for in this Declaration.

8.19 **Power to Grant Easement**. In addition to any blanket easements described in this Declaration, the Association or the Declarant shall have the power to grant access, utility, drainage, water facility and other such easements in, on, over, or under the Common Area. Additionally, the Association, from and after the Control Transfer Date, shall have the power to grant access, utility, drainage, water facility and other similar easements in, on, over and under the portion of such Lots within the restricted building setback area provided that such easements do not unreasonably interfere with the Owners' use and enjoyment of such Lots.

8.20 **Power to Convey and Dedicate Property to Government Agencies**. The Association or the Declarant shall have the power to grant, convey, dedicate or transfer any Common Area or facilities to any public or governmental agency or authority for such purposes and subject to such terms and conditions as the Association or the Declarant shall deem appropriate, which power may be exercised (i) prior to the Control Transfer Date by the Board and (ii) from and after the Control Transfer Date by the Association, with the approval of not less than two-thirds of the Members agreeing in writing or by voting at any scheduled meeting of the Members and with the prior written approval of the Declarant. The Association or the Declarant may, subject to the limitations of the preceding sentence, convey property to a public or governmental agency or authority in lieu of such property being condemned by such public or governmental agency or authority.

8.21 **Power to Borrow Money and Mortgage Common Area**. The Association, with the prior written approval of the Declarant prior to the Control Transfer Date, shall have the power to borrow money (including, without limitation, borrowing money from Declarant) and to encumber the Common Area as security for such borrowing, subject to the limitations provided elsewhere in this Declaration and the By-Laws with respect to required approvals and consents to such action. With respect to any deed of trust encumbering the Common Area, the lender's rights thereunder shall be limited to the right, after taking possession of such Common Area following the lender's foreclosure of the deed of trust, to charge reasonable admission and other fees as a condition to the continued enjoyment thereof by the Members, if necessary, until the mortgage debt is satisfied, whereupon the exclusive possession of such Common Area shall be returned to the Association.

8.22 **Power to Employ Manager**. The Association shall have the power to retain and pay for the services of a manager, managers, or management company to undertake the management of any of the functions for which the Association has responsibility under the Declaration to the extent deemed advisable by the Association, and may delegate any of its duties, powers or functions to any such manager. Notwithstanding any delegation to a manager of any duties, powers or functions of the Association, the Association and its Board shall remain ultimately responsible for the performance and exercise of such duties, powers, and functions.

8.23 **Power to Engage Employees, Agents and Consultants**. The Association shall have the power to hire and discharge employees and agents and to retain and pay for legal, accounting, and other professional services as may be necessary or desirable in connection with the performance of any duties or the exercise of any powers of the Association under this Declaration.

8.24 **General Corporate Powers**. The Association shall have all of the ordinary powers and rights of a Texas nonprofit corporation formed under the Laws of the State of Texas, including, without limitation, entering into partnership and other agreements subject only to such limitations upon such powers as may be set forth in this Declaration, the Articles of Incorporation, or By-Laws. The Association shall also have the power to do any and all lawful things which may be authorized, required or permitted to be done under this Declaration, the Articles of Incorporation, and By-Laws and to do and perform any and all acts which may be necessary or desirable for, or incidental to, the exercise of any of the express powers or rights of the Association under this Declaration, the Articles of Incorporation, and By-Laws.

9. ASSOCIATION DUES AND ASSESSMENTS

9.1 **Imposition and Collection.** There may be imposed, assessed or charged against each Lot, by the Board and in favor of the Association, maintenance charges (hereinafter sometimes collectively referred to as "Maintenance Assessment") and special assessments ("Special Assessments") for capital Improvements. Such Maintenance Assessment and Special Assessments shall be imposed, payable and collected as herein provided. The Maintenance Assessment, Special Assessments and any other charges or assessments imposed hereunder shall create a fund to be known as the "Maintenance Fund". Each Owner of a Lot, by acceptance of title thereto whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association all Maintenance Assessments and any other assessments or charges hereby levied against such Owner. The Maintenance Assessments and any other assessments or charges hereby levied, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the Lots and shall be a continuing lien upon the property upon which each such Maintenance Assessment or other assessment or charge is made. Maintenance Assessments and Special Assessments shall be fixed at a uniform rate for all Lots. Non-use of Common Area by the Owner or occupant of a Lot, or abandonment of a Lot shall not relieve such Lot from liability for the Maintenance Assessment, Special Assessment or any other assessment imposed.

