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MALLARD PARK
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

**MALLARD PARK
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

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**MALLARD PARK
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THE STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

WITNESSETH

WHEREAS, **MALLARD PARK TAYLOR, LTD.**, a Texas limited partnership (hereinafter called "Declarant"), is the owner of **MALLARD PARK SUBDIVISION**, Being a 38.21 acre tract of land situated in the W.J. Baker Survey, Abstract No. 65, City of Taylor, Williamson County, Texas and Being that certain tract of land South of Mallard Lane conveyed by deed to Randall K. Schernik, Douglas M. Schernik and Bobby L. Schernik of Record in Volume 2261, Page 334, Official Records of Williamson County, Texas, Being More Particularly described by metes and bounds on Exhibit "A" attached hereto (the "Property");

WHEREAS, the purpose of this instrument is to guard against the erection of poorly designed or proportioned structures and the use of unsuitable materials, to encourage and secure the erection of attractive improvements which are harmonious with their sites and in general, to enhance the economic value of the Property; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future owners of the Property, and, in furtherance thereof, Declarant hereby adopts and establishes the following declaration of covenants, conditions and restrictions to apply uniformly to ownership, encumbrance, lease, use, occupancy, enjoyment and conveyance of the Property.

NOW, THEREFORE, it is hereby declared that all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed, and conveyed subject to the following covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and shall be binding on all parties having the right, title or interest in or to the property or any part thereof, their heirs, administrators, legal representatives, successors and assigns, and shall inure to the benefit of the owner thereof.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words or phrases when used in this declaration shall have the meanings hereinafter specified:

1.1 Additional Property. Any future phases of the Subdivision, which it may become desirable to annex into this Declaration.

1.2 Annexation. "Annexation" shall mean the process by which the Additional Property is made subject hereto pursuant to Article 7.4 hereof.

1.3 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to this Declaration as provided in Article 4 hereof.

1.4 Articles. "Articles" shall mean the Articles of Incorporation of the Association, which have been or shall be filed in the office of the Secretary of State of the State of Texas, as the Articles may from time to time be amended.

1.5 Assessment(s). "Assessment(s)" shall mean assessment(s) levied by the Association and includes both regular and special assessment(s) as provided in Article 6 hereof.

1.6 Association. "Association" shall mean Mallard Park Homeowners Association, Inc., a Texas non-profit corporation.

1.7 Beneficiary. "Beneficiary" shall mean a mortgagee or a beneficiary under a deed of trust.

1.8 Board. "Board" shall mean the Board of Directors of the Association.

1.9 Building. "Building" shall mean a structure, including a residence, having a roof supported by columns or walls for the shelter, support or enclosure of persons or property.

1.10 Bylaws. "Bylaws" shall mean the Bylaws of the Association adopted by the Board, and as may be amended from time to time.

1.11 Common Areas. "Common Areas" shall mean (i) any Lot or area designated as such on the final plat of the Subdivision, (ii) any Lot which may be designated as a Common Area by Declarant in an amendment or amendments hereto, and (iii) all joint use access easements shown on the recorded plats of the Subdivision.

1.12 Declarant. "Declarant" shall mean Mallard Park Taylor, Ltd, a Texas limited partnership, and its duly authorized representatives and successors or assigns; provided,

however, any assignment of the rights of Declarant must be expressly set forth in a written instrument recorded in the Official Public Records of Williamson County, Texas. The mere conveyance of a portion of the Property without such a written, recorded assignment of the rights of the Declarant shall not be sufficient to constitute an assignment of the rights of the Declarant hereunder.

1.13 Declaration. “Declaration” shall mean this instrument, as this instrument may from time to time be amended or supplemented.

1.14 HUD. “HUD” shall mean and refer to the Department of Housing and Urban Development.

1.15 Improvement. “Improvement” shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to Buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, playscapes, treehouses, swing sets, fences, screening walls, retaining walls, stairs, steps, porches, mailboxes, walkways, driveways, decks, landscaping, poles, signs, exterior air conditioning, water softener fixtures or equipment, exterior lighting fixtures and equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennae, aerials, satellite dishes, wind generators, solar collectors, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, and other utilities.

1.16 Lot(s). “Lot” or “Lots” shall mean the lot or lots of land within the Property as established on the final recorded plat for the Subdivision.

1.17 Manager. “Manager” shall mean the person, firm or corporation, if any, employed by the Association pursuant to this Declaration and delegated the duties, powers, and functions of the Association as provided in Article 5.5(c) hereof.

1.18 Member. “Member” shall mean any person or entity who is a member of the Association.

1.19 Mortgage. “Mortgage” shall mean any mortgage or deed of trust covering any portion of the property, including and Lot or Lots, voluntarily given by an Owner to secure the payment of a debt.

1.20 Owner(s). “Owner(s)” shall mean any person or entity, including the Declarant, holding record legal title to a fee simple interest in any portion of the Property, including any Lot or Lots, but shall not include any Beneficiary whose sole interest in the Property or a portion thereof is derived from a Mortgage.

1.21 Plans and Specifications. “Plans and Specifications” shall mean any and all documents designed to guide or control the construction, alteration or removal of any Improvement, including but not limited to those indicating location, size, shape, configuration, materials including roofing materials, site plans, excavation plans, grading plans, foundation plans, drainage plans, landscaping plans, fencing plans, screening plans, elevation drawings,

floor plans, exterior lighting plans, specifications on all building products, and construction techniques, samples of exterior colors and materials, plans for utility services, and all other documentation or information relevant to such construction m alteration or removal.

1.22 Subdivision. "Subdivision" shall mean **MALLARD PARK SUBDIVISION**, a subdivision in Williamson County, Texas, as shown on the map or plat thereof recorded in Book _____, Pages _____, Plat Records, Williamson County, Texas, **SAVE AND EXCEPT**, Lot _____, which is specifically excluded from the terms and conditions of this Declaration. "Subdivision" shall also mean and refer to any future phase annexed into this Declaration.

1.23 Supplemental Declaration. "Supplemental Declaration" shall mean the instrument by which the Annexation of Additional Property into this Declaration may be accomplished.

1.24 VA. "VA" shall mean and refer to the Veteran's Administration.

ARTICLE 2 RESTRICTIONS

Except for the Common Areas, all of the Property shall be owned, encumbered, leased, used, occupied, enjoyed, and conveyed subject to the following limitations and restrictions:

2.1 Residential Use; Construction, Alteration or Removal of Improvements.

(a) All Lots shall be improved and used solely for single family residential use and accessory uses, including, without limitation, a garage, fencing and such other improvements as are necessary or customarily incident to residential use. No manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever may be conducted or carried on in any portion of the Property or in any improvement thereon. Notwithstanding the foregoing, Owners may work from home provided that there is no storage of inventory for sale, retail business conducted, or client and/or visitor meetings incidental to business conducted in any Building. No Improvement constructed on a Lot may be used as an apartment house, flat, lodging house or hotel, but such Improvements may be leased for single-family residential purposes for a minimum term of six (6) months.

(b) No Improvement may be constructed, altered or removed on or from any Lot or portion of the Property without the prior written approval of the Architectural Committee. Any action, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, including, without limitation, its color, or which involves the removal of any Improvement or the alteration of the landscaping on a Lot, shall be performed only with the prior approval of the Architectural Committee.

(c) No Improvement shall be allowed on any Lot that is of such size or architectural design or that involves the use of such landscaping, color schemes, exterior finishes and materials and similar features as to be incompatible with the residential development in the Subdivision and the surrounding area.

2.2 **Building Height.** No Improvement greater than thirty-five feet (35') in Height may be constructed on any Lot. For purposes of this Article 2.2, Height means the vertical distance from the "foyer" or "entry level floor" of a Building to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable on a pitched or hipped roof, or if none of the preceding, then to the highest point of the Improvement.

2.3 **Building Materials; Residence Size; Mailboxes.**

(a) All single family residences shall be of recognized standard construction quality, and all first floor exterior walls shall be constructed of at least twenty five percent (25%) masonry (exclusive of areas above the roof line, recessed porches, eaves, soffits, windows, gables and trim work). Second floor exterior walls, being walls above eight feet (8') from the top of the slab (where applicable) shall total not less than twenty five percent (25%) masonry (exclusive of areas above the roof line, recessed porches, eaves, soffits, windows, gables and trim work). Roofing materials must be of high grade and quality and consistent with the exterior design, color and appearance of other Improvements within the Property. At a minimum, 20-year guaranteed roofing material shall be required. All windows shall contain clear or slightly tinted, non-reflective glass. The term "masonry" shall include brick, stone, stucco, cementitious siding, and any other building material specifically approved in writing by the Architectural Committee.

(b) Each single-family residence constructed in the Property shall contain not less than one thousand (1,000) square feet of enclosed living space, exclusive of porches and patios (open or covered), decks and garages. The first floor of any two-story residence shall contain at least seven hundred (700) square feet of total living area. .

(c) If a collective mailbox arrangement is not utilized for all of the Subdivision, any housing for individual mailboxes constructed in front of a residence shall be architecturally integrated with the residence, which such mailbox is to serve and shall be of similar construction and form to such residence.

(d) Any Building located on a Lot, including but not limited to, outbuildings, storage sheds and storage buildings, but excluding the single family residence located on such Lot, shall not exceed one hundred fifty (150') square feet, and shall not exceed ten (10') feet in height. For purposes of this section "height" shall be calculated by measuring the distance from the ground to the highest point on the Building. Any such Building shall be of the same architectural design and constructed of the same materials and in the same color scheme as the residence located on the Lot. Approval of any such Building shall be in the sole and absolute discretion of the Architectural Committee on a case by case basis, and approval may be withheld even if the proposed Building complies with all requirements and restrictions contained in this Declaration.

2.4 **Governmental Requirements.** All improvements and construction shall comply with all applicable governmental laws, ordinances and regulations.

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

2.6 Signs. Except for the permanent entrance sign for the Subdivision, no sign of any kind shall be displayed to the public view without the prior written approval of the Architectural Committee, except for signs which are part of Declarant's overall marketing plan for the Property. The Architectural Committee may permit signs of any type advertising portions of the Property for sale or lease and it may set standards for the same. The Declarant or the Association, or their representatives may enter upon any Lot and remove any unapproved signs from any portion of the Property without prior written notice to the Owner of such Lot, and the Declarant, the Association, or their representatives shall not be liable to any Owner or other person in relation to the removal of such signs.

2.7 Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and all such containers shall at all times be kept within an enclosed structure or appropriately screened from view of all adjacent property and public and private rights-of-way; provided, however, garbage containers shall be permitted to be placed outside of enclosed structures and may be removed from screened areas a maximum of two (2) times each week, for no longer than twelve (12) hours each time, for garbage collection.

2.8 Noise; Nuisances. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or its occupants. No noxious or offensive activity shall be conducted on any portion of the Property. The Board, in its sole discretion, shall determine whether an action or activity constitutes a violation of this Article 2.8.

2.9 Condition and Repair of Improvements and Landscaping. All Improvements upon the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. All windows in any Improvement on the Property shall have draperies, blinds or shutters installed by the resident or Owner thereof. Within sixty (60) days of completion of construction on any Lot, all landscaping on such Lot shown on the Plans and Specifications for the Improvements on such Lot shall be completed and shall at all times thereafter be kept in neat and well groomed condition and appearance, with all trees, shrubs and plantings properly pruned, yards regularly mowed, edged and raked and all areas kept free of trash, debris, weeds and overgrowth. Each Owner shall keep all trees, shrubs, grass, and plantings in such Owner's Lot or Lots free of disease and insects consistent with good horticultural practice. Without limiting the generality of the foregoing each Owner shall promptly treat oak trees on their Lots that show symptoms of oak wilt or other life-threatening diseases in a manner consistent with good horticultural practice. The Board, in its sole discretion, shall determine whether the provisions of this Article 2.9 have been satisfied.

2.10 Hazardous Activities; Fertilizers, Pesticides and Herbicides.

(a) No activities shall be conducted or allowed to exist on any portion of the Property and no Improvements shall be constructed on the Property, which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, activities that are expressly prohibited include (1) mining, quarrying, drilling, boring, or exploring for removing water, oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate or earth, (2) the use or discharge of firecrackers or other fireworks within the Property, (3) the use or storage of gasoline, oil or any similar type of flammable liquids in other than closed tanks with capacities of five (5) gallons or less within an enclosed structure or permanently screened from view, provided, however, only such liquids and gases as are customarily used for residential purposes shall be allowed on the Property, (4) any activities which may be offensive or hazardous by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire, or explosion, (5) hunting, trapping and the discharge of firearms or other weapons including air rifles, pistols and projectiles, (6) open fires in other than a contained barbecue unit for cooking purposes, while attended and in use, or within a safe and well designed interior or exterior fireplace, (7) the use of bows and arrows, crossbows, slingshots, darts or other projectile devices, or (8) the discharge or leakage of any type of hazardous or toxic chemical or material, such as oil, fertilizers, pesticides or herbicides, provided, however, only such materials as are customarily used for residential purposes shall be allowed on the Property.

(b) No fertilizers, pesticides or herbicides other than those generally available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended shall be placed, used or stored on any Lot. All Owners using any such materials shall strictly comply with all instructions provided with such materials and shall take proper precautions placing, using and storing such materials so that such materials are contained at all times and do not result in the unnecessary discharge thereof into any water table or onto any other Lot.

2.11 Vehicles; Unsightly Articles; Temporary Structures.

(a) Passenger vehicles, boats or boats on trailers, motorcycles and scooters owned or used by an Owner shall not be parked or left on any portion of the Property other than such Owner's garage or driveway for longer than twelve (12) hours at a time. No mobile homes, boats, busses, trucks (other than passenger vehicle trucks), boat trailers, graders, tractors or wagons shall be parked or placed on any Lot at any time; provided, however, construction equipment may be left on a Lot during construction on such Lot, but shall be removed as soon as such equipment is no longer needed in such construction. No travel trailers or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining property or public or private rights-of-way for longer than forty-eight (48) hours at a time.

(b) No junk vehicles or equipment, spare vehicle or equipment parts or other article deemed to be unsightly by the Board shall be permitted to remain on any Lot so as to be visible from adjoining property or public or private rights-of-way. All garden maintenance

equipment shall be kept at all times, except when in actual use in an enclosed structure or screened from view of adjoining property and public and private rights-of-way. No recreational equipment, including but not limited to swing sets, playscapes, skate boards, bicycles, skate board or bicycle ramps, basketball hoops and nets or badminton nets, shall be permitted in the front yard of any residence on the Property. Gardens shall be permitted for household use only and shall not be permitted in the front yards of residences. No repair or maintenance work shall be done on any garden maintenance equipment or on any vehicle (other than minor emergency repairs) except in an enclosed garage or other structure. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household materials shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within an enclosed structure or appropriately screened from view. Notwithstanding the foregoing, portable and permanent basketball goals shall be allowed in the front yard of a Lot, provided that such basketball goals shall be kept or installed behind the setback lines as shown on the final plat of the Subdivision, and that when a portable basketball goal is not in use, such basketball goal shall be kept in the garage, side yard, back yard or as near to the wall of the residence fronting the street as practicable. Permanent basketball goals shall be maintained in a neat and orderly manner.

(c) No tent, shack, barn or other temporary Improvement shall be placed upon any portion of the Property; provided, however, that temporary structures necessary for storage of tools and equipment and for office space for architects, builders and foremen during actual construction may be maintained with the prior written approval of the Architectural Committee, such approval to include the nature, size, duration and location of such structure.

2.12 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any Lot. Only the keeping of ordinary household pets such as dogs and cats, not to exceed two (2) each in number, is allowed; however, no breeding, raising, or boarding of such pets is permitted on any Lot. No pit bull terriers or other dangerous breed of dogs as determined by the Board in its sole discretion may be kept on any Lot for any period of time. All pets permitted by this Declaration to be kept on a Lot shall at all times be properly vaccinated and cared for. No poultry or livestock of any kind may be kept on any Lot for any period of time. All pets shall be kept on the Owner's Lot and shall not be allowed to roam loose, and Owners having pets shall keep their Lot and all other Lots free of offensive or unsanitary accumulations of waste from their pet.

2.13 Fences. Chain link and other open mesh, wire type fences may not be constructed or maintained on any Lot. The Architectural Committee may, in its discretion, prohibit the construction of any proposed fence, or specify the materials of which any proposed fence must be constructed, or require that any proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property. No fences may be constructed which will interfere with the water drainage within any drainage easements shown on the recorded plats of the Subdivision.

2.14 Carports; Garages. No carports shall be erected or permitted to remain on any Lot. Each residence constructed on a Lot shall have attached to it an enclosed garage that shall be

large enough to accommodate at least one (1) full size passenger automobiles. All garage doors shall be kept in the closed position when the Owner or occupant of the Lot is not using the garage for ingress and egress.

2.15 Underground Utility Lines. No utility lines or wires, including, but not limited to, wires or other devices for the communication or transmission of telephone, electric current or power or cable television, shall be erected, placed or maintained on or upon any Lot unless the same shall be contained in conduit or cables that are installed and maintained underground or that are concealed in, under or on Buildings; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of Improvements which have been previously approved in writing by the Architectural Committee. The installation method, including, but not limited to, location, type of installation equipment, trenching method and other aspects of installation for both temporary and permanent utility lines and wires shall be included in the Plans and Specifications for all Improvements.

2.16 Exterior Lighting. All exterior lighting on any Improvement must be approved by the Architectural Committee; provided, however, Christmas and other holiday lights shall be permitted without prior approval during the month of December each year, but must be removed by January 15 of the next year. No lighting shall be permitted that constitutes a nuisance or hazard to any Owner or occupant of any Lot. The Board in its sole discretion shall determine whether the provisions of this Article 2.16 have been satisfied.

2.17 Landscaping. All front yards shall be fully sodded with grass prior to occupancy of any Building on any Lot.

2.18 General Restrictions.

(a) All Buildings constructed on the Property shall be built in place on the Lot.

(b) There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and the prior written approval of Architectural Committee is obtained.

(c) All Building foundations on slopes of fifteen percent (15%) or greater or on fill placed upon such slopes shall utilize design and construction practices certified by a registered professional engineer qualified to practice in such field and such design shall be delivered to the Architectural Committee with the Plans and Specifications.

(d) Once commenced, construction shall be diligently pursued to completion so that no construction is left in a partially completed condition any longer than reasonably necessary. All construction materials and debris shall promptly be cleared from each Lot upon completion of construction thereon.

2.19 Exclusions and Special Restrictions.

(a) The Common Areas shall be completely exempt from all of the restrictions set forth in this Article 2.

ARTICLE 3 COMMON AREAS

3.1 Title to Common Areas. Declarant shall convey title to the Common Areas to the City of Taylor or the Association, as appropriate, by deed or by dedication on the final recorded plat of the Subdivision.

3.2 Maintenance of Common Areas Included in Regular Annual Assessment. The Association shall provide maintenance, replacement, repair and care for the Common Areas, including landscaping and plants thereon. By way of illustration, such improvements may include, but not necessarily be limited to, fences, walls, lighting and other facilities considered necessary for the overall illumination or security of the Property. The maintenance provided for in this Article shall be considered as services due each Owner in consideration of the Assessments levied against the Owner's Lot. However, in the event that the need for any such maintenance, replacement or repair performed by the Association, in the judgment of the Board, is caused through the willful or negligent act of the Owner or the Owner's family, guests, or invitees, the cost of such maintenance, replacement or repair shall become a Special Assessment to which the Owner's Lot is subject.

ARTICLE 4 ARCHITECTURAL COMMITTEE

4.1 Membership and Duties of Architectural Committee.

(a) The Architectural Committee shall be composed of not more than three (3) persons. The following persons are hereby designated as the initial members of the Architectural Committee: **Russell G. Smith, Grant Whittenberger and John Wheelock.**

(b) The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board. The Architectural Committee shall review Plans and Specifications submitted for its review and such other information as it may require. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth herein and the decision of the Architectural Committee shall be final and binding so long as it is made in good faith. The Architectural Committee shall not be responsible for inspecting any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval of any Improvement as to structural safety, engineering soundness or conformance with any building or other codes.

4.2 Term. Each member of the Architectural Committee shall hold office for two (2) calendar years or until such time as he has resigned or has been removed and his successor has been appointed.

4.3 Declarant's Rights of Appointment. Declarant, its successors and assigns, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee.

4.4 Review of Construction, Alteration or Removal of Improvements.

(a) Whenever in this Declaration the approval of the Architectural Committee is required, the Architectural Committee shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts, materials, construction samples and other information which it considers, in its sole discretion, to be relevant. Prior to commencement of any construction, alteration or removal of any Improvement on any Lot, the Plans and Specifications therefore shall be submitted to the Architectural Committee, and construction, alteration or removal thereof may not commence unless and until the Architectural Committee has approved such Plans and Specifications in writing. All such construction, alteration or removal shall conform to the approved Plans and Specifications.

(b) An Owner, other than Declarant, proposing to construct, alter or remove an Improvement on any Lot, shall submit an application to the Architectural Committee together with two (2) sets of the Plans and Specifications for such construction, alteration or removal and the application fee described herein below. Within thirty (30) days after receipt by the Architectural Committee of such Plans and Specifications, it shall act on the Plans and Specifications as follows.:

(i) The Architectural Committee may request in writing that the Owner submit to it such additional materials, construction samples and information that the Architectural Committee considers relevant in reviewing the Plans and Specifications for compliance with this Declaration. Until receipt by the Architectural Committee of all information requested by it, it may postpone review of such Plans and Specifications. Upon receipt of all such information requested by it, the Architectural Committee shall act upon such Plans and Specifications within thirty (30) days. The written request of the Architectural Committee for additional information shall be binding upon the Architectural Committee as a complete list of such information if the additional information is received by it within sixty (60) days of its request. The Architectural Committee may request the additional information described above herein at any time it receives revised Plans and Specifications; provided, however, such request shall be limited to the additional or revised items therein and not to items previously reviewed by the Architectural Committee unless such items are affected by such revision.

(ii) If the Architectural Committee approves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Approved" with the date thereof, and retain one set for its records and return one set to the Owner. The Owner must commence construction of the Improvements shown in approved Plans and Specifications within ninety (90) days of the Architectural Committee's approval thereof or such approval shall lapse. Upon written request of an Owner, the Architectural Committee shall grant up to two (2) thirty (30) day extensions of such approval.

(iii) If the Architectural Committee disapproves such Plans and Specifications, it shall mark both sets of the Plans and Specifications "Disapproved" with the date thereof, and retain one set for its records and return one set to the Owner, with a written statement of all of the items that were found not to comply with the Declaration. Thereafter, the Owner shall submit to the Architectural Committee two (2) revised sets of Plans and Specifications, with notations thereon sufficient to identify the revised portions, and the Architectural Committee shall act on such revised Plans and Specifications within thirty (30) days after receipt by it of such revised Plans and Specifications. The written statement on non-complying items shall be binding upon the Architectural Committee as a complete list of such items if revised Plans and Specifications with changes conforming to such statement are received by it within sixty (60) days of the date of such statement. The Architectural Committee may disapprove revised Plans and Specifications submitted to it according to the provisions hereof; provided, however, the Architectural Committee shall only disapprove the revised Plans and Specifications based on the revised or additional items therein and not based on items previously reviewed by the Architectural Committee.

(iv) If the Architectural Committee fails to act on any Plans and Specifications submitted to it within thirty (30) days after receipt by the Architectural Committee of all information requested by it in connection with such Plans and Specifications, approval of the matters submitted to it shall be presumed.

(c) The Board shall establish and may thereafter amend from time to time an application fee that shall be paid in cash by each Owner at the time of submittal of any application and Plans and Specifications to the Architectural Committee. Such fee may be in different amounts based upon the activity proposed in such application. Such fee shall not exceed the reasonable costs and expenses of the Board and the Architectural Committee for the processing and review of Plans and Specifications.

4.5 Actions of the Architectural Committee. The Architectural Committee may, by resolution unanimously adopted in writing, designate one (1) or two (2) of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In absence of such designation, the vote of a majority of all of the members of the Architectural Committee taken at a meeting shall constitute an act of the Architectural Committee. In the event that the members of the Architectural Committee cannot

agree by majority vote on any matter submitted to them, the matter may be raised at any meeting of the Members of the Association and decided by a majority of those present, provided that a quorum is present.

4.6 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different Owner.

4.7 Waiver. The Architectural Committee may grant such waivers of any of the restrictions contained in this Declaration as it considers appropriate based upon the quality and design of a proposed Improvement; provided, however, it shall not grant a waiver of the restrictions contained in Articles 2.1, 2.2, 2.5, and 2.10 hereof.

4.8 Nonconforming or Unapproved Improvements. The Architectural Committee at its option may inspect all work in progress to ensure compliance with approved Plans and Specifications. The Architectural Committee may require any Owner to restore such Owner's Lot to the condition existing prior to construction, alteration or removal of any Improvement thereon, including, without limitation, the demolition and removal of any unapproved or nonconforming Improvement, if such Improvement was constructed or altered in violation of this Article 4. In addition, the Architectural Committee may, but has no obligation to, cause such restoration, demolition, and removal of any such Improvement, and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such unapproved or nonconforming Improvement was constructed or altered.

4.9 Nonliability of Architectural Committee and Board Members. Notwithstanding anything to the contrary in this Declaration, neither the Architectural Committee nor the members thereof, nor the Board nor the members thereof, shall be liable to any Owner or any other third party due to the construction of any Improvement within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots.

4.10 Address. Plans and Specifications shall be submitted to the Architectural Committee in care of Lennar Homes of Texas Land and Construction, Ltd. d/b/a NuHome, 12301 Research Boulevard, Building 4, Suite 100, Austin, Texas 78759, Attention: Architectural Committee, or such other address as may be designated from time to time in writing by the Architectural Committee.

ARTICLE 5
MALLARD PARK HOMEOWNERS ASSOCIATION, INC.

5.1 Organization. The Association is a non-profit corporation created by Declarant for the purposes, and charged with the duties and vested with the powers, prescribed by law and set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

5.2 Membership. Any person or entity upon becoming an Owner shall automatically become a Member of the Association. Membership shall be appurtenant to and shall run with the property interest which qualifies the Owner thereof for membership, and membership may not be severed from, or in any way transferred, pledged, mortgaged, or alienated except together with the title to such property interest.

5.3 Voting Rights. The Association shall have one or more classes of voting membership as further described in the Bylaws of the Association. All voting rights shall be subject to the provisions and restrictions set forth in the Bylaws. Upon written request by an Owner of a Lot, the Association shall provide a true, complete copy and correct copy of the Bylaws certified by an officer of the Association to such Owner.

5.4 Duties of the Association. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have and perform each of the following duties:

(a) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the Common Areas (excluding Common Areas owned by the City of Taylor) and any other property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(b) To obtain and maintain in effect policies of insurance which, in the Board's judgment, are reasonably necessary or appropriate to carry out the Association functions.

(c) To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Association Bylaws, Rules and regulations for the governance of the Subdivision, not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

(d) To keep books and records of the Association's affairs.

(e) To maintain, repair, replace, clean, inspect and protect the Common Areas including all water quality control equipment and joint use access easements as depicted on the recorded plats of the Subdivision, and security gates, landscaping, lighting, signage and other Improvements located therein or thereon.

(f) To maintain, repair, replace and protect the entrance sign to the Subdivision.

(g) To pay all utilities provided to the Common Areas and/or the entrance to the Subdivision.

(h) To carry out and enforce all duties of the Association set forth in this Declaration.

(i) To pay all expenses incurred by the Architectural Committee and/or the Association.

5.5 Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board acting on behalf of the Association, shall have the power and authority at all times as follows:

(a) To levy Assessments as provided in Article 6 below.

(b) To enter at any time in an emergency, or in a non-emergency after forty-eight (48) hours written notice, without being liable to any Owner, upon any Lot or into any Improvement thereon, for the purpose of enforcing this Declaration or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to this Declaration, and the expense incurred by the Association in connection with the entry upon any Lot or Improvement and maintenance and repair work conducted thereon shall be a personal obligation of the Owner of the Lot entered upon, shall be secured immediately by a lien upon the Lot entered upon and the Improvements thereon, and shall be enforced in the same manner and to the same extent as provided in Article 6 hereof for regular and special Assessments. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction otherwise, or to restrain and enjoin, any breach or threatened breach of this Declaration. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce this Declaration; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against Declarant its agents contractors, successors or assigns.

(c) To retain and pay for the services of a Manager to manage and operate the Association, to the extent deemed advisable by the Board. To the extent permitted by law, the Association and the Board may delegate any duties, powers and functions to the Manager. The Members hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.

(d) To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(e) To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law or the terms of this Declaration.

(f) To enter into contracts with Declarant and with other persons on such terms and provisions as the Board shall determine, and to acquire and own, and to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

(g) To establish reasonable fines for violation of this Declaration or any Rules and regulations of the Association, without limiting the rights of the Association to seek any other remedies. Such fines shall be deemed Special Assessments pursuant to Article 6 hereof.

5.6 Power to Indemnify and to Purchase Indemnity Insurance. The Association shall indemnify and may reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person who is or was a director or officer of the Association against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person to the maximum extent permitted by Article 1396 §2.22A of the Texas Non-Profit Corporation Act, as such Act may from time to time be amended (without regard, however, to Section Q of such Article with respect to officers of the Association who are not directors of the Association). Further, the Association may indemnify and/or reimburse and/or advance expenses and/or purchase and maintain insurance or any other arrangement on behalf of any person, other than any person who is Director of the Association, who is or was an officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another corporation, partnership, joint venture, sole proprietorship, trustee, employee benefit plan or other enterprise, against any liability asserted against such person and incurred by such person in such a capacity or arising out of his status as such a person, to such extent (or, in the case of officers of the Association, to such further extent), consistent with applicable law, as the Board may from time to time determine. The provisions of this Article 5.6 shall not be deemed exclusive of any other rights to which any such person may be entitled under any Bylaw, agreement, insurance policy, vote of Members or otherwise.

ARTICLE 6 ASSESSMENTS

6.1 Assessments.

(a) The Association may from time to time levy Assessments against each Lot, whether or not such Lot is improved. The amount of Assessments shall be equal and uniform among all Lots; provided, however, that no Assessments shall ever be levied hereunder against any Lot owned by Declarant or any Common Areas.

(b) Where an Owner's obligation to pay Assessments first arises after the commencement of the year or other period for which an Assessment was levied, such Assessment shall be in a prorated amount proportionate to the fraction of the year or other period remaining after said date.

(c) Each purchaser of any Lot, by acceptance of a deed therefore, shall be deemed to covenant to pay to the Association each Assessment levied hereunder against such Lot, whether or not such covenant shall be expressed in any such deed or other conveyance. Each unpaid Assessment together with interest thereon and costs and expenses of collection thereof, including, without limitation, reasonable attorneys' fees, as hereinafter provided, shall be the personal obligation and debt of the Owner of the Lot against which the Assessment was levied.

(d) The obligation to pay Assessments levied by the Association hereunder is part of the purchase price of each Lot when sold to an Owner. An express vendor's lien is hereby retained to secure the payment of each and every Assessment levied hereunder, and each such vendor's lien to be superior and paramount to any homestead or other exemption provided by law. The Association may enforce the payment of Assessments in accordance with the provisions of this Article 6.

(e) The Assessments shall be used exclusively for the purpose of promoting the comfort, health, safety and welfare of the Owners, the maintenance and improvement of the Subdivision, and for carrying out the purposes of the Association as stated herein or as otherwise provided in the Articles of the Association.

6.2 Regular Annual Assessments. Prior to the beginning of each fiscal year for the Association, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under this Declaration, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. The Association shall then levy assessments sufficient to pay such estimated net expenses as herein provided, and the amount of such Assessments as determined by the Board shall be final and binding so long as such determination is made in good faith. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year for the Association for which such Assessments are payable, or during such fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion. Provided, however, that

the Assessments levied against each Owner may not be increased more than twenty percent (20%) from the preceding year's Assessments, and in no event shall the Assessments levied against each Owner be increased by more than FOUR HUNDRED AND NO/100 DOLLARS (\$400.00) from the preceding year's Assessments.

6.3 Special Assessments. In addition to the regular Assessments provided for above, the Association may levy special Assessments whenever in the Board's sole opinion such special Assessments are necessary to enable the Board to carry out the functions of the Association under this Declaration. The amount of any special Assessments shall be determined by the Board in its sole discretion and shall be due and payable in any manner as the Board may designate.

6.4 Owner's Personal Obligation for Payment of Assessments. Each regular and Special Assessment provided for herein shall be the personal and individual debt of the Owner of the Lot against which such Assessment was levied. No Owner, other than Declarant, may exempt himself from personal liability for such Assessments. In the event of default in the payment of any Assessment, the Owner of the Lot against which such Assessment was levied shall be obligated to pay interest at the highest rate allowed by applicable usury laws then in effect of the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of eighteen percent [18%] per month) together with all costs and expenses of collection, including, without limitation, reasonable attorneys' fees.

6.5 Assessment Lien and Foreclosure.

(a) The payment of each unpaid Assessment levied hereunder together with interest thereon as provided in Article 6.4 hereof and the costs and expenses of collection, including reasonable attorneys' fees, as herein provided, is secured by a continuing lien and charge on the Lot against which such Assessment was levied. Such lien for payment of Assessments shall bind such Lot in the hands of the Owner, and such Owner's heirs, devisees, personal representatives, successors or assigns, and shall be superior to all other liens and charges against such Lot, except only for tax liens, and all sums unpaid on any first lien Mortgage securing sums borrowed for the purchase or improvement of such Lot, provided such Mortgage was recorded in the Official Public Records of Williamson County, Texas, before such Assessment was due. The Association shall have the power, in the Board's sole and absolute discretion, to subordinate the aforesaid lien for payment of Assessments to any other lien. Any such subordination shall be signed by an officer of the Association and recorded in the Official Public Records of Williamson County, Texas. Upon the written request of any Beneficiary holding a lien on any Lot that is superior to the lien for payment of Assessments as provided herein, the Association shall report to said Beneficiary the amount of any Assessments levied against such Lot remaining unpaid for a period of more than thirty (30) days after the same are due, provided, however, that no such Beneficiary shall have a duty to collect any Assessments. Failure to pay such Assessments shall not constitute a default under a first lien Mortgage.