9.2 **Purpose and Use of Maintenance Assessments.** Maintenance Assessments and Special Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, environment, security, and welfare of the Owners and occupants of The Crossing at Lick Creek Development, and for the Improvements, maintenance, compliance, and operation of the Common Area. Maintenance Assessments levied by the Association for each fiscal year shall be adequate to finance the operations and activities of the Association, to satisfactorily maintain the Common Area, to establish and maintain adequate repair and replacement services, and to build and maintain an adequate reserve of funds to be used to help resolve critical circumstance. The use of the Maintenance Fund for any of these purposes is permissive and not mandatory. It is understood that the judgment of the Association as to the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

9.3 **Basis and Maximum of Maintenance Assessments.** Until 31 December 2017, the annual Maintenance Assessment shall be **\$300.00 per Lot**. The annual Maintenance Assessment may be increased by the Board effective January 1st of each successive year without a vote of the membership by no more than ten percent (10%) over the previous year. The annual Maintenance Assessment may be increased on the next January 1st by more than ten percent by a vote of the Members, provided that any such change shall have the assent of two-thirds of the votes of Members who are voting in person or by proxy, at a meeting duly called for this purpose. Such Members may vote to so-change the annual percentage increase of the Maintenance Assessment for up to a two year period. The limitations hereof shall not apply to any change in the Maintenance Assessment undertaken as an incident to a merger or consolidation, in which the Association is authorized to participate under its Articles of Incorporation. After good-faith consideration of current maintenance costs and future needs of the Association, the Board each year may fix the annual Maintenance Assessment at an amount not in excess of the maximum hereinabove provided for. Subject to the provisions stated herein, if the Board levies a Maintenance Assessment in an amount less than the maximum amount for any calendar year, the Board by majority vote may thereafter levy one or more supplemental Maintenance Assessments during such calendar year if it determines that the "Functions" (as hereinafter defined) cannot be funded by such lesser Maintenance Assessment. In no event shall the sum of the initial and supplemental Maintenance Assessments for any calendar year exceed the maximum Maintenance Assessment permitted for that calendar year. Whether or not the Maintenance Assessment has been increased to the maximum permitted amount for a given year, the maximum Maintenance Assessment for the following year shall be made solely on the amount of that given year's actual Maintenance Assessment.

9.4 **Commencement of Maintenance Assessments.** The Maintenance Assessments levied herein shall become effective to Owners beginning **01 January 2017**. The Board shall fix the amount of the

Maintenance Assessment and any Special Assessment against each Lot at least thirty (30) days in advance of each assessment period. Notice of an assessment shall be provided to the Owners subject thereto at least thirty (30) days before the date on which payment of the Maintenance Assessments shall be established by the Board. However, failure by the Board to fix the Maintenance Assessment or Special Assessment for any year shall not be deemed a waiver with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay such Maintenance Assessment or Special Assessment or any installment thereof, for that or any subsequent year. In the event of such failure by the Board, each Owner shall continue to pay the Maintenance Assessment established for the previous year until the new Maintenance Assessment is established. The new Maintenance Assessment established by the Board shall be applied retroactively to the commencement of the then current assessment year, and the deficit, if any, shall be paid within thirty (30) days after receipt of a statement therefore.