(b) To evidence the aforesaid lien for payment of Assessments, the Association may prepare a written notice of assessment lien setting forth the amount of the unpaid indebtedness, a description of the Lot encumbered by the lien and the name of the Owner

of such Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Official Public Records of Williamson County, Texas. The aforesaid lien for payment of such Assessments becomes delinquent. The Association may enforce such lien by the foreclosure sale of the defaulting Owner's Lot in like manner as a foreclosure of a mortgage or contractual lien on real property as provided in Section 51.002 of the Texas Property Code, as the same may be amended or modified, or the Association may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for the judicial foreclosure of the aforesaid lien. The Owner of the affected Lot shall be required to pay all costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Association in connection with any foreclosure proceeding, whether judicial or non-judicial. The Association shall have the power to bid on any Lot at any foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

(c) The liens for payment of Assessments provided for herein shall not be affected or extinguished by the sale or transfer of any Lot, whether by judicial or non-judicial foreclosure sale or otherwise; provided, however, that in the event of foreclosure of any first lien Mortgage superior to the lien for the delinquent Assessment, the lien for the delinquent Assessment will be extinguished, and the delinquent Assessment shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. The extinguishing of any lien for payment of Assessments as herein provided will not relieve any Owner from the obligation to pay Assessments subsequently becoming due and payable.

6.6 Assessment Upon Transfer. The Association shall collect an Assessment of One Hundred Fifty and No/100 Dollars (\$150.00) per Lot from each purchaser of a Lot at the time of each closing of such Lot. Such Assessment shall be due and payable on each Lot each time ownership of such Lot is transferred. Provided however, that no such Assessment shall be assessed upon the sale or transfer of a Lot to a builder engaged in the business of homebuilding in the Subdivision, who intends to build a residence on such Lot for sale to a home buyer.

ARTICLE 7 FINES

7.1 Fines. The Board may assess fines against an Owner for violations of the restrictions or standards of conduct contained in this Declaration, the Bylaws or the Rules, committed by an Owner, an occupant of the Owner's dwelling, or the Owner or occupant's family, guests, employees, contractors, agents, tenants or invitees. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner.

7.2 Damage Charges. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area, common elements or common facilities by the Owner or the Owner's family, guests, agents, occupants or tenants.

7.3 Notices and Schedule of Fines. The Association manager shall have the authority to send notices to alleged violators informing them of the violations and asking them to comply with the Declaration, Bylaws and/or Rules and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines for minor or recurring violations, but the Board may vary any fine depending on the special circumstances of each case.

7.4 Procedure. The procedure for assessment of fines and damage charges shall be as follows:

(a) The Association, acting through an officer, director, Board member or agent, must give the Owner certified mail, return receipt requested, notice of the fine or damage charge;

(b) The notice of the fine or damage charge must describe the violation or damage;

(c) The notice of the fine or damage charge must state the amount of the fine or damage charge;

(d) The notice of a fine or damage charge must state that the Owner may, no later than thirty (30) days after receipt of the notice, request a hearing before the Board; and

(e) The notice of a fine or damage charge must allow the Owner a reasonable time, by a specified date, to cure the violation and avoid the fine unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six (6) months. A reasonable time to cure is not necessary in a notice of damage charge.

7.5 Date Due. Fine and/or damage charges are due immediately after the expiration of the 30-day period for requesting a hearing; or if a hearing is requested, such fines or damage charges shall be due immediately after the Board's decision at such hearing, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

7.6 Minimum Fine. The minimum fine for each violation shall be \$25.00. Fines may be assessed for each day of violation.

7.7 Amendment of Procedure. The Board may amend this fining procedure by Rule as necessary to comply with state or local law.

ARTICLE 8 MISCELLANEOUS

8.1 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall continue in force and effect until January 1, 2050, unless amended as herein provided. After January 1, 2050, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots.

8.2 Amendment.

(a) This Declaration may be amended by Declarant acting alone so long as Declarant holds at least one (1) Lot in the Association

(b) In addition to the method provided in Article 8.2(a), this Declaration may be amended by the recording in the Official Public Records of Williamson County, Texas, of an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by enough other Owners entitled to cast a vote so that the total number of Owners approving the amendment equal at least eighty percent (80%) of the number of votes entitled to be cast pursuant to Article 5.3.

8.3 Reservation of Right to Expand. Declarant reserves the right, but shall not be obligated, to expand this Declaration to include all or part of the Additional Property.

8.4 Supplemental Declaration. Annexation may be accomplished by a Supplemental Declaration, which shall extend the scheme of this Declaration to the Additional Property. The procedure for supplementing the Declaration shall be the same procedure as set forth in Article 7.2(a) hereof for amending the Declaration.

8.5 Approval of HUD/VA. Notwithstanding the foregoing, during the existence of the Class B Membership (as that term is defined in the Bylaws), annexation of Additional Property, dedication of Common Areas to the Association, and amendment of this Declaration shall

require the prior approval of HUD/VA to the extent such entity has a loan which is secured by a Lot. Further, Declarant intends that the Property shall comply with all requirements of all mortgagees wishing to make, purchase or guarantee loans or other extensions of credit secured by mortgages or deeds of trust against any of the Lots in the Property and, also, to comply with all applicable statutes, ordinances and rules and regulations of all quasi-governmental and governmental bodies having jurisdiction. Declarant and all Owners therefore agree that, notwithstanding anything to the contrary contained herein, in the event the Property or any of the Property documents do not comply with the requirements or regulations of any institutional lender who is or desires to become a mortgagee (including, without limitation, the requirements of HUD/VA) or with any applicable statute, ordinance or rule or regulation, the Declarant, while there exists a Class B Membership, shall have the power (on behalf of the Association and each and every Owner) to amend the terms of this Declaration and the Bylaws of the Association and/or to enter into any agreement with any institutional lender (or their designees) reasonably required by any of such institutional lenders to allow the Property to comply with such requirements or regulations, or simply in order to comply with any applicable statute, ordinance or rule or regulation.

8.6 Rights of Declarant. All rights and authority granted to Declarant hereunder shall continue until the earlier to occur of (a) June 1, 2013, or (b) the date on which at least 75% of the Lots (including any Additional Property annexed into this Declaration) have been deeded from a homebuilder to an individual homeowner (such earlier date, the "Declarant Termination Date"). On the Declarant Termination Date, all rights and authority granted to Declarant hereunder shall vest in, and thereafter be exercised by the Association, except for rights and authority, which by their terms cease to exist hereunder on or prior to such date.

8.7 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and by acquiring the Lot agrees to hold Declarant harmless therefrom.

8.8 Notices. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address given by such person to the Association for the purposes of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such a person to the Association.

8.9 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Subdivision and of promoting and effectuating the fundamental concepts of the Subdivision set

forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

8.10 Exemption of Declarant; Utility Easements.

(a) Notwithstanding anything in this Declaration to the contrary, Declarant shall not in any way be subject to the control of or under the jurisdiction of the Board, the Association or the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

(b) Declarant reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas owned by Declarant sewer and other pipelines, conduits, wires and any Improvement relating to a public utility function, subject to Article 2.15 hereof, with the right of access to the same at any time for the purposes of repair and maintenance.

(c) All Lots will be subject to an easement of ingress and egress for the benefit of the Declarant, its employees, subcontractors, successors and assigns, over and upon the front, side and rear yards of each Lot in the Property as may be expedient or necessary for the construction, servicing and completion of dwellings and landscaping upon an adjacent Lot or Lots in the Property, provided that such easement will terminate 12 months after the date the last Lot owned by Declarant in the Subdivision is conveyed to an Owner by the Declarant.

8.11 Assignment of Declarant. Notwithstanding anything in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder. Such assignment shall be evidenced by a written instrument, executed by Declarant and the assignee, recorded in the Official Public Records of Williamson County, Texas.

8.12 Enforcement and Nonwaiver.

(a) Except as otherwise provided herein, any Owner at his own expense, Declarant or the Board shall have the right to enforce the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach or threatened breach of any such provision.

(b) Every act or omission whereby any provision of this Declaration is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined by any Owner (at his own expense), Declarant or the Board.

(c) Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, Occupancy or use of any portion of the Property is hereby declared to be a violation of this Declaration and subject to all of the enforcement procedures set forth herein.

(d) The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of this Declaration.

(e) The Association shall have the right, when appropriate in its judgment, to claim and impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right under, or effect compliance with, this Declaration.

8.13 Alternative Dispute Resolution. In the event of any dispute, controversy or claim between or among, Declarant, any Owner or Owners, the Association and/or the Architectural Committee relating to or arising out of any provision of this Declaration, the parties to the dispute shall meet in a good faith effort to resolve the dispute through negotiations. In the event the parties are unable to resolve the dispute through negotiations, such matter shall be submitted to and settled by such form of extra-judicial dispute resolution as the parties can mutually agree. To the fullest extent allowed by law, this clause shall be specifically enforceable under applicable laws to mandate the parties' use of a means of resolving disputes other than formal judicial proceedings. In the event the parties are unable to agree on another such form of dispute resolution, any dispute, controversy or claim arising out of any provision of this Declaration shall be submitted to binding arbitration following these procedures:

(a) The arbitration shall take place in the City of Austin, Travis County, Texas.

(b) Pending the outcome of arbitration, there shall be no changes made in the language of this Declaration.

(c) The arbitration shall be initiated by any party to the dispute, claim or controversy giving written notice requesting arbitration to the other party or parties thereto, which notice shall include a precise statement of the matter to be arbitrated.

(d) Within five (5) days of receiving notice of the written request for arbitration, the receiving party or parties shall designate in writing to the initiating party the name of an arbitrator who meets the requirements set forth herein below. The initiating party shall have five (5) days to object to the named arbitrator by designating in writing to the receiving party the name of another arbitrator who meets the requirements set forth herein below. The receiving party shall have five (5) days to object to the named arbitrator by giving written notice to the initiating party, in which case within five (5) days after the receipt of the written objection the two previously nominated arbitrators shall designate an arbitrator by giving written notice of their choice to the receiving and initiating parties.

(e) The arbitrator shall designate the time and place of the hearing which must occur within thirty (30) days of the arbitrator's selection. The arbitrator shall give twenty (20) days written notice of the hearing to the parties to the dispute, claim or controversy. The parties may be represented by attorneys at the hearing. The arbitrator shall make a decision within seven (7) days after the hearing and communicate that decision in writing to each party who participated in the hearing.

(f) The request for arbitration must be made within a reasonable time after the dispute, claim or controversy has arisen. In no event may the request for arbitration be made after the date when institution of legal or equitable proceedings based on such dispute, claim or controversy would be barred by the applicable statute of limitations.

(g) Anyone designated as an arbitrator (i) must be an impartial third party who has the training or qualifications required by the laws of the State of Texas and (ii) must not be personally acquainted with any of the parties to the dispute, claim or controversy.

(h) The arbitrator shall assess such costs against the party or parties who do not prevail.

8.14 Construction.

(a) The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(b) Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine or neuter.


(c) All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit, or otherwise effect that which is set forth in any of the paragraphs, sections or articles hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of this the 15
day of SEPTEMBER 2004.

DECLARANT:

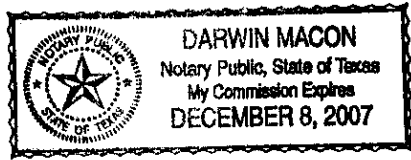
MALLARD PARK TAYLOR, LTD,
a Texas limited partnership,

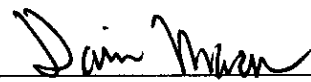
By: A-A-A Storage, LLC
a Texas limited liability company, its general partner

By: 
Name: John Muhich
Title: President

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

This instrument was acknowledged before me on the ____ day of _____, 2004, by John Muhich President of **A-A-A Storage, LLC**, a Texas limited liability company, as general partner of **MALLARD PARK TAYLOR, LTD**, a Texas limited partnership, on behalf of said company and limited partnership.

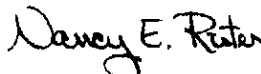



NOTARY PUBLIC, State of Texas
My commission expires: _____

~~AFTER RECORDING RETURN TO:
Blake Buffington
Buffington Law Firm, PC
1710 West 6th Street
Austin, Texas 78703~~

RETURN TO:
NORTH AMERICAN TITLE
12301 Research, Building 4, Ste. 120
Austin, TX 78759

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2004074685


09/23/2004 03:55 PM
CARRILLO \$72.00
NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS



FIRST AMENDMENT TO MALLARD PARK DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WILLIAMSON

WHEREAS, on or about September 23, 2004, an instrument entitled "Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Declaration"), was filed of record in Document No. 2004074685, in the Official Public Records of Williamson County, Texas; and

WHEREAS, the Declarant in the Declaration is Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, ("Declarant"); and

WHEREAS, the Declaration limits the number of household pets that may be kept on the premises to no more than two (2) dogs and/or two (2) cats; and

WHEREAS, Article 8, Section 8.2(a) of the Declaration provides that the Declarant acting alone may amend the Declaration so long as Declarant owns at least one (1) Lot in the Association (as that term is defined in the Declaration); and

WHEREAS, Declarant holds at least one (1) Lot in the Association; and

WHEREAS, Declarant now desires to amend the Declaration to change the restrictions as stated below;

NOW THEREFORE, for Ten and NO/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declaration is hereby amended as follows:

- 1. Section 2.12 of the Declaration is hereby deleted and replaced with the following:

2.12 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any Lot. Only the keeping of ordinary household pets such as dogs and cats is allowed (not to exceed an aggregate of four (4) animals, no more than three (3) of which may be dogs); however, no breeding, raising, or boarding of such pets is permitted on any Lot. No dangerous breed of dogs as determined by the Board in its sole discretion may be kept on any Lot for any period of time. All pets permitted by this Declaration to be kept on a Lot shall at all times be properly vaccinated and cared for. No poultry or livestock of any kind may be kept on any Lot for any period of time. All pets shall be kept on the Owner's Lot and shall not be allowed to roam loose, and Owners having pets shall keep their Lot and all other Lots free of offensive or unsanitary accumulations of waste from their pet.

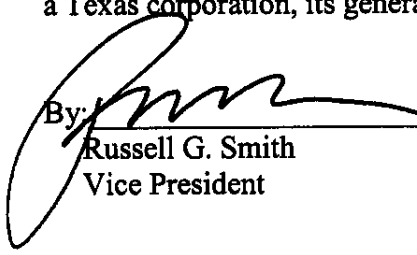
2. Except as specifically provided in this Amendment, the terms of the Declaration which do not conflict with this Amendment continue to encumber the Property, and all terms of the Declaration as amended by this Amendment, which do not conflict and/or are consistent remain in full force and effect. If there is any conflict or inconsistency between this Amendment and the Declaration this Amendment will control and modify the Declaration.

EXECUTED on this the 22 day of February, 2005.

DECLARANT:

Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership

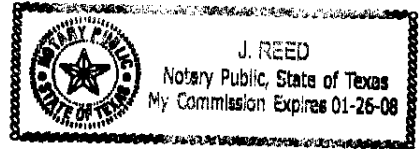
By: Lennar Texas Holding Company
a Texas corporation, its general partner


By: 

Russell G. Smith
Vice President

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 22nd day of February, 2005 by Russell G. Smith, Vice President of Lennar Texas Holding Company, a Texas corporation, as General Partner of Lennar Homes of Texas Land & Construction, Ltd., a Texas limited partnership, on behalf of said partnership.





Notary Public, State of Texas

After recording, return to:
Joel Messina,
The Buffington Law Firm
1710 West Sixth Street
Austin, Texas 78703

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2005013977

Nancy E. Rister

02/25/2005 12:59 PM

CARRILLO \$18.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS



AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701

① Mallard Park HOA
E 1779 Wells Branch
St. 110B, Box 314
Austin, TX 78728

MALLARD PARK DESIGN GUIDELINES

Adopted By:

Architectural Committee of the Board of Directors
of the Mallard Park Homeowners Association, Inc.

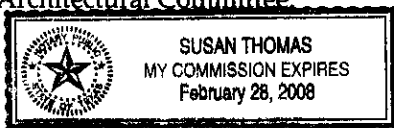
By: [Signature]
Printed Name: Donna Nichols
Title: _____

Mallard Park Homeowners Association, Inc.

By: [Signature]
Printed Name: RUSSELL SMITH
Title: President

Williamson County, Texas

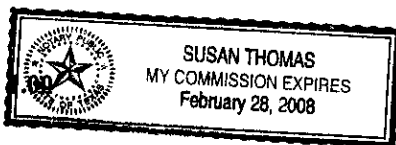
This instrument was acknowledged before me on the 12th day of FEBRUARY, 2006,
by DONNA NICHOLS of the Architectural Committee of the Board of Directors
of the Mallard Park Homeowners Association, Inc., a Texas non-profit corporation, on behalf of the
Architectural Committee.



[Signature]
Notary Public, State of Texas

Williamson County, Texas

This instrument was acknowledged before me on the 12th day of FEBRUARY, 2006,
by RUSSELL SMITH, President of the Mallard Park Homeowners Association, Inc., a Texas non-profit
corporation, on behalf of said corporation.



Version

[Signature]
Notary Public, State of Texas

Introduction

Any notice or information required to be submitted to the Mallard Park Architectural Committee (the "**Committee**") under these Design Guidelines will be submitted to the Committee, c/o its management company (the "**Management Company**"), at 1779 Wells Branch Pkwy, #110B, Box 314, Austin, Texas, 78728, Phone: 512-246-0498; Facsimile: 512-716-0024

Background

Mallard Park is a master planned community located in Williamson County, Texas. The community is subject to the terms and provisions of the Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded in the Official Public Records of Williamson County, Texas (the "**Declaration**"). The Declaration includes provisions governing the construction of improvements and standards of maintenance, use and conduct for the preservation of the Mallard Park community.

Architectural Committee and Review Authority

Section 2.1(b) of the Declaration provides that no Improvement may be constructed, altered or removed upon or for any of the Property without the prior written approval of the Committee. Any action, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, including, without limitation, its color, or which involves the removal of any Improvement or the alteration of the landscaping on a Lot, shall be performed only with the prior approval of the Committee.

Article 4 of the Declaration includes procedures and criteria for the construction of improvements within Mallard Park. Section 4.1(b) of the Declaration provides that the Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to the Declaration and perform such other duties assigned to it by the Declaration or as from time to time shall be assigned to it by the Board. Section 4.4(a) of the Declaration provides that, prior to commencement of any construction, alteration or removal of any Improvement on any Lot, the Plans and Specifications therefore shall be submitted to the Committee, and construction, alteration or removal thereof may not commence unless and until the Committee has approved such Plans and Specifications in writing. All such construction, alteration or removal shall conform to the approved Plans and Specifications.

Governmental Requirements

It is the responsibility of each Owner to obtain all necessary governmental permits and inspections. Compliance with these Design Guidelines is not a substitute for compliance with any municipal authority's ordinances and regulations. Please be advised that these Design Guidelines do not list or describe each requirement which may be applicable to a Lot within Mallard Park. Each Owner is advised to review all encumbrances affecting the use and improvement of their Lot prior to submitting plans to the Committee for approval. Furthermore, approval by the Committee should not be construed by the Owner to mean that any Improvement complies with the terms and provisions of all encumbrances which may affect the Owner's Lot. Certain encumbrances may benefit parties whose interests are not addressed by the Committee.

The Committee shall bear no responsibility for ensuring plans submitted to the Committee comply with any applicable building codes, zoning regulation and other government requirements.

Interpretation

In the event of any conflict between these Design Guidelines and the Declaration, the Declaration shall control. Capitalized terms used in these Design Guidelines and not otherwise defined in this document shall have the same meaning as set forth in the Declaration.

Amendments

The Committee may amend these Design Guidelines. All amendments shall become effective upon recordation in the Official Public Records of Williamson County, Texas. Amendments shall not apply retroactively so as to require modification or removal of work already approved and completed or approved and in progress. It is the responsibility of each Owner to ensure that they have the most current edition of the Design Guidelines and every amendment thereto.

Architectural Review Process

Objective

The objective of the review process is to promote aesthetic harmony in the community by providing for compatibility with surrounding residences, the environment and the topography.

Submittals

Requests for approval of proposed construction, landscaping, or exterior modifications must be made by submitting an application to the Management Company on behalf of the Committee. Please contact the Management Company for a copy of the current application.

Timing

The timing of review of applications and submittals and the duration of each approval shall be in accordance with Article 4 of the Declaration.

Responsibility for Compliance

An applicant is responsible for ensuring that all of the applicant's representatives, including the applicant's architect, engineer, contractors, subcontractors, and their agents and employees, are aware of these Design Guidelines and all requirements imposed by the Committee as a condition of approval.

Inspection

Upon completion of all approved work, the Owner must notify the Committee. The Committee may inspect the work at any time to verify conformance with the approved submittals.

Architectural Guidelines and Aesthetic Standards

Please be advised that additional restrictions governing use and construction of Improvements are set forth in the Declaration. The provisions set forth below are intended as a supplement to the restrictions set forth in the Declaration. EACH OWNER IS HEREBY ADVISED THAT THE COMMITTEE HAS RESERVED THE RIGHT TO APPROVE ALL IMPROVEMENTS PROPOSED FOR CONSTRUCTION ON ANY LOT.

Aesthetic Appeal

The Committee may disapprove the construction of any Improvement on purely aesthetic grounds. Any prior decisions of the Committee regarding matters of design or aesthetics shall not be deemed to have set a precedent if the Committee feels that the repetition of such actions would have any adverse effect on the community.

Exterior Repainting

Repainting or staining to match original colors need not be submitted for prior approval. Color chips and siding samples must be submitted to the Committee for approval prior to changing colors.

Accessory Structures

All outbuildings must be approved by the Committee in advance prior to construction. While the Committee expressly retains its authority to disapprove plans and specifications submitted for any outbuilding, Owners will generally be permitted to erect one (1) outbuilding on the Owner's Lot if: (i) the surface area of the pad on which the outbuilding is placed is less than or equal to one hundred fifty (150) square feet; (ii) the height of the outbuilding, measured from the surface of the Lot to the highest portion of the outbuilding, is less than or equal to one hundred twenty (120) inches; and (iii) the exterior of the outbuilding is constructed of the same or substantially similar materials as the exterior of any residence located on the Lot.

The following provisions also apply to outbuildings:

An "outbuilding" is defined as any structure that is not attached to the main structure. This definition does not include bona-fide additions to the main residences or garages wherein an actual opening to the main structure exists, but does include storage sheds and gazebos.

The outbuilding must be placed and maintained within the building line applicable to the Lot on which it will be placed, and distance from any side Lot line will be determined based on visibility from the street in front of the residence. At no time, however, will the distance from any side Lot line be outside of the Building Lines (B.L.) or within the Public Utility Easement Lines (P.U.E.) located on the lot survey. Location must also be far enough away from any Lot line to allow for drainage to occur entirely on the Owner's Lot.

Outbuildings with a height greater than six (6) feet are not permitted immediately adjacent to any side or rear wall of a residence unless the outbuilding is entirely concealed from view from any adjacent Lot or street.

The Committee reserves the right to review any application for the construction of gazebos on a case-by-case basis, and may establish specific height and placement requirements for each Lot.

Basketball Goals

Permanent and portable basketball goals are permitted between the street right-of-way and the front of the residence on a Lot provided the basketball goal is located a minimum of twenty feet (20') from the street curb. The basketball goal backboard must be perpendicular to the street and parallel to the driveway and, if a permanent goal, mounted on a black metal pole permanently installed in the ground. Portable basketball shall not be placed, at any time, on any street or right of way located within the community. Basketball goals must be properly maintained and painted, with the net in good repair.

The basketball goal backboard, net and post must be maintained in excellent condition at all times.

Roof mounted basketball goals are not permitted.

Patio Covers

All proposed patios covers must be reviewed and approved in advance by the Committee.

Unless otherwise approved in advance by the Committee, ALL patio covers must be constructed of materials and incorporate a color scheme which complements the residence.

Prefabricated patio covers constructed of aluminum will be considered by the Committee provided that the cover is earth tone in color and the color scheme complements the residence. Unfinished aluminum covers are prohibited.

If the patio cover incorporates fiberglass roofing and wood framing, treated wood must be used. Edges of fiberglass must not be visible from surrounding properties or from any street. Fiberglass must be painted a color which complements the residence, e.g., tan, brown, beige or clear; provided, however, green and yellow are prohibited. Corrugated fiberglass panels are also prohibited.

If a patio cover is proposed to be attached to the principal residence, the cover must be integrated into the existing roof line (flush with eaves). If the patio cover includes shingles, the shingles must match the color and style of the shingles used in for the residence. The frame of any shingled roof incorporated into a patio must be painted to match the trim of the residence.

The patio cover and posts must be trimmed out to complement the residence. Posts must be painted wood, treated wood or metal columns. Treated pine must be painted or stained. No pipe is allowed.

All patio cover material, i.e., fiberglass, corrugated aluminum, metal, wood, lattice, must be completely framed in so that no raw edges of material are visible.

Canvas patio covers are prohibited.

Patio covers may not encroach into any utility easement unless the Owner has obtained the advance written consent of the utility service providers who utilize the easement.

Patio covers must be located and designed to provide drainage solely upon the Owner's Lot. If a patio cover is proposed to be located less than five feet (5') away from the side Lot line, the Committee will require that it be guttered with downspouts; provided, however, that no patio cover will be permitted if located outside of the building line applicable to the Lot on which the patio is to be constructed.

Room Additions

Detailed plans and specifications must be submitted to the Committee for its advance written approval. The Committee reserves the right to request additional information from the Owner to properly review any proposed modification.

Exterior materials and colors should match the house as closely as possible.

Room additions may not encroach into any utility easement unless the Owner has obtained the advance written consent of the utility service providers who utilize the easement.

The Committee will review the proposed modification with reference to the architectural style of the residence, the siting of the residence on the Lot, the size of the Lot, and any other factors the Committee deem relevant in their sole and exclusive discretion. The Committee may deny any application purely on aesthetic grounds.

Modifications which in the Committee's opinion are principally designed for storage are not permitted.

Any addition to the existing roof of the residence must integrate with existing roofline so as to appear to have been part of the original home.

All room additions must be open to the principal residence and incorporated into the existing HVAC. All room additions must be on the same electric meter as the principal residence. Sub-metering is prohibited.

Storm Windows and Storm/Screen Doors

Storm windows and storm doors which are compatible with the exterior house colors (in the sole and exclusive opinion of the Committee) need not be approved in advance by the Committee.

No screen doors are permitted on the front of homes. Wood framed screen doors are prohibited.

Storm doors and windows must be full-view glass.

Decks

All proposed decks must be reviewed and approved in advance by the Committee.

No portion of an approved deck may encroach into any utility easement unless the Owner has obtained the advance written consent of the utility service providers who utilize the easement.

Decks must be located and designed to provide drainage solely upon the Owner's Lot.

No deck may be higher than thirty inches (30") above existing grade.

No deck may extend beyond the building line applicable to the Lot on which it will be located.

Decks may be waterproofed, sealed or stained a natural wood color without the necessity of submitting an application or obtaining prior Committee approval. If the choice of color of the stain is not natural to wood, Committee approval must be obtained prior to applying such stain.

Man-made screens and shade devices, if any, must appear as an integral part of the building elevation and must be made of materials that complement the home. Conversion of a deck or patio into a screened porch requires Committee approval.

Swimming Pools and Spas

All proposed pools, spas, and pool or spa enclosures must be reviewed and approved in advance by the Committee.

Pools constructed above ground are prohibited. Smaller, prefabricated, installed above ground, spas or hot tubs are acceptable. Above ground spas or hot tubs, visible from public view or from other Lots, shall be skirted, decked, screened or landscaped to hide all plumbing, heaters, pumps, filters, etc.

Swimming pool appurtenances, such as rock waterfalls and slides, shall not be over six feet (6') in height. Skimmer nets, long handle brushes, pool chemicals, filters, pumps, heaters, plumbing, etc. shall not be visible from any adjacent Lot or street.

Pool and spa drains must connect to the street drainage. Pools cannot be drained onto open space or any other property.

No pool or spa may encroach into any utility easement unless the Owner has obtained the advance written consent of the utility service providers who utilize the easement.

No pool, spa, or pool or spa enclosure may be located within ten (10) feet of any side Lot line.

All pools must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all applicable governmental requirements.

Woodpiles

Woodpiles are permitted only in the rear yard of residences and shall be screened by adequate planting and/or fencing so as to be concealed from view of adjacent Lots and streets.

Fence, Fence Extensions and Other "Shielding" Improvements

All proposed fences, fence extensions and other improvements erected for the purpose of shielding a portion of an Owner's Lot from view (for example, trellises placed in front of utility boxes, lattice boxes used to store garbage cans, etc.) must be reviewed and approved in advance by the Committee.

No fence may exceed six (6) feet in height unless otherwise approved by the Committee.

Unless otherwise approved by the Committee, no fence may be painted, stained or varnished.

Unless otherwise installed by Declarant in conjunction with its marketing and sale of Lots, no fences may be installed within the front yard of any Lot. In the event of a dispute concerning what constitutes the "front yard" of a Lot, the opinion of the Committee is final.

Approved fences will be installed picket side out where visible from any street.

Any replacement or repair of an existing fence must be prosecuted with the same or substantially similar design and materials.

Wrought iron fencing may not be used to enclose a backyard.

Plastic and wire fencing around flower beds, shrub beds/areas and tree rings is expressly prohibited.

Raised Flower/Bush/Tree Beds

Bricks around flower, bush or tree beds that are no higher than twelve (12) inches high, mortared or fastened together with no holes showing and consistent with the architectural character of the home site do not need prior approval. Rocks or wooden slats/timbers may also be used as long as they are no higher than twelve (12) inches high and fastened to remain in a straightened position at all times.

Animal Pens, Runs and Houses

There shall be no animal pens or dog runs of any kind. Dog houses are permitted as long as they complement the residence. Dog houses must be located a minimum of six (6) feet inside property lines and they must be located behind the rear elevation of the residence.

Flagpoles and Flags

One flagpole not to exceed two (2) inches in diameter or sixty (60) inches in length may be mounted on the front of the house. Permanent standalone flagpoles are not permitted on residential Lots.

Flags visible from the exterior of a dwelling may be hung only on flagpoles meeting the above criteria. Flags shall not exceed 3' x 2' in size. Only official flags of countries, seasonal decorative flags, flags in support of sports teams or the armed forces or other similarly non-offensive flags (as determined by the Committee in its sole and absolute discretion) may be displayed. Flags which display advertising and flags which, in the Committee's judgment, are intended to, or tend to, incite, antagonize, or make political statements (other than a statement of citizenship or country of origin of the residents of the dwelling), shall not be permitted. Flags shall be maintained in good condition and shall not be displayed if mildewed, tattered or faded beyond recognition.

Mailboxes and Lampposts

Mailboxes and lampposts other than as installed by Declarant or any alterations thereto, shall be subject to review by the Committee and may not be permitted under applicable governmental regulations. The color, size, appearance and location of the mailboxes installed by Declarant shall be preserved and may not be altered unless approved by the Committee.

Outdoor Furniture

Furniture shall not be used, stored or kept on the exterior portions of any Lot except on patios, decks or porches. Furniture exposed to the weather shall be limited to such types as are designed and intended for outdoor use.

Outdoor furniture, including park benches and porch swings, must be well-maintained and in harmony with the exterior design and color of the house. No swings may be hung from trees on any Lot. Outdoor furniture shall be black, brown, forest green and bronze as acceptable colors as well as a color nearest to the darkest color of the exterior of the home. Outdoor furniture must not be located in the front yard on any Lot, and must not be located in the visible side yard on any corner Lot.

Play Structures

All play structures must be approved by the Committee in advance prior to construction. While the Committee expressly retains its authority to disapprove plans and specifications submitted for any play structure, the following are general guidelines for the construction of play structures.

Play structures shall be earth tone colors to blend with the environment and made of metal, treated wood, cedar, redwood or treated wood painted to be in harmony with the existing home. Platforms of play structures shall not exceed a height greater than four (4) feet from the original Lot grade. The maximum allowable height for any one part of the play structure is ten (10) feet from the original Lot grade. No portion of the structure shall be a closer than ten (10) feet from any fence line or property line, and must be placed inside any existing fence.

Play structures of any type are not permitted in the front or side yards. In the case of a corner Lot, any play equipment or structures to be installed in the rear yard must be screened from public view by landscaping or fencing.

Any canvas exposed to public view shall be solid earth tone colors only. Day glow (or fluorescent) and bright colors are not permitted.

Yard Decorations

Yard decorations are regulated to assist in the maintenance of an appealing streetscape for all residents. The Committee reserves the right, in its sole and absolute discretion, to prohibit any yard decorations which it determines to be unsightly, offensive or otherwise inappropriate for the community. The following yard decoration rules apply unless a variance is obtained from the Committee:

No more than two decorative appurtenances are permitted in the front yard of any Lot.

No single decorative appurtenance may exceed thirty-six inches (36") in height.

Pinwheels, windsocks, large rocks or boulders and artificial flowers and plants are prohibited.

One (1) mounted birdhouse is permitted, if limited to twelve (12) feet in height, mounted on a 2" diameter galvanized pipe, and located in the rear yard of the Lot.

Yard signs may not include advertising of any kind, except for those advertising an owner's own house for sale or lease in accordance with the Declaration.

Yard signs may be no wider than thirty-six inches (36") and no taller than thirty-six inches (36").

Examples of generally permissible yard signs include those which show support of the armed forces, school activities or sports teams, display seasonal decorations or depict animals. Examples of generally impermissible yard signs include those displaying insults, vulgarities, or the like.

HAM Radio Antennae

No HAM radio antennae may be placed on any Lot.

Exterior Lighting

Exterior lighting shall be installed in a manner that will not cause unnecessary light spill distraction, nuisance or be unsightly.

Exterior residential lighting can convey a warm, inviting atmosphere and aid in providing nighttime security without annoying others. Selection and placement of fixtures, and selection of light source types, should be done with care. Exterior illumination of architectural features such as columns, entries, chimneys and landscape features are encouraged.

Lights should be directed to illuminate house number graphics. Ground lighting or decorative light fixtures are acceptable. Decorative fixtures shall be of high quality materials and workmanship and shall be in scale and style with the residence.

High-pressure sodium lights, except for subdivision streetlights, are prohibited.

Mercury vapor security lights, when the fixture is visible from public view or from other Lots, are prohibited. Mercury vapor lights, when used for special landscape lighting effect (hung in trees as up and down lights), are permissible with Committee approval.

Colored lenses on low voltage lights, colored light bulbs, fluorescent and neon lighting are not permissible.

Incandescent, low voltage incandescent, metal halide, quartz and natural gas lights are acceptable, provided that such lights are no more than thirty-six inches (36") in height and each such light is spaced, at a minimum, three (3) feet from an adjacent light.

Lighting may not be installed on the privacy fence or patio/pool fence.

"Tiki"-style torches/lights may not be used as permanent lighting, but are permissible for use at parties or similar gatherings provided that they are kept out of public view.

Burglar Bars

Burglar bars are prohibited.

Walkways and Driveways

The configuration and construction materials of all walkways and driveways erected on any Owner's Lot (whether they are paved, gravel-covered, or otherwise) must be approved in advance by the Committee.