9.5 Special Assessments for Capital Improvements. In addition to the Maintenance Assessment specified above, there may be levied, assessed or charged against each Lot, by the Board and in favor of the Association, in any assessment year, a Special Assessment applicable to that year only (and for the following year only if approved by the Members as hereinafter provided) only for the purpose of defraying in whole or in part, the cost of any repair or replacement of capital Improvements comprising part of a Common Area, including, without limitations, fixtures and movable property related thereto, or any other major unanticipated cost incurred by the Association, provided that any such assessment shall have the assent of two-thirds of the votes of Members voting In person or by proxy at a meeting duly called for that purpose, after notice, and with a quorum, all as provided herein. From and after 01 January 2032, a special assessment also may be imposed by the Board, in favor of the Association, in any assessment year for the cost of any construction or reconstruction of capital Improvements composing part of the Common Area, including, without limitation, fixtures and movable property related thereto. Written notice, sent by regular U.S. mail, postage prepaid, of any Members meeting called for the purpose at taking any action authorized herein for Special Assessments shall be provided to the Members no less than fifteen (15) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence in person or by proxy of Members entitled to cast fifty percent (50%) of all the votes at membership shall constitute a quorum, if the required quorum is not present, one or more subsequent meetings may be called subject to the same notice requirement, and the required quorum at any subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

9.6 Non-payment, Late Fee and Collections. Any Maintenance Assessment, Special Assessment or other charges and assessments not paid within thirty (30) days after the due date shall be subject to a late fee of ten percent (10%). The Association may also bring restrictive action, or an action at law against the Owner personally obligated, to pay the same or foreclose the above described lien against the Owner's Lot, as provided below. In order to secure the payment of the Maintenance Assessment, Special Assessments, and other charges and assessments hereby levied, a vendor's lien for the benefit of the Association, shall be and is hereby reserved in the deed from the Declarant to the purchaser of each Lot, which lien shall be enforceable through appropriate judicial and/or non-judicial proceedings by the Association. As additional security for the payment of the Maintenance Assessment, Special Assessments, and other charges and assessments hereby levied, each Owner of a Lot in The Crossing at Lick Creek Development, by such party's acceptance of a deed thereto, hereby grants the Association a contractual lien on such Lot, which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property Code (and any successor statute), and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of The Texas Property Code and said power of sale designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Real Property Records of Brazos County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the

date on which said sale is scheduled by posting such notice through the U. S. Postal Service, postage prepaid, certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall send any curative period notice to the Owner and also cause a copy of the Notice of Trustee's Sale to be recorded in the Real Property Records of Brazos County, Texas, out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and, third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any Improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder. In the event of nonpayment by any Owner of any Maintenance Assessment, Special Assessment, or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon thirty (30) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity. It is the intent of the provisions of this Section 6.1 to comply with the provisions of Said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice President of the Association, acting without joinder or any other Owner of mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Brazos County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code. In addition to the right of the Association to enforce the Maintenance Assessment, Special Assessment or other charge or assessment levied hereunder, the Association may file a claim or lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (i) the amount of the claim of delinquency, (ii) the costs of collection which have accrued thereon, (iii) the legal description and street address of the Lot against which the Lien is claimed, and (iv) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board to cover the preparation and recordation at such release of lien instrument.

9.7 Certificate of Account or Compliance. Any Vice President, the Treasurer or the manager of the Association shall within ten (10) days at a written request and upon payment to the Association of such fee as is from time to time determined by the Board, furnish to any Owner or such Owner's mortgagee which request the same, a certificate in writing signed by such officer or manager setting forth whether the Maintenance Assessment or Special Assessment for which such Owner is responsible has been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Maintenance Assessment or Special Assessment stated therein to have been paid.

9.8 Declarant Contributions are Voluntary. Notwithstanding anything contained herein to the contrary, the Declarant shall not be required to pay the assessment on any Lots owned by the Declarant; but in the event that a deficit may exist between the Maintenance Assessments and Special Assessments and the annual budget of the Association, the Declarant may elect, but shall not be obligated, to fund such deficit with a non-refundable contribution to the Association.

9.9 Subordination of the Lien. The liens granted herein and the superior title herein reserved to secure any Maintenance Assessment, Special Assessment, Reimbursement Assessment or any other charge or assessment provided for herein shall be deemed subordinated to any vendor's lien or the lien of any purchase money, construction mortgage and/or second mortgage on the assessed Lot, and any renewal, extension, rearrangement or refinancing thereof. Each such mortgagee of a mortgage encumbering a Lot,

who obtains title to such Lot pursuant to the remedies provided in the Deed of Trust or Mortgage, by judicial foreclosure or by deed in lieu of foreclosure, shall take title to such property free and clear of any claims for unpaid Maintenance Assessments, Special Assessments, Reimbursement Assessment or any other charge or assessment provided for herein which accrued prior to the time such holder acquires title to such property. No such sale or transfer shall release such holder acquiring title to such property from liability for any Maintenance Assessment, Special Assessment, Reimbursement Assessment, or any other charge or assessment provided for herein thereafter becoming due or from the liens hereof. Any other sale or transfer of a Lot shall not affect the Association's liens created herein for assessments and charges.