Window Shades/Awnings/Treatments

Canvas awnings are permitted only on interiors Lots and then: (i) only on windows located on the rear elevation of the residence; and (i) only if not visible from any adjacent Lot or street.

If permitted, all awnings must be earth tone in color.

Awnings must be maintained in good condition and repair by the Lot Owner.

Patio awnings are permitted if earth tone in color and not visible from any adjacent Lot or street.

Metal and wood slat window shades are prohibited.

No aluminum foil, reflective film, or similar treatment may be placed on any window or on the exterior of any residence.

All window treatments (e.g., blinds, draperies, screens and the like) must be maintained in a neat, clean and attractive manner; unduly bright colors and distracting patterns are prohibited.

Window tinting is permissible provided that it is conducted by a professional and does not render the windows unsightly. The Committee reserves the right to compel an Owner to take corrective action in the event that the Committee determines, in its sole and absolute discretion, that the window tinting on such Owner's Lot is unsightly.

Schedule of Fines

Periodic inspections by a representative of the Committee may take place in order to identify non-complying activities.

Listed below is the schedule of fines which may be assessed.

| Schedule of Fines | |
|---|---------------------|
| Construction Without Committee Approval | \$300 |
| Other | \$175 plus \$35/day |

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2006010205

Nancy E. Rister

02/09/2006 01:44 PM

CARRILLO \$56.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS



REST

2006018882

6 PGS



AFTER RECORDING RETURN TO:

**ROBERT D. BURTON, ESQ.
ARMBRUST & BROWN, L.L.P.
100 CONGRESS AVE., SUITE 1300
AUSTIN, TEXAS 78701**

**FIRST AMENDMENT TO MALLARD PARK DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**
Williamson County, Texas

Cross Reference to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2004074685, Official Public Records of Williamson County, Texas.

**FIRST AMENDMENT TO MALLARD PARK DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions (the "Amendment") is made by **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.**, a Texas limited partnership ("Declarant"), and is as follows:

RECITALS:

A. Mallard Park Taylor, Ltd., a Texas limited partnership ("MPT"), previously executed and recorded that certain Legends of Hutto Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2001087279, Official Public Records of Williamson County, Texas, as amended (the "Declaration").

B. MPT previously assigned to Declarant all of its right, title and interest as the "Declarant" pursuant to the Declaration by that certain Assignment of Declarant's Rights, recorded under Document No. 2004095538, Official Public Records of Williamson County, Texas.

C. Pursuant to Section 8.2 of the Declaration, the Declaration may be amended by Declarant acting alone so long as Declarant holds at least one Lot in the Mallard Park Homeowners Association, Inc., a Texas non-profit corporation (the "Association").

D. Declarant holds at least one Lot in the Association.

NOW THEREFORE, Declarant hereby amends and modifies the Declaration as follows:

1. **Alteration or Removal of Improvements.** Section 2.1(b) of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

(b) Except as otherwise provided pursuant to any design guidelines promulgated by the Architectural Committee (as the same may be amended from time to time), without the prior written approval of the Architectural Committee: (i) no Improvement may be constructed, altered or removed upon or for any of the Property without the prior written approval of the Architectural Committee and (ii) no Owner may take any action, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, including, without limitation, its color, or which involves the removal of any Improvement or the alteration of the landscaping on a Lot.

2. **Rubbish and Debris.** Section 2.7 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

Rubbish and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon the Property or any portion thereof which is unsanitary, unsightly, offensive or detrimental to any other property or to its occupants. Refuse, garbage and trash shall be kept at all times in covered containers and all such containers shall at all times be kept within an enclosed structure or appropriately screened from view of all adjacent property and public and private rights-of-way; provided, however, garbage containers shall be permitted to be placed outside of enclosed structures and

may be removed from screened areas a maximum of one (1) time each week for garbage collection.

3. **Vehicles; Unsightly Articles; Temporary Structures.** Sections 2.11(a) and (b) of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

(a) No article deemed to be unsightly by the Architectural Committee will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden maintenance equipment must be kept at all times except when in actual use, in enclosed structures or screened from view and no repair or maintenance work may be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single family residential structure constructed within the Property must have sufficient garage space, as approved by the Architectural Committee, to house all vehicles to be kept on the Lot. Lot Owners may not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours. Service areas, storage areas and compost piles must be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash must be kept, stored, or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag will be permitted to remain visible on any Lot or to be parked on any roadway within the Property.

Parking of commercial vehicles or equipment, mobile homes, recreational vehicles, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages is prohibited; provided, construction, service and delivery vehicles may be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a residence.

(b) All garden maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view of adjoining property and public and private rights-of-way. No recreational equipment, including but not limited to swing sets, playscapes, skate boards, bicycles, skate board or bicycle ramps or badminton nets, shall be permitted in the front yard of any residence on the Property. Gardens shall be permitted for household use only and shall not be permitted in the front yards of residences. No repair or maintenance work shall be done on any garden maintenance equipment or on any vehicle (other than minor emergency repairs) except in an enclosed garage or other structure. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household materials shall be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash shall be kept, stored or allowed to accumulate on any portion of the Property except within an enclosed structure or appropriately screened from view. Notwithstanding the foregoing, Permanent and portable basketball goals are permitted between the street right-of-way

and the front of the residence on a Lot provided the basketball goal is located a minimum of twenty feet (20') from the street curb. The basketball goal backboard must be perpendicular to the street and parallel to the driveway and, if a permanent goal, mounted on a black metal pole permanently installed in the ground. Portable basketball goals shall not be placed, at any time, on any street or right of way located within the community. Basketball goals must be properly maintained and painted, with the net in good repair. The basketball goal backboard, net and post must be maintained in excellent condition at all times. Roof mounted basketball goals are not permitted.

4. **Animals.** Section 2.12 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

2.12 **Animals.** No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on the Property. No Owner may keep on such Owner's Lot more than four (4) cats and dogs, in the aggregate. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. Such enclosed area must be constructed in accordance with plans approved by the Architectural Committee, must be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and must be screened so as not to be visible from any other portion of the Property.

5. **Exterior Lighting.** Section 2.16 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

2.16 **Exterior Lighting.** All exterior lighting on any Improvement must be approved by the Architectural Committee; provided, however, (i) exterior lighting which is in strict compliance with design guidelines promulgated by the Architectural Committee (as the same may be amended from time to time) may be installed without the prior approval by the Architectural Committee; and (ii) Christmas and other holiday lights shall be permitted without prior approval during the month of December each year, but must be removed by January 15 of the next year. No lighting shall be permitted that constitutes a nuisance or hazard to any Owner or occupant of any Lot. The Board or the Architectural Committee, in the exercise of their sole and absolute discretion, shall determine whether the provisions of this Article 2.16 have been satisfied.

6. **Architectural Committee's Failure to Act.** Section 4.4(b)(iv) of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

(iv) Any failure of the Architectural Committee to act upon either (1) any Plans and Specifications submitted to it as provided herein or (2) a request for a

variance will not be deemed a consent to such Plans and Specifications or variance, and the Architectural Committee's written approval of all Plans and Specifications submitted to it and requests for variances will be expressly required.

7. **Rights of Declarant.** Clause (b) of the first sentence of Section 8.6 of the Declaration is hereby deleted in its entirety and the following is substituted in its place:

(b) the date on which at least ninety percent (90%) of the Lots (including any Additional Property annexed into this Declaration) have been deeded from a homebuilder to an individual homeowner (such earlier date, the "Declarant Termination Date").

8. **Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

Executed on this 2nd day of February, 2006.

[SIGNATURE PAGE FOLLOWS]

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

By: **LENNAR TEXAS HOLDING COMPANY, a Texas corporation, its General Partner**

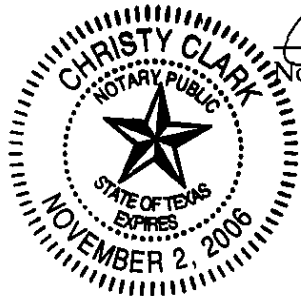
By: *[Signature]*
James Dorney, Vice President

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 2nd day of February 2006, by James Dorney, Vice President of Lennar Texas Holding Company, a Texas corporation, General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, on behalf of said corporation and limited partnership.

(SEAL)



[Signature]
Notary Public, State of Texas

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS 2006018882

Nancy E. Rister

03/10/2006 05:12 PM

CARRILLO \$36.00

NANCY E. RISTER, COUNTY CLERK

WILLIAMSON COUNTY, TEXAS

*① Mallard Park HOA Inc
1779 Wells Branch Parkway #110 B
Box 314
Austin TX 78728*

TR COURTESY 1/6/68



BY
16 PGS

2006046306

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RECORDED BY
NORTH AMERICAN TITLE

FILE
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BY-LAWS

OF

MALLARD PARK HOMEOWNERS ASSOCIATION, INC.

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These By-Laws govern the affairs of Mallard Park Homeowners Association, Inc., a nonprofit corporation organized under the Texas Non-Profit Corporation Act (referred to as the "Act").

ARTICLE I

Offices and Agent

SECTION 1: The registered office of the corporation required by the Texas Business Corporation Act to be maintained in the State of Texas may be, but need not be, identical with the principal office in the State of Texas, as designated by the Board of Directors. The address of the registered office may be changed from time to time by the Board of Directors. The registered agent of the corporation may be changed from time to time by the Board of Directors.

SECTION 2: The address of the initial registered office of the Corporation shall be 12301 Research Boulevard, Bldg. 4, Suite 100, Austin, Texas 78759.

SECTION 3: The principal office for the transaction of the business of the corporation is located at:

12301 Research Blvd., Bldg. 4, Suite 100
Austin, Texas 78759

The Board of Directors has full power and authority to change the principal office from one location to another by noting the changed address and the effective date below:

Dated: _____

RETURN TO:
NORTH AMERICAN TITLE
12301 Research, Building 4, Ste. 120
Austin, TX 78759

Dated: _____

Dated: _____

SECTION 4: The corporation may also have offices at such other places, within or without the State of Texas, where the corporation is qualified to do business, as the Board of Directors may from time to time designate, or the business of the corporation may require.

ARTICLE II

Meetings of Members

SECTION 1. Annual Meeting. Beginning in 2004, the Board of Directors shall hold an annual meeting of the members at 10:00 o'clock a.m. on the 15th day of October each year or at another time or date that the Board of Directors may designate, so long as such meeting takes place within 13 months of the previous annual meeting. If the day fixed for the annual meeting is a Saturday, Sunday, or legal holiday in the State of Texas, the meeting shall be held on the next business day. At the annual meeting, the members shall elect directors and transact any other business that may come before the meeting. If, in any year, the election of directors is not held on the day designated for the annual meeting, or at any adjournment of the annual meeting, the Board of Directors shall call a special meeting of the members as soon thereafter as possible to conduct the election of directors.

SECTION 2. Special Meetings. Special meetings of the members may be called by the president, the Board of Directors, or not less than 25% of the voting members.

SECTION 3. Place of Meeting. The Board of Directors may designate any place, either within or without the State of Texas, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. If the Board of Directors does not designate the place of meeting, the meeting shall be held at the registered office of the corporation in Texas.

SECTION 4. Notice of Meetings. Subject to the provisions of Section 2.11B of the Texas Non-Profit Corporation Act, written or printed notice of any meeting of members, not including the annual meeting, shall be delivered to each member entitled to vote at the meeting not less than ten (10) nor more than fifty (50) days before the date of the meeting. If the corporation has more than 1,000 members at the time the meeting is scheduled or called, notice may be given by publication in any newspaper of general circulation in Williamson County, Texas. The notice shall state the place, day, and time of the meeting, who called the meetings, and the general purpose or purposes for which the meeting is called. Notice shall be given by or at the direction of the president or secretary of the corporation, or the officers or persons calling

the meeting. If all of the members meet and consent to the holding of a meeting, any corporate action may be taken at the meeting regardless of a lack of proper notice.

SECTION 5. Quorum. Except as may be otherwise provided in Section 2.12B of the Texas Non-Profit Corporation Act, the members holding 1/10 of the votes that may be cast at a meeting who attend the meeting in person or by proxy shall constitute a quorum at that meeting. The members present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough members leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of members required to constitute a quorum. If a quorum is present at no time during a meeting, a majority of the members present may adjourn and reconvene the meeting one time without further notice.

SECTION 6. Actions of Membership. The membership shall try to act by consensus. However, the vote of a majority of voting members in good standing, present and entitled vote at a meeting at which a quorum is present, shall be sufficient to constitute the act of the membership unless the vote of a greater number is required by law or the By-Laws. A member in good standing is one who has paid all required fees and dues and is not suspended as of the date of the meeting. Voting shall be by ballot or voice, except that any election of directors shall be by ballot if demanded by any voting member at the meeting before the voting begins.

SECTION 7. Proxies. A member entitled to vote may vote by proxy executed in writing by the member. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

SECTION 8. Voting. The Association shall have two classes of voting membership as follows:

CLASS A: Class A Members shall be all Members who own all or any part of a Lot. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.

CLASS B: The Class B Member shall be Declarant (as that term is defined in the Declaration of Covenants, Conditions and Restrictions for Mallard Park Subdivision). In addition to any votes to which it may be entitled as a Class A Member, the Class B Member shall be entitled to ten votes for each vote allocated to a Class A Member hereunder. On the Declarant Termination Date, the Class B membership shall cease; following the Declarant Termination Date, only Class A membership will exist in the Association. If Declarant assigns its membership interest in the Association under subparagraph 3.1(b) above, such assignee shall thereafter be the Class B Member. Notwithstanding the foregoing, so long as there is a Class B Member, such Class B Member shall not vote in favor of (i) mortgaging the Common Areas (as defined in the Declaration), (ii) dissolution or amendments to these Bylaws or the Articles of Incorporation of the Association, or (iii) merging or consolidating the Association with another entity,

without the consent of VA (as defined in the Declaration) or HUD (as defined in the Declaration) (as applicable), to the extent such entity has a loan which is secured by a Lot.

A member may vote either in person, or unless the Articles of Incorporation otherwise provide, by proxy executed in writing by the member or by his or her duly authorized attorney-in-fact. Where Directors or officers are to be elected by members, such elections may be conducted by mail.

SECTION 9. Voting by Mail. The Board of Directors may authorize members to vote by mail on the election of directors and officers or on any other matter that may be voted on by the members.

SECTION 10. Informal Action by Members. Any action required or permitted to be taken at a meeting of the members may be taken without a meeting if a consent in writing, setting forth the action to be taken, shall be signed by all the members entitled to vote with respect to the subject matter thereof.

SECTION 11. Attendance by Telephone. Subject to the provisions of the Texas Non-Profit Corporation Act and these Bylaws concerning notice of meetings and unless otherwise restricted by the Articles of Incorporation or these Bylaws, members may participate in and hold a meeting of such members by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation shall constitute presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE III

Board of Directors

SECTION 1. General Power. The business and affairs of the corporation shall be managed by its Board of Directors except as the Board of Directors shall delegate the power to so manage to the Executive Committee or other committee.

SECTION 2. Number, Tenure and Qualifications. The initial Board of Directors named in the Articles of Incorporation shall serve in their capacity as directors until the first annual meeting of the shareholders of the corporation. Beginning with the first annual meeting of the shareholders, the number of directors composing the Board of Directors shall be THREE (3). Upon resolution of the Board of Directors, the number of directors may be increased or decreased, but no decrease shall have the effect of shortening the term of any incumbent director. Each director shall hold office until the next annual meeting of shareholders, unless earlier removed in accordance with the Articles of Incorporation, By-Laws, or law, and until his successor shall have been elected and qualified. A director need not be a resident of the State of Texas or a shareholder of the corporation.

SECTION 3. Regular Meetings. A regular meeting of the Board of Directors shall be held, without other notice than this By-Law, immediately after, and at the same place as, the annual meeting of the shareholders. The Board of Directors may provide, by resolution, the time and place, either within or

without the State of Texas, for the holding of additional regular meetings without other notice than such resolution.

SECTION 4. Special Meeting. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the State of Texas, as the place for holding any special meeting of the Board of Directors called by them.

SECTION 5. Notice. Notice of any special meeting shall be given at least two (2) days previous thereto by a written notice delivered personally or mailed to each director at his business address or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because that meeting is not lawfully called or convened. Neither the business to be transacted, nor the purpose of any regular or special meeting of the Board of Directors, need be specified in the notice or waiver of notice of such meeting.

SECTION 6. Quorum. A majority of the number of directors fixed in accordance with Section 2 of this Article II shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but, if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

SECTION 7. Manner of Acting.

(a) Actions at a Meeting. Except as provided in Paragraph (b) of this Section, and except as provided in Section 12 of this Article, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

(b) Actions Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors or the Executive Committee, or any other committee, may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the members of the Board of Directors, Executive Committee, or other committee, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting.

SECTION 8. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of shareholders called for that purpose. A vacancy shall be deemed to exist by reason of the death, resignation, failure, or refusal to act by the person elected, or upon

the failure of shareholders to elect directors to fill the unexpired term of directors removed in accordance with the provisions of Section 9 of this Article.

SECTION 9. Removal. At any meeting of the members called expressly for that purpose at which a quorum is present, any Director or the entire Board of Directors may be removed either for or without cause.

SECTION 10. Compensation. By resolution of the Board of Directors, the Directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as Director; provided, however, that the amount of any compensation paid to a Director shall be reasonable and shall be only as permitted by the Texas Non-Profit Corporation Act and these Bylaws. No such payment shall preclude any Director from serving the Corporation in any other capacity and receiving reasonable compensation thereof; provided, however, that any compensation received by a Director for services to the Corporation that is determined in whole or in part to be unreasonable by the Internal Revenue Service shall be reimbursed by such Director to the Corporation, and each Director, by virtue of becoming a Director, agrees to execute and deliver to the Corporation any and all documents reasonably requested by the Corporation in order to provide for such reimbursement.