9.10 **Exempt Property**. The following property subject to this Declaration shall be exempt from the Maintenance Assessments and all other charges and assessments created herein: (i) all properties dedicated to and accepted by a local public authority, and (ii) all Common Area.

9.11 **Notification of Sale of Lot**. When a contract for the sale by an Owner other than a Declarant of a Lot has been executed, the selling Owner of the Lot shall give the Association reasonable written notification of the date, time and place of the closing of the sale. Thereupon the Association may prepare a certificate of compliance and deliver it within a reasonable time to the place of closing. Outstanding assessments and charges, if any, and reasonable costs for correcting any other non-compliance, if any, shall be deducted from the selling Owner's account at the closing and transmitted directly to the Association.

10. GENERAL PROVISIONS

10.1 **Association Information**. The books and records of the Association shall be open to examination by any Member during reasonable business hours.

10.2 **Severability**. Invalidation of any one of the provisions of this Declaration shall not affect any other provision hereof, which shall remain in full force and effect.

10.3 **Term**. The provisions of this Declaration shall constitute covenants running with the land and shall be binding upon all future Owners, transferees and lessees thereof, and their successors and assigns, for a term of forty (40) years from the date of this Declaration, after which time they shall be automatically extended for up to three successive periods of ten (10) years each unless terminated as provided herein.

10.4 **Amendment by Members**. This Declaration may be amended or changed, in whole or in part, at any time within forty (40) years of the date of this Declaration by the written agreement or signed ballot of those Members holding not less than two-thirds of the total votes of Members; and, thereafter, by a written agreement or signed ballot signed by those Members holding not less than fifty percent (50%) of the total votes of Members. If the Declaration is amended by a written instrument signed by the requisite number of Members, such amendment must be approved by said Members within three hundred sixty-five (365) days of the date the first Member executes such amendment. The date a Member's signature is acknowledged shall constitute *prima facie* evidence of the date of execution of said amendment by such Member. Those Members, including the Declarant, entitled to cast not less than the required number of all votes of the Members of the Association may also vote to amend this Declaration, in person or by proxy, at a meeting of the Members, including the Declarant, duly called for such purpose, written notice of which shall be given to all Owners at least ten (10) days and not more than sixty (60) days in advance and shall set forth the purpose of such meeting. Notwithstanding any provision contained in the By-Laws to the contrary, a quorum, for purposes of such meeting, shall consist of not less than seventy percent (70%) of all of the Members (in person or by proxy) entitled to vote. Any such amendment shall become effective when an instrument is filed for record in the Office of the County Clerk of Brazos County, Texas, accompanied by a certificate, signed by a majority of the Board, stating that the required number of Members, including the Declarant, executed the instrument amending this Declaration or cast a written vote, in person or by proxy, in favor of said amendment at the meeting called for such purpose. Copies of

the written ballots pertaining to such amendment shall be retained by the Association for a period of not less than three (3) years after the date of filing of the amendment.

10.5 Amendment by the Declarant. The Declarant shall have and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged, and filed for record for the purpose of correcting any typographical or grammatical error, oversight, ambiguity or inconsistency appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of development as evidenced by this Declaration and shall not impair or adversely affect the vested property or other rights of any Owner or his mortgagee. Additionally, Declarant shall have, and reserves the right at any time and from time to time prior to the Control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of permitting the Owners to enjoy the benefits from technological advances with respect to security, safety, privacy, Internet and networking, communications, recreation, wellness, conservation, or energy, which did not exist or were not in common use in residential subdivisions at the time this Declaration was adopted. Likewise, the Declarant shall have, and reserves the right at any time and from time to time prior to the control Transfer Date, without the joinder or consent of any Owner or other party, to amend this Declaration by an instrument in writing duly signed, acknowledged and filed for record for the purpose of prohibiting the use of any systems, devices, controls, monitors, applications, signals, or equipment developed and/or available for residential or commercial use subsequent to the date of this Declaration if the use of such will adversely affect the Association, safety, security, privacy, harmony, property values, or the residential culture within The Crossing at Lick Creek Development.

10.6 Mergers and Consolidations. The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that (i) prior to the Control Transfer Date any such merger or consolidation shall be approved (in writing or at a meeting duly called for such purpose) by two-thirds (2/3) of the Board and (ii) from and after the Control Transfer Date any such merger or consolidation shall have the consent (in writing or at a meeting duly called for such purpose) of Declarant and of Members entitled to cast not less than two-thirds of the votes of the Members. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, the properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the properties, rights and obligations of the other association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association will be subject to the covenants and restrictions established by this Declaration within The Crossing at Lick Creek Development, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants and restrictions established by this Declaration, except as changed by amendment of this Declaration or by the plan of merger or consolidation. In the event of any inconsistency between the terms and provisions of this Declaration and the terms and provisions of any of the merger or consolidation documents, the terms and provisions of the merger or consolidation documents shall control.

10.7 Special Approvals by First Mortgagees. Unless at least fifty-one percent (51%) of the mortgagees holding first lien mortgages (based upon one vote for each mortgage owned) of the lots in The Crossing at Lick Creek Development have given their written approval, neither the Association nor any Member shall (i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area or the Improvements thereon which are owned, directly or indirectly, by the Association (except that the granting of access easements, utilities easements, drainage easements and water facilities easements or easements for other public purposes consistent with the intended use of such property by the Association shall not be deemed to be within the meaning of this provision); (ii) change the method of determining the obligations, assessments or other charges which may be levied against Members or the

method of allocating distributions of hazard insurance policy proceeds or condemnation awards; (iii) by act or omission change, waive or abandon any scheme or regulation, or enforcement thereof pertaining to architectural approval of Improvements to property; (iv) use hazard insurance proceeds from losses to any Common Area for other than the repair, replacement or reconstruction of the Improvements which were damaged or destroyed; and (v) amend any material provision of this Declaration, including, without limitation, any provisions which are for the express benefit of a mortgagee or eligible insurers or guarantors of eligible first mortgages on lots.

10.8 **Declarant's Rights and Prerogatives.** Prior to the Control Transfer Date, the Declarant may file a statement in the Office of the County Clerk of Brazos County, Texas, which expressly provides for the Developer's (i) discontinuance of the exercise of any right or prerogative provided for in this Declaration to be exercised by the Declarant or (ii) assignment to any third party owning property in The Crossing at Lick Creek Development, of one or more of Developer's specific rights and prerogatives provided in this Declaration to be exercised by Declarant. The assignee designated by Declarant to exercise one or more of Declarant's rights or prerogatives hereunder shall be entitled to exercise such right or prerogative until the earlier to occur of the (i) Control Transfer Date or (ii) date that said assignee files a statement in the Office of the County Clerk of Brazos County, Texas, which expressly provides for said Assignee's discontinuance of the exercise of said right or prerogative. From and after the date that the Declarant discontinues its exercise of any right or prerogative hereunder and/or assigns its right to exercise one or more of its rights or prerogatives to an assignee, the Declarant shall not incur any liability to any Owner, the Association or any other party by reason of the Developer's discontinuance or assignment of the exercise of said right(s) or prerogative(s).

10.9 **Gender.** Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

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

Executed this ____ day of September 2017.

TDI-BROOKS DEVELOPMENTS, LLC

Bernie B. Bernard, Secretary/Treasurer

STATE OF TEXAS §
COUNTY OF BRAZOS §

This instrument was acknowledged before me on this the **6th day of September 2017**, by Bernie B. Bernard, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed, and in the capacity of Secretary/Treasurer of TDI-Brooks Developments, LLC, and as the act and deed of said company on behalf of such company.

Notary Public, State of Texas
My Commission Expires: _____