SECTION 11. Presumption of Assent. A director of the corporation who is present at a meeting of the Board of Directors in which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting, or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

SECTION 12. Executive and other Committees. The Board of Directors, by resolution adopted by a majority of the Directors in office, may from time to time designate one or more committees, including an Executive Committee, which, to the extent provided in such resolution, shall have and exercise the authority of the Board of Directors in the management of the Corporation. Each such committee shall consist of two (2) or more persons, a majority of whom are Directors; the remainder need not be Directors. Any non-Director who becomes a member of any such committee shall have the same responsibility with respect to such committee as a Director who is a member thereof. A majority of all the members of any such committee may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. The Board of Directors shall have the power at any time to change the number and members of such committee, to fill vacancies and to discharge any such committee. Other committees not having and exercising the authority of the Board of Directors in the management of the Corporation may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the President thereunto authorized by a like resolution of the Board of Directors. Membership on such committees may, but need not be, limited to Directors.

ARTICLE IV

Officers

SECTION 1. Number. The officers of the corporation shall be a president, one or more vice presidents, secretary and treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary, may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except for the president and secretary.

SECTION 2. Election and Term of Office. The officers of the corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the meeting of the Board of Directors held after each annual meeting of the shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Each officer shall hold office until his successor shall have been duly elected and shall have been qualified, or until his death, or until he shall resign or shall have been removed in the manner hereinafter provided.

SECTION 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever, in its judgment, the interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

SECTION 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 5. Chairman of the Board. The Chairman of the Board, if one is elected, shall preside at all meetings of the Board of Directors and shall have such other powers and duties as may from time to time be prescribed by the Board of Directors, upon written directions given him pursuant to resolutions duly adopted by the Board of Directors.

SECTION 6. President. The President shall be the principal executive officer of the corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the corporation. He shall, when present, preside at all meetings of the shareholders and of the Board of Directors. He may sign, with the Secretary or any other proper officers of the corporation thereunto authorized by the Board of Directors, certificates for shares of the corporation, any deeds, bonds, mortgages, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time. He shall further have the authority to appoint and remove, employ and discharge, and prescribe the duties and fix the compensation of all agents, employees and clerks of the corporation, other than the duly appointed officers, subject to the approval of the Board of Directors, and control all of the officers, agents and employees of the corporation, subject to the direction of the Board of Directors.

SECTION 7. Vice Presidents. As may be deemed necessary and as may be elected by the Board of Directors, the Vice-President, if such office is held, shall have the following duties and responsibilities. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or should there be more than one vice president, the vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President may sign, with the Secretary or an assistant secretary, certificates for shares of the corporation, and shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 8. Secretary. The Secretary shall (a) keep the minutes of the shareholders' and the Board of Directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws, or as required by law; (c) be custodian of the corporate records and of the seal of the corporation, and see that the seal of the corporation is affixed to all documents, the execution of which, on behalf of the corporation under its seal, is duly authorized; (d) keep a register of the post office address of each shareholder, which shall be furnished to the Secretary by such shareholder; (e) sign with the President or a Vice President certificates for shares of the corporation, the issuance of which shall have been authorized by resolution of the Board of Directors; (f) have general charge of the stock transfer books of the corporation; and (g) in general, perform all duties incident to the office of the Secretary, and such other duties as from time to time may be designated to him by the President or by the Board of Directors.

SECTION 9. Treasurer. The Treasurer shall have the following duties and responsibilities. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum, and with such surety or sureties, as the Board of Directors shall determine. He shall (a) have charge and custody of, and be responsible for, all funds and securities of the corporation from any source whatsoever, and deposit all such monies in the name of the corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors; and (b) in general, perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

SECTION 10. Compensation; Restrictions on Loans and Dividends. The Corporation may pay compensation in a reasonable amount of its Directors, officers and other agents for services rendered, but only as permitted by the Texas Non-Profit Corporation Act and these Bylaws. The salaries and other compensation of all officers and agents of the Corporation shall be fixed by the Board of Directors. Any compensation paid to any officer of the Corporation in the form of salary, commission, bonus or otherwise that is determined in whole or in part to be unreasonable by the Internal Revenue Service shall be reimbursed by such officer to the Corporation, and each officer, by virtue of becoming an officer, agrees to execute and deliver to the Corporation any and all documents reasonably requested by the Corporation in order to provide for such reimbursement. No dividend shall be paid and no part of the income of the Corporation shall be distributed to its Directors or officers. No loan shall be made by the Corporation to its Directors, officers or employees.

SECTION 11. Bond. If required by the Board of Directors, the Treasurer shall give the Corporation a bond of such type, character and amount as the Board of Directors may require.

ARTICLE V

Committees

SECTION 1. Establishment of Committees. The Board of Directors may adopt a resolution establishing one or more committees delegating specified authority to a committee, and appointing or removing members of a committee. A committee shall include two or more directors and may include persons who are not directors. If the Board of Directors delegates any of its authority to a committee, the majority of the committee shall consist of directors. The Board of Directors may establish qualifications for membership on a committee. The Board of Directors may delegate to the President its power to appoint and remove members of a committee that has not been delegated any authority of the Board of Directors. The establishment of a committee or the delegation of authority to it shall not relieve the Board of Directors, or any individual director, of any responsibility imposed by the By-Laws or otherwise imposed by law. No committee shall have the authority of the Board of Directors to:

- (a) Amend the Articles of Incorporation.
- (b) Adopt a plan of merger or a plan of consolidation with another corporation.
- (c) Authorize the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the corporation.
- (d) Authorize the voluntary dissolution of the corporation.
- (e) Revoke proceedings for the voluntary dissolution of the corporation.
- (f) Adopt a plan for the distribution of the assets of the corporation.
- (g) Amend, alter or repeal the bylaws.
- (h) Elect, appoint, or remove a member of a committee or a director or officer of the corporation.
- (i) Approve any transaction to which the corporation is a party and that involves a potential conflict of interest as defined below.
- (j) Take any action outside the scope of authority delegated to it by the Board of Directors.

- (k) Take final action on a matter that requires the approval of the members.

SECTION 2. Authorization of Specific Committees. There shall be the following committees: Membership, Nominating, and Program Committees. The Board of Directors shall define the activities and scope of authority of each committee by resolution.

SECTION 3. Term of Office. Each member of a committee shall continue to serve on the committee until the next annual meeting of the members of the corporation and until a successor is appointed. However, the term of a committee member may terminate earlier if the committee is terminated, or if the member dies, ceases to qualify, resigns, or is removed as a member. A vacancy on a committee may be filled by an appointment made in the same manner as an original appointment. A person appointed to fill a vacancy on a committee shall serve for the unexpired portion of the terminated committee member's term.

SECTION 4. Chair and Vice-Chair. One member of each committee shall be designated as the chair of the committee and another member of each committee shall be designated as the vice-chair. The chair and vice-chair shall be appointed by the President of the corporation. The chair shall call and preside at all meetings of the committee. When the chair is absent, is unable to act, or refuses to act, the vice-chair shall perform the duties of the chair. When a vice-chair acts in place of the chair, the vice-chair shall have all the powers of and be subject to all the restrictions upon the chair.

SECTION 5. Notice of Meetings. Written or printed notice of a committee meeting shall be delivered to each member of a committee not less than five nor more than thirty days before the date of the meeting. The notice shall state the place, day, and time of the meeting, and the purpose or purposes for which the meeting is called.

SECTION 6. Quorum. One-half of the number of members of a committee shall constitute a quorum for the transaction of business at any meeting of the committee. The committee members present at a duly called or held meeting at which a quorum is present may continue to transact business even if enough committee members leave the meeting so that less than a quorum remains. However, no action may be approved without the vote of at least a majority of the number of committee members required to constitute a quorum. If a quorum is present at no time during the meeting, the chair may adjourn and reconvene the meeting one time without further notice.

SECTION 7. Actions of Committees. Committees shall try to take action by consensus. However, the vote of a majority of committee members present and voting at a meeting at which a quorum is present shall be sufficient to constitute the act of the committee unless the act of a greater number is required by law or by bylaws. A committee member who is present at a meeting and abstains from a vote is considered to be present and voting for the purpose of determining the act of the committee.

SECTION 8. Proxies. A committee member may vote by proxy executed in writing by the committee member. No proxy shall be valid after eleven months from the date of its execution.

SECTION 9. Compensation. Committee members may receive salaries for their services. The Board of Directors may adopt a resolution providing for payment to committee members of a fixed sum and expenses of attendance, if any, for attendance at each meeting of the committee. A committee member may serve the corporation in any other capacity and receive compensation for those services. Any compensation that the corporation pays to a committee member shall be commensurate with the services performed and shall be reasonable in amount.

SECTION 10. Rules. Each committee may adopt rules for its own operation not inconsistent with the bylaws of with rules adopted by the Board of Directors.

ARTICLE VI

Transactions of the Corporation

SECTION 1. Contracts. The Board of Directors may authorize any officer or agent of the corporation to enter into a contract or execute and deliver any instrument in the name of and on behalf of the corporation. This authority may be limited to a specific contract or instrument or it may extend to any number and type of possible contracts and instruments.

SECTION 2. Deposits. All funds of the corporation shall be deposited to the credit of the corporation in banks, trust companies, or other depositories that the Board of Directors selects.

SECTION 3. Gifts. The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the corporation. The Board of Directors may make gifts and give charitable contributions that are not prohibited by the bylaws, the articles of incorporation, state law, and any requirements for maintaining the corporation's federal and state tax status.

SECTION 4. Conveyance of Land. The Corporation may convey land by deed, with or without the seal of Corporation, signed by the President or any Vice-President or attorney-in-fact of the Corporation when authorized by appropriate resolution of the Board of Directors or Members.

SECTION 5. Checks. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

SECTION 6. Potential Conflicts of Interest. The corporation shall not make any loan to a director or officer of the corporation. A member, director, officer, or committee member of the corporation may lend money to and otherwise transact business with the corporation except as otherwise provided by

the bylaws, articles of incorporation, and all applicable laws. Such a person transacting business with the corporation has the same rights and obligations relating to those matters as other persons transacting business with the corporation. The corporation shall not borrow money from or otherwise transact business with a member, director, officer, or committee member of the corporation unless the transaction is described fully in a legally binding instrument and is in the best interests of the corporation. The corporation shall not borrow money from or otherwise transact business with a member, director, officer, or committee member of the corporation without full disclosure of all relevant facts and without the approval of the Board of Directors or the members, not including the vote of any person having a personal interest in the transaction.

SECTION 7. Prohibited Acts. As long as the corporation is in existence, and except with the prior approval of the Board of Directors or the members, no member, director, officer, or committee member of the corporation shall:

- (a) Do any act in violation of the bylaws or a binding obligation of the corporation.
- (b) Do any act with the intention of harming the corporation or any of its operations.
- (c) Do any act that would make it impossible or unnecessarily difficult to carry on the intended or ordinary business of the corporation.
- (d) Receive an improper personal benefit from the operation of the corporation.
- (e) Use the assets of this corporation, directly or indirectly, for any purpose other than carrying on the business of this corporation.
- (f) Wrongfully transfer or dispose of corporation property, including intangible property such as good will.
- (g) Use the name of the corporation (or any substantially similar name) or any trademark or trade name adopted by the corporation, except on behalf of the corporation in the ordinary course of the corporation's business.
- (h) Disclose any of the corporation business practices, trade secrets, or any other information not generally known to the business community to any person not authorized to receive it.

ARTICLE VII

Books and Records

SECTION 1. Required Books and Records. The corporation shall keep correct and complete books and records of account. The corporation's books and records shall include:

- (a) A file-endorsed copy of all documents filed with the Texas Secretary of State relating to the corporation, including, but not limited to, the articles of incorporation, and any articles of amendment, restated articles, articles of merger, articles of consolidation, and statement of change of registered office or registered agent.
- (b) A copy of the bylaws, and any amended versions or amendments to the bylaws.
- (c) Minutes of the proceedings of the members, Board of Directors, and committees having any of the authority of the Board of Directors.
- (d) A list of the names and addresses of the members, directors, officers, and any committee members of the corporation.
- (e) A financial statement showing the assets, liabilities, and net worth of the corporation at the end of the three most recent fiscal years.
- (f) A financial statement showing the income and expenses of the corporation for the three most recent fiscal years.
- (g) All rulings, letters, and other documents relating to the corporation's federal, state, and local tax status.
- (h) The corporation's federal, state, and local information or income tax returns for each of the corporation's three most recent tax years.

SECTION 2. Inspection and Copying. Any member, director, officer, or committee member of the corporation may inspect and receive copies of all books and records of the corporation required to be kept by the bylaws. Such a person may inspect or receive copies if the person has a proper purpose related to the person's interest in the corporation and if the person submits a request in writing. Any person entitled to inspect and copy the corporation's books and records may do so through his or her attorney or other duly

authorized representative. A person entitled to inspect the corporation's books and records may do so at a reasonable time no later than ten working days after the corporation's receipt of a proper written request. The Board of Directors may establish reasonable fees for copying the corporation's books and records by members. The corporation shall provide requested copies of books or records no later than ten working days after the corporation's receipt of a proper written request.

SECTION 3. Audits. Any member shall have the right to have an audit conducted of the corporation's books. The member requesting the audit shall bear the expense of the audit unless the members vote to authorize payment of audit expenses. The member requesting the audit may select the accounting firm to conduct the audit. A member may not exercise these rights to compel audits so as to subject the corporation to an audit more than once in any fiscal year.

ARTICLE VIII

Fiscal Year

The Board of Directors shall, by resolution, fix the fiscal year of the corporation.

ARTICLE IX

Waiver of Notice

Whenever any notice is required to be given to any shareholder or director of the corporation under the provisions of these By-Laws under the provisions of the Articles of Incorporation, or under the provisions of the Texas Non-Profit Corporation Act, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

ARTICLE X

Procedure

Meetings of the members and of the Board of Directors shall be conducted in accordance with the procedure as contained in Robert's Rules of Order, to the extent applicable.

ARTICLE XI

Indemnification of and Insurance Covering Directors, Officers and Other Persons

SECTION 1. Power to Indemnify and to Purchase Indemnity Insurance. To the maximum extent permitted by Article 1396-2.22A of the Texas Non-Profit Corporation Act (without regard, however,

to Section Q, of such Article), the Corporation shall indemnify any person who is or was a director or officer of the Corporation against any and all judgments, penalties, (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by such person in connection with a proceeding (as defined in Article 1396-2.22A) because of that person's service or status as a director or officer. Further, the Corporation shall pay or reimburse reasonable expenses incurred by a director or officer who was, is or is threatened to be made a party in a proceeding, in advance of the final disposition of the proceeding, to the maximum extent permitted by Article 1396-2.22A; provided, however, that payment or reimbursement of expenses pursuant to the procedures set out in Section K of Article 1396-2.22A may be conditioned upon a showing, satisfactory to the Board of Directors in its sole discretion, of the financial ability of the officer or director in question to make the repayment referred to in such Section. Further, the Corporation may indemnify, and may reimburse or advance expenses to or purchase and maintain insurance or any other arrangement on behalf of, any person who is or was a director, officer, employee or agent to the Corporation, or who is or was serving at the request of the Corporation as a director, officer, partner, venturer, proprietor, director, employee, agent or similar functionary of another corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, in connection with any liability asserted against such person because of such service or status, to such further extent, consistent with Article 1396-2.22A and other applicable law, as the Board of Directors may from time to time determine. The provisions of this section shall not be deemed exclusive of any other rights to which any such person may be entitled under any bylaw, agreement, insurance policy, or otherwise. No amendment, modification or repeal of this section shall in any manner terminate, reduce or impair the right of any person to be indemnified by the Corporation in accordance with the provisions of the section as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matter occurring prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

ARTICLE XII

Participation of Directors and Officers in Related Business

Officers and directors of this corporation may hold positions as officers and directors of other corporations, in related businesses, and their efforts to advance the interest of those corporations will not create a breach of fiduciary capacity to this corporation in the absence of showing of bad faith.

ARTICLE XIV

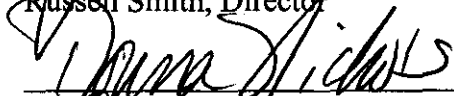
Amendments

The initial By-Laws shall be adopted by the Board of Directors of the corporation. The power to alter, amend, or repeal the By-Laws or adopt new By-Laws shall be vested in the Board of Directors, subject to the provisions of Article II, Section 8 hereof.

The foregoing By-Laws were adopted by the Board of Directors on the 2nd day of DECEMBER 2004.



Russell Smith, Director



Dorna Nichols, Director



John Wheelock, Director

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS 2006046306

Nancy E. Rister

06/06/2006 04:32 PM

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NANCY E. RISTER, COUNTY CLERK

WILLIAMSON COUNTY, TEXAS

Courtesy 6608
RF



RECORDED BY
NORTH AMERICAN TITLE

428-

THIRD AMENDMENT TO MALLARD PARK DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS §
 §
COUNTY OF WILLIAMSON §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, on or about September 23, 2004, an instrument entitled "Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Declaration"), was filed of record in Document No. 2004074685, in the Official Public Records of Williamson County, Texas, by MALLARD PARK TAYLOR, LTD., a Texas limited partnership ("Mallard"); and

WHEREAS, on or about December 13, 2004, Mallard assigned its Declarant Rights under the Declaration to LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership (the "Declarant") and such Assignment of Declarant Rights was filed of record in Document No. 2004095538, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about February 25, 2005, Declarant amended the Declaration and filed an instrument entitled "First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "First Amendment"), as Document No. 2005013977, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about March 10, 2006, Declarant further amended the Declaration and filed an instrument entitled "First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" which was actually the second amendment to the Declaration and should have been titled the "Second Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Second Amendment"), as Document No. 2006018882, in the Official Public Records of Williamson County, Texas; and

WHEREAS, Article 8, Section 8.2(a) of the Declaration provides that the Declarant acting alone may amend the Declaration so long as Declarant owns at least one (1) Lot in the Association (as that term is defined in the Declaration); and

WHEREAS, Declarant holds at least one (1) Lot in the Association; and

WHEREAS, Declarant now desires to further amend the Declaration to remove three (3) lots from the Declaration as such lots are to be maintained by the City of Taylor and not by the Association;

NOW THEREFORE, for Ten and NO/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declaration is hereby amended as follows:

1. Section 1.16 of the Declaration is hereby deleted and replaced with the following:

1.16 Lot(s). "Lot" or "Lots" shall mean the lot or lots of land within the Property as established on the final recorded plat for the Subdivision, except for the "Excluded Lots" (as defined below), which shall be specifically excluded from the definition of "Lot" or "Lots" and shall not be subject to this Declaration. The Excluded Lots are:

- Lot Eleven (11), Block "A", MALLARD PARK, PHASE 1, City of Taylor, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet Z, Slides 74-75, Plat Records, Williamson County, Texas.
- Lot Twelve (12), Block "A", MALLARD PARK, PHASE 1, City of Taylor, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet Z, Slides 74-75, Plat Records, Williamson County, Texas.
- Lot Nineteen (19), Block "F", MALLARD PARK, PHASE 2, City of Taylor, Williamson County, Texas, according to the map or plat thereof recorded in Cabinet BB, Slides 224-225, Plat Records, Williamson County, Texas.

2. Except as specifically provided in this Amendment, the terms of the Declaration which do not conflict with this Amendment continue to encumber the Property, and all terms of the Declaration as amended by this Amendment, which do not conflict and/or are consistent remain in full force and effect. If there is any conflict or inconsistency between this Amendment and the Declaration this Amendment will control and modify the Declaration.

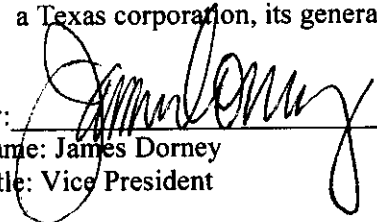
* * *

EXECUTED on this the 21st day of August, 2006.

DECLARANT:

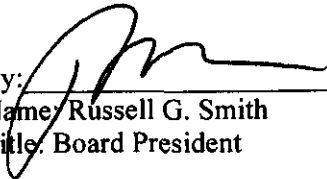
LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION,
LTD., a Texas limited partnership

By: LENNAR TEXAS HOLDING COMPANY,
a Texas corporation, its general partner

By: 
Name: James Dorney
Title: Vice President

ACKNOWLEDGED AND AGREED:

MALLARD PARK HOMEOWNERS ASSOCIATION, INC.,
a Texas non-profit corporation

By: 
Name: Russell G. Smith
Title: Board President

Address:

Mallard Park Homeowners Association, Inc.
1779 Wells Branch Parkway, #110B
Box: 314
Austin, Texas 78728

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 21st day of August, 2006 by James Domey, DP of Lennar Texas Holding Company, a Texas corporation, as General Partner of Lennar Homes of Texas Land & Construction, Ltd., a Texas limited partnership, on behalf of said partnership.



Lacey Puschman
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me on this 21st day of August, 2006 by Russell Smith, Board President of Mallard Park Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said entity.

Lacey Puschman
Notary Public, State of Texas

After recording to:

Joel Messina,
Buffington & Messina, P.C.
1710 West Sixth Street
Austin, Texas 78703



32
RETURN TO:
NORTH AMERICAN TITLE
12301 Research, Building 4, Ste. 120
Austin, TX 78759

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS 2006072192

Nancy E. Rister
08/23/2006 03:02 PM
PHOLTZ \$28.00
NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

Courtesy 6/8
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RECORDED BY
NORTH AMERICAN TITLE

FOURTH AMENDMENT TO MALLARD PARK DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

690

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

WHEREAS, on or about September 23, 2004, an instrument entitled "Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Declaration"), was filed of record in Document No. 2004074685, in the Official Public Records of Williamson County, Texas, by MALLARD PARK TAYLOR, LTD., a Texas limited partnership ("Mallard"); and

WHEREAS, on or about December 13, 2004, Mallard assigned its Declarant Rights under the Declaration to LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership (the "Declarant") and such Assignment of Declarant Rights was filed of record in Document No. 2004095538, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about February 25, 2005, Declarant amended the Declaration and filed an instrument entitled "First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "First Amendment"), as Document No. 2005013977, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about March 10, 2006, Declarant further amended the Declaration and filed an instrument entitled "First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" which was actually the second amendment to the Declaration and should have been titled the "Second Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Second Amendment"), as Document No. 2006018882, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about August 23, 2006, Declarant annexed Phase 2 of the Subdivision and filed an instrument entitled Supplemental Declaration for the Annexation of MALLARD PARK ADDITION, PHASE 2 into the Mallard Park Declaration of Covenants, Conditions and Restrictions (the "Phase 2 Annexation Declaration") as Document No. 2006072193, in the Official Public Records of Williamson County, Texas; and

WHEREAS, on or about August 23, 2006, Declarant further amended the Declaration and filed an instrument entitled "Third Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions" (the "Third Amendment"), as Document No. 2006072192, in the Official Public Records of Williamson County, Texas; and

WHEREAS, Article 8, Section 8.2(a) of the Declaration provides that the Declarant acting alone may amend the Declaration so long as Declarant owns at least one (1) Lot in the Association (as that term is defined in the Declaration); and

WHEREAS, Declarant holds at least one (1) Lot in the Association; and

WHEREAS, Declarant has agreed, pursuant that certain Mutual Release Agreement (the "Mutual Release Agreement") attached hereto as Exhibit "A", between Declarant and the City of Taylor, Texas, a Home Rule municipal political subdivision (the "City"), to impose a more restrictive square footage requirement on several lots in the Subdivision; and

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NORTH AMERICAN TITLE
12301 Research, Building 4, Ste. 120
Austin, TX 78759

WHEREAS, Declarant now desires to amend the Declaration to increase the minimum square footage requirements of certain lots as required by the Mutual Release Agreement, but only as to such lots;

NOW THEREFORE, for Ten and NO/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declaration is hereby amended as follows:

1. Notwithstanding anything to the contrary in the Declaration, the minimum square footage requirement for the lots described on Exhibit "B" attached hereto (the "Restricted Lots") shall be amended such that any single family dwelling structure constructed on a Restricted Lot shall contain no less than 1,600 square feet of heated and air conditioned living space. The Restricted Lots shall include only those lots listed on Exhibit "B" and any square footage requirements for any other lots under the Declaration, as amended, shall remain unchanged.
2. Except as specifically provided in this Amendment, the terms of the Declaration which do not conflict with this Amendment continue to encumber the Property, and all terms of the Declaration as amended by this Amendment, which do not conflict and/or are consistent remain in full force and effect. If there is any conflict or inconsistency between this Amendment and the Declaration this Amendment will control and modify the Declaration.

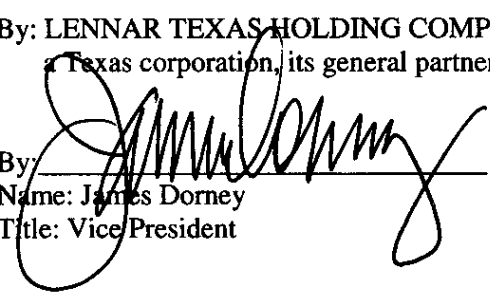
* * *

EXECUTED on this the 8th day of November, 2006.

DECLARANT:

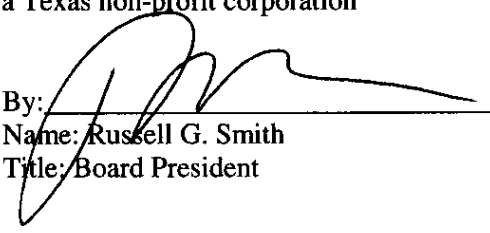
**LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION,
LTD., a Texas limited partnership**

By: **LENNAR TEXAS HOLDING COMPANY,**
a Texas corporation, its general partner

By: 
Name: James Dorney
Title: Vice President

ACKNOWLEDGED AND AGREED:

MALLARD PARK HOMEOWNERS ASSOCIATION, INC.,
a Texas non-profit corporation

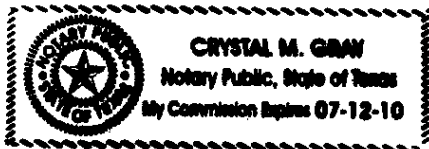
By: 
Name: Russell G. Smith
Title: Board President

Address:

Mallard Park Homeowners Association, Inc.
1779 Wells Branch Parkway, #110B
Box: 314
Austin, Texas 78728

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

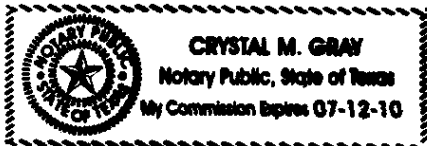
This instrument was acknowledged before me on this 8th day of November, 2006 by JAMES DORNEY, VICE-PRESIDENT of Lennar Texas Holding Company, a Texas corporation, as General Partner of Lennar Homes of Texas Land & Construction, Ltd., a Texas limited partnership, on behalf of said partnership.



Crystal M. Gray
Notary Public, State of Texas

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

This instrument was acknowledged before me on this 8th day of November, 2006 by RUSSELL SMITH, BOARD PRESIDENT of Mallard Park Homeowners Association, Inc., a Texas non-profit corporation, on behalf of said entity.



Crystal M. Gray
Notary Public, State of Texas

After recording, return to:

Joel Messina,
Buffington & Messina, P.C.
1710 West Sixth Street
Austin, Texas 78703

EXHIBIT "A"

MUTUAL RELEASE AGREEMENT

MUTUAL RELEASE AGREEMENT

This Mutual Release Agreement is made by and between The City of Taylor, Texas, a Home Rule municipal political subdivision ("City") and Lennar Homes of Texas Land and Construction, LTD, a Texas Limited Partnership ("Lennar") and all of which are collectively referred to as the "Undersigned", and evidence the following:

WHEREAS, the City, Rice Park, Inc., as Developer, Doug Schernik, Bobby Schernik, and Randall Schernik as Owners entered into an Agreement Regarding Development, dated January 29, 2003, ("Agreement") regarding the development of 38.21 acres of land, more or less, described in a deed filed of record in Volume 2261, Page 334, Official Records of Williamson County, Texas, subsequently developed into the Mallard Park Addition, Phase I and Phase II ("Property"); and

WHEREAS, the Agreement provided for construction of single family houses of 1,600 square feet of heated and cooled living area for each single family house constructed on lots 8,000 square feet allowed under the Agreement; and

WHEREAS, the Agreement was made a part of Ordinance No. 2003-1 rezoning the Property to single family (R-1) adopted by the City January 28, 2003 ("Ordinance"); and

WHEREAS, the Agreement was binding on all parties to the Agreement and their respective heirs, successors and assigns and by all parties claiming by, through or under them; and

WHEREAS, the Property was conveyed to Lennar after development of the Property in real estate sales transactions; and

WHEREAS, Lennar claims the City did not provide proper notice of the Agreement by including the requirement to construct 1,600 square foot heated and cooled homes on the 8,000 square foot lots on the Plats of the Property prior to development and Lennar constructed and is preparing to construct homes less than 1,600 square feet on the lots requiring such construction; and

WHEREAS, the City claims sufficient notice of the Agreement is within the Ordinance requiring compliance by Lennar and Lennar's failure to construct 1,600 square foot heated and cooled homes on the required 8,000 square foot lots is a violation of the Agreement requiring, among other things, stop orders and revocation of construction permits; and

WHEREAS, a dispute arose between the Undersigned; and

WHEREAS, the Undersigned understand and agree claims asserted among them are in dispute and have settled the dispute by compromise to avoid litigation and to buy peace.

NOW THEREFORE, in consideration of this Mutual Release Agreement between the parties:

- A. Lennar shall construct single family homes having 1,600 square feet or more of heated and cooled living space on the lots and blocks in the Mallard Park Addition, Phase II, having the street address shown in Exhibit "A" attached hereto and incorporated by reference

herein.

- B. The City will not issue stop orders for construction on Lot 19, Block E, Mallard Park Addition Phase II, 2507 Meadow Lane, and Lot 21, Block E, Meadow Park Addition Phase II, 2503 Meadow Lane, on which construction has started but has not been completed and on which single family homes will be constructed having less than 1,600 square feet of heated and cooled living space.
- C. The City will not require compliance with the Agreement on Lot 33, Block E, Mallard Park Addition, Phase I, 2202 Boyer, Lot 34, Block E, Mallard Park Addition, Phase I, 2204 Boyer, and Lot 29, Block E, Mallard Park Addition, Phase II, 2106 Boyer, on which construction of single family homes having less than 1,600 square feet of heated and cooled living space has been completed.
- D. Lennar shall file deed restrictions in the County Clerk's office of Williamson County, Texas, requiring the improvements constructed on the lots described in paragraph A. above and Exhibit "A" attached hereto to contain no less than 1,600 square feet of heated and air conditioned living space.
- E. The City shall be entitled to file Ordinance 2003-1 and this Mutual Release for public record in the County Clerk's office of Williamson County, Texas.

F. Lennar acknowledges the Agreement and will comply with the Agreement in all other respects.

And for the premises and mutual promises and covenants herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, each of the Undersigned parties, for their representatives, agents, predecessors, successors, assigns, heirs, heirs-at-law, executors, administrators, agents, employees, and all other representatives including, but not limited to, legal representatives, both singularly and collectively, hereinafter referred to collectively as "Released Parties", and all other persons, firms, organizations, or corporations in privity with the Released Parties, whether named herein or not, do hereby compromise, settle and fully release and forever discharge each other of and from any and all claims, liabilities, obligations, demands, controversies, actions, or causes of action which they have held or may now, or in the future, own or hold under any statutory, common law or equitable remedies for damages, costs, interest, and attorney's fees of any type which may have accrued or may ever accrue to them, their successors and assigns, heirs, heirs-at-law, executors, legal representatives, estates, agents and servants, or any other loss of whatever nature, whether known or unknown, including, but not limited to, actual damages, consequential damages, treble damages, additional damages, exemplary damages, interest, costs, and attorney's fees arising from, or in any way

growing out of, or resulting from, or to result from the construction of homes having less than 1,600 square feet of heated and cooled living area for each single family residence required in the Agreement. This Mutual Release does not release any parties not made a party to this Mutual Release and releases only the condition requiring construction of 1,600 square foot heated and cooled homes on the 8,000 square foot lots identified in the Agreement and no other provisions in the Agreement are released.

I.

The Undersigned hereby certify, warrant and declare they constitute the only persons entitled to recover and that there has been no previous assignment of any claims, demands, actions, or causes of action herein released.

II.

Without limitation of the general nature of this Mutual Release, for the same consideration, the Undersigned do hereby agree to indemnify, save, and hold harmless forever the Released Parties, their agents, servants, successors, and assigns and all other representatives thereof, both singularly and collectively, and all persons, firms, organizations, or corporations in privity with the Released Parties, whether named herein or not, of and from any other further obligation or liability whatsoever to any other person claiming to have an interest in the Undersigned's alleged claims made the subject of this Mutual Release, including without limitation, any claims for subrogation, contribution and

indemnity, vicarious liability, attorney's fees, costs of court, litigation expenses, and interest. It is the specific intent of the Undersigned that the Released Parties shall not hereafter be subject to exposure to any liability whatsoever to any other person, firm, organization, corporation, or governmental agency or entity arising either directly or indirectly from the transaction above described.

III.

It is further expressly understood and agreed, and it is hereby further warranted by the Undersigned, they are acting voluntarily and of their own free will, and that this Mutual Release was not induced by any representation whatsoever by the Released Parties or any other representatives. The Undersigned are in no manner relying upon a promised warranty, representation, or agreement of any kind whatsoever made directly or indirectly by, or on behalf of the Released Parties, save and except that which is expressly set forth herein. The Undersigned are relying upon the advice of their own attorney, who have reviewed this Mutual Release, and on the independent judgment exercised by the Undersigned as to the rights and obligations of this Mutual Release.

IV.

The Undersigned do further understand that this is a FULL, FINAL, AND COMPLETE SETTLEMENT AND MUTUAL RELEASE of any and all claims of any character and kind whatsoever arising from the

claims described herein, or which could have been asserted and that the Undersigned will never assert any further claims against the Released Parties, their agents, servants, successors, and assigns and all other representatives thereof, both singularly and collectively, and all other persons, firms, organizations, or corporations in privity with the Released Parties, whether named herein or not, which relate to the transaction above described.

V.

It is further expressly understood and agreed that this settlement and Mutual Release is a compromise of disputed claims and is not to be construed as an admission of liability of any Released Party and liability is expressly denied, and that the consideration is given in a compromise of disputed claims to avoid the time, trouble, and expense of further investigation and litigation of the claims.

VI.

IT IS FURTHER EXPRESSLY UNDERSTOOD AND AGREED THAT THIS MUTUAL RELEASE SHALL BE INTERPRETED AND CONSTRUED UNDER THE LAWS OF THE STATE OF TEXAS with venue, performance and jurisdiction in Williamson County, Texas, and that should any part or provision of this Mutual Release be determined invalid, for any reason, the remaining portions hereof shall continue in effect.

VII.

The Undersigned further agree to execute such other and further releases, motions, documents, and any other instruments as

may be necessary, or desirable, to effect the complete settlement of the rights, claims, interests, actions and causes of action herein released.

VIII.

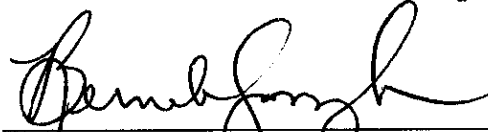
It is expressly understood and agreed the terms hereof are contractual and not merely recitals and the agreements herein contained and the consideration, is to compromise doubtful and disputed claims, avoid litigation, buy peace.

IX.

Each party hereto acknowledges that they have read and understand the effect of the above and foregoing mutual release, and execute the same of their own free will and accord for the purposes and considerations set forth. SIGNED on the date of the parties' acknowledgement set forth below.

UNDERSIGNED:

The City of Taylor, Texas,
A Texas Home Rule Municipality



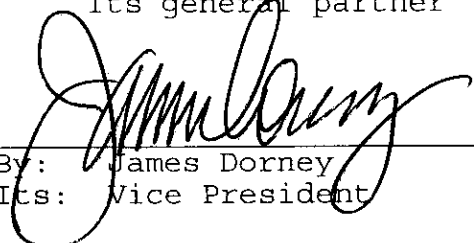
By: Bernabe Gonzales
Its: Mayor

ATTEST:


Susan Brock, City Clerk

Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership

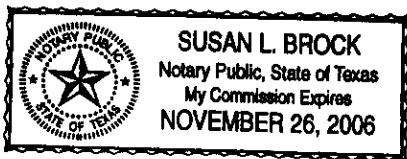
By: Lennar Texas Holding Company,
G.P., a Texas corporation,
Its general partner

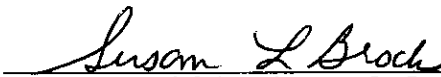

By: James Dorney
Its: Vice President

STATE OF TEXAS,
COUNTY OF WILLIAMSON.

BEFORE ME, the undersigned authority, on this day personally appeared Bernabe Gonzales, Mayor of the City of Taylor, Texas, a Texas Home Rule Municipality, known to me to be the person whose name is subscribed to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of the Texas Home Rule Municipality.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 24th day of October, 2006.



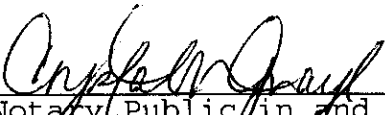

Notary Public in and for
The State of Texas

STATE OF TEXAS,
COUNTY OF WILLIAMSON.

BEFORE ME, the undersigned authority, on this day personally appeared James Dorney, Vice President of Lennar Texas Holding Company, G.P., a Texas corporation, general partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, known to me to be the person whose name is subscribed to the foregoing instrument, and swore and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated and as the act and deed of the Texas limited partnership.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 1st day of NOVEMBER, 2006.





Notary Public in and for
The State of Texas

EXHIBIT "A"

| Block | Lot | No. | Address |
|-------|-----|------|---------------|
| E | 25 | 2000 | Muscovey Cove |
| E | 24 | 1910 | Muscovey Cove |
| E | 23 | 1908 | Muscovey Cove |
| E | 22 | 2501 | Meadow Lane |
| E | 20 | 2505 | Meadow Lane |
| D | 18 | 2001 | Canvas Back |
| D | 19 | 2000 | Whistling Way |
| F | 17 | 1909 | Canvas Back |
| F | 18 | 2600 | Meadow Lane |
| C | 18 | 2001 | Brewers Place |
| C | 19 | 2000 | Canvas Back |
| B | 18 | 2000 | Brewers Place |
| F | 10 | 1910 | Canvas Back |
| F | 9 | 1911 | Brewers Place |
| F | 1 | 1910 | Brewers Place |

Minimum of 1,600 SF of air conditioned/heated living space

EXHIBIT "B"

RESTRICTED LOTS

The lots listed below are the Restricted Lots pursuant to the Fourth Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions. All lot references below are to lots in MALLARD PARK ADDITION, PHASE 2, a subdivision of record in Williamson County according to the map or plat thereof recorded in Cabinet BB, Slides 224 and 225 of the Plat Records of Williamson County, Texas.

| Block | Lot | Street Address |
|-------|-----|--------------------|
| E | 25 | 2000 Muscovey Cove |
| E | 24 | 1910 Muscovey Cove |
| E | 23 | 1908 Muscovey Cove |
| E | 22 | 2501 Meadow Lane |
| E | 20 | 2505 Meadow Lane |
| D | 18 | 2001 Canvas Back |
| D | 19 | 2000 Whistling Way |
| F | 17 | 1909 Canvas Back |
| F | 18 | 2600 Meadow Lane |
| C | 18 | 2001 Brewers Place |
| C | 19 | 2000 Canvas Back |
| B | 18 | 2000 Brewers Place |
| F | 10 | 1910 Canvas Back |
| F | 9 | 1911 Brewers Place |
| F | 1 | 1910 Brewers Place |

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS 2006100079

Nancy E. Rister

11/15/2006 04:53 PM

PHERBRICH \$80.00

NANCY E. RISTER, COUNTY CLERK

WILLIAMSON COUNTY, TEXAS



Courtesy Lde8

2

RECORDED BY
NORTH AMERICAN TITLE



4/28

AFTER RECORDING RETURN TO:

KALLISON/PIAA, LTD.
3355 CHERRY RIDGE, SUITE 100
SAN ANTONIO, TEXAS 78230
ATTN. C. EDWARD BARRON, III

**ASSIGNMENT OF DECLARANT'S RIGHTS AND AMENDMENT TO
MALLARD PARK DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

Williamson County, Texas

Cross Reference to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded as Document No. 2004074865, Official Public Records of Williamson County, Texas, as amended.

**ASSIGNMENT OF DECLARANT'S RIGHTS AND AMENDMENT TO MALLARD PARK
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Assignment of Declarant's Rights and Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions (this "Assignment") is made by **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.**, a Texas limited partnership ("Assignor"), and **KALLISON/PIAA, LTD.**, a Texas limited partnership ("Assignee"), and is as follows:

RECITALS

A. Assignor is the current "Declarant" under that certain Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded as Document No. 2004074865, Official Public Records of Williamson County, Texas, as amended (the "Declaration").

B. Assignor desires to transfer and assign all of its rights, title, and interest as Declarant under the Declaration to Assignee.

C. *Section 8.11* of the Declaration provides that Declarant may, in writing, assign, in whole or in part, any of its privileges, exemptions, rights and duties under the Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights and duties under the Declaration.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Transfer and Assignment of Declarant's Rights.** Assignor does hereby grant, sell, set over, transfer, and assign to Assignee, its successors and assigns, all of Assignor's right, title, interest, powers, privileges, benefits, and obligations as Declarant under the Declaration. Assignee shall hereinafter have all rights to act and exercise all rights, powers, privileges, benefits, and obligations as the Declarant under the Declaration.

2. **Amendment to Declaration.** Assignor, as Declarant, does hereby modify and amend the Declaration to substitute in its place, Assignee, as the "Declarant" for all intents and purposes. Assignee shall hereinafter have all rights to act and exercise all rights, powers, privileges, benefits and obligations as the Declarant under the Declaration.

3. **Assignee's Acceptance of Assignment.** Assignee accepts the assignment of Assignor's right, title, and interest as Declarant under the Declaration and expressly assumes and agrees to keep, perform, and fulfill all of the obligations of Assignor under the terms and provisions of the Declaration.

4. **No Other Changes.** Except as specifically set forth in this Assignment, the terms and provisions of the Declaration shall remain unmodified, and the Declaration is hereby confirmed as being in full force and effect as amended herein.

5. **Defined Terms.** All defined terms delineated with initial capital letters in this Assignment that are not defined herein shall have the meaning ascribed to them in the Declaration. Other terms have the meanings commonly ascribed to them.

6. **Survival of Provisions.** This Assignment shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

7. **Captions.** The captions of sections in this Assignment are for convenient reference only and are not to be construed in any way as part of this Assignment and Amendment.

8. **Execution.** To facilitate execution, this instrument may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signatures of all parties be contained in any one counterpart hereof. Additionally, the parties hereto hereby covenant and agree that, for purposes of facilitating the execution of this instrument, the signature pages taken from separate individually executed counterparts of this instrument may be combined to form multiple fully executed counterparts. All executed counterparts of this instrument shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same instrument.

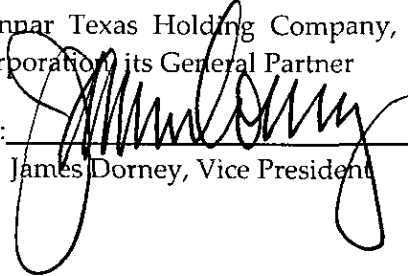
Executed to be effective this 19th day of NOVEMBER 2007.

[SIGNATURE PAGE FOLLOWS]

ASSIGNOR:

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

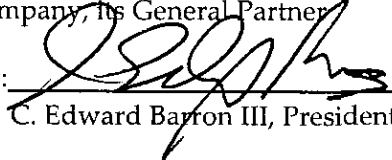
By: Lennar Texas Holding Company, a Texas corporation, its General Partner

By: 
James Dorney, Vice President

ASSIGNEE:

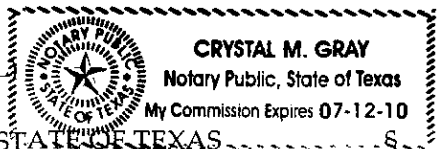
KALLISON/PIAA, LTD., a Texas limited partnership


By: EBJJ, LLC, a Texas limited liability company, its General Partner

By: 
C. Edward Barron III, President

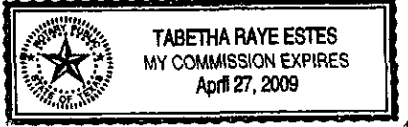
THE STATE OF TEXAS §
COUNTY OF TRAVIS §

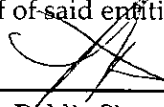
This instrument was acknowledged before me on this 19th day of November, 2007 by James Dorney, Vice President of Lennar Texas Holding Company, a Texas corporation, General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, on behalf of said entities.

(SEAL)  **CRYSTAL M. GRAY**
Notary Public, State of Texas
My Commission Expires 07-12-10
THE STATE OF TEXAS §
COUNTY OF _____ §


Notary Public Signature

This instrument was acknowledged before me on this 15th day of November, 2007 by C. Edward Barron III, President of EBJJ, LLC, a Texas limited liability company, General Partner of Kallison/PIAA, Ltd., a Texas limited partnership, on behalf of said entities.

(SEAL)  **TABETHA RAYE ESTES**
MY COMMISSION EXPIRES
April 27, 2009
4


Notary Public Signature

FILED AND RECORDED

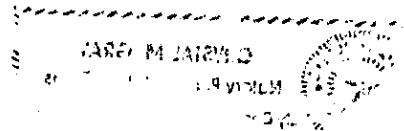
OFFICIAL PUBLIC RECORDS 2007097021

Nancy E. Rister

11/20/2007 01:08 PM

CMCNEELY \$28.00

NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS





AFTER RECORDING RETURN TO:



ROBERT D. BURTON, ESQ.
ARMBRUST & BROWN, L.L.P.
100 CONGRESS AVE., SUITE 1300
AUSTIN, TEXAS 78701

**FIFTH AMENDMENT TO MALLARD PARK DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

Williamson County, Texas

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

Cross Reference to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2004074685, Official Public Records of Williamson County, Texas as amended by that certain First Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2005013977, Official Public Records of Williamson County, Texas; that Second Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2006018882, Official Public Records of Williamson County, Texas; that Third Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2006072192, Official Public Records of Williamson County, Texas; and that Fourth Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2006100079, Official Public Records of Williamson County, Texas.

**FIFTH AMENDMENT TO MALLARD PARK DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Fifth Amendment to Mallard Park Declaration of Covenants, Conditions and Restrictions (the "Amendment") is made by **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD.**, a Texas limited partnership ("Declarant"), and is as follows:

RECITALS:

A. Mallard Park Taylor, Ltd., a Texas limited partnership ("MPT"), previously executed and recorded that certain Mallard Park Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2004074685, Official Public Records of Williamson County, Texas, as subsequently amended by those certain amendments recorded as Document Nos. 2005013977, 2006018882, 2006072192, and 2006100079 in the Official Public Records of Williamson County, Texas (collectively, the "Declaration").

B. MPT previously assigned to Declarant all of its right, title and interest as the "Declarant" pursuant to the Declaration by that certain Assignment of Declarant's Rights, recorded under Document No. 2004095538, Official Public Records of Williamson County, Texas.

C. Pursuant to Section 8.2 of the Declaration, the Declaration may be amended by Declarant acting alone so long as Declarant holds at least one Lot in the Mallard Park Homeowners Association, Inc., a Texas non-profit corporation (the "Association").

D. Declarant holds at least one Lot in the Association.

NOW THEREFORE, Declarant hereby amends and modifies the Declaration as follows:

1. **Alternative Dispute Resolution.** Section 8.13 of the Declaration is hereby deleted in the entirety and a new Article 9 is added to the Declaration as follows:

ARTICLE 9

DISPUTE RESOLUTION

9.1 **Agreement to Encourage Resolution of Disputes without Litigation.**

(a) **Bound Parties.** Declarant, the Association and its officers, directors, and committee members, all parties subject to this Declaration (collectively, the "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Property without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file a legal proceeding in any court with respect to a Claim described in subsection (b), unless and until it has first

submitted such Claim to the alternative dispute resolution procedures set forth in *Section 9.2* in a good faith effort to resolve such Claim.

(b) Claim(s). As used in this Article, the term "Claim" or "Claims" will refer to any claim, grievance or dispute arising out of or relating to:

- (i) The interpretation, application, or enforcement of the Declaration, any Supplemental Declaration, any Plans and Specifications, the Articles, Bylaws, and any rules and regulations adopted by the Board (collectively referred to as the "Restrictions"); or
- (ii) The rights, obligations, and duties of any Bound Party under the Restrictions; or
- (iii) The design or construction of Improvements within the Property, other than matters of aesthetic judgment under *Article 4*, which will not be subject to review.

(c) Not Considered Claims. The following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 9.2*:

- (i) The Association's claim for Assessments or any other amounts due under the Restrictions, and any action by the Association to collect such Assessments or other amounts;
- (ii) Any legal proceeding by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration;
- (iii) The Association's enforcement of the easements, architectural control, maintenance and/or use restrictions under this Declaration;
- (iv) Any legal proceeding which does not include Declarant or the Association as a party, if such legal proceeding asserts a Claim which would constitute a cause of action independent of the Restrictions;
- (v) Any legal proceeding in which any indispensable party is not a Bound Party; and/or

- (vi) Any legal proceeding as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 9.2(a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

9.2 **Dispute Resolution Procedures.**

(a) **Notice.** The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") will give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) The nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) The Claimant's proposed resolution or remedy; and
- (iv) The Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** The following provisions apply if the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 9.2(a)* (or within such other period as the parties may agree upon):

- (i) The Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Travis County, Texas;
- (ii) If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the

Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim;

- (iii) If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant will thereafter be entitled to file a legal proceeding or to initiate administrative proceedings on the Claim, as appropriate; and
- (iv) Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file a legal proceeding or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

9.3 Initiation of Litigation by Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association will not initiate any judicial or administrative proceeding unless first approved by a vote of the Members entitled to cast seventy-five percent (75%) of the votes in the Association, excluding the votes held by Declarant, except that no such approval will be required for actions or proceedings:

- (i) Initiated while Declarant owns any portion of the Property;
- (ii) Initiated to enforce the provisions of the Restrictions, including collection of assessments and foreclosure of liens;
- (iii) Initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (iv) Initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

- (v) To defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section will not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings except any such amendment will also be approved by Declarant until Declarant no longer owns any portion of the Property.

2. **Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

Executed on this 27 day of NOV, 2007.

DECLARANT:

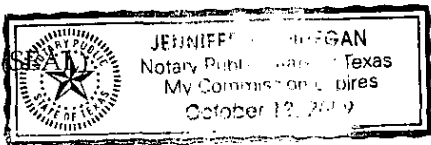
LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD., a Texas limited partnership

By: Lennar Texas Holding Company, a Texas corporation, General Partner

By: [Signature]
Name: GALEN WHISNAND
Title: V.P.

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

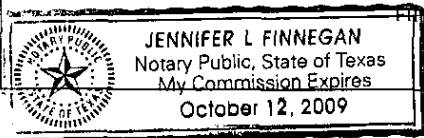
This instrument was acknowledged before me on November 27, 2007, by Galen Whisnand Vice President of Lennar Texas Holding Company, a Texas corporation, General Partner of Lennar Homes of Texas Land and Construction, Ltd., a Texas limited partnership, on behalf of said corporation and partnership.



[Signature]
Notary Public Signature

311200-2 10/30/2007

MALLARD PARK



WITH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS 2008011326

Nancy E. Rister

02/13/2008 12:12 PM

CMCNEELY \$36.00

NANCY E. RISTER, COUNTY CLERK

WILLIAMSON COUNTY, TEXAS