

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND
HOMEOWNER'S ASSOCIATION**

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF TAYLOR §

WHEREAS, **WATER CREST RANCH ABILENE, LLC**, a Texas limited liability company, hereinafter referred to as either "the Declarant," or "the Developer," being one and the same, is the owner of all of that certain real property located in Taylor County, Texas, described as follows:

All of Section 1, Blocks A-F and Tract "A", Water Crest Ranch, Taylor County, Texas, being more fully described on a plat filed on or about the _____ day of _____, 202____, as Instrument No. _____, in the Official Public Records of Taylor County, Texas, to which reference is hereby made for all purposes;

WHEREAS, the Declarant shall convey the above described properties subject to certain protective covenants, conditions, restrictions and charges, as hereinafter set forth;

WHEREAS, Declarant proposes to establish and implement plans for residential living, recreation, aesthetic and quality-of-life considerations. The purposes of this Declaration are to: protect the Declarant and the Owners against inappropriate development and use of Lots within the Properties; assure compatibility of design of improvements within the Subdivision; secure and preserve sufficient setbacks and space between buildings so as to create an aesthetically pleasing environment; provide for landscaping and the maintenance thereof; and in general to encourage construction of attractive, quality, permanent improvements that will promote the general welfare of the Declarant and the Owners. Declarant desires to impose these restrictions on the Property now and yet retain reasonable flexibility to respond to changing or unforeseen circumstances so as to guide, control and maintain the quality and distinction of the Subdivision. Declarant intends for this instrument to be a "dedicatory instrument" within the meaning of Chapter 202 of the *Texas Property Code* and the *Texas Residential Property Owners Protection Act*, as said statutes are now enacted or hereafter amended;

WHEREAS, *Water Crest Homeowner's Association, Inc.* (the "**Association**") has been or will be chartered as a non-profit Texas corporation to assist in the ownership, management, use and care of the Common Areas within *Water Crest Ranch* and to assist in the administration and enforcement of the covenants, conditions, restrictions, easements, charges and liens described in this Declaration;

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the above described real property, and shall be binding on all parties having any right, title or interest in or to the above described properties or any part thereof, their heirs, successors, and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

PROPERTY SUBJECT TO THIS DECLARATION

1. The lots and Common Areas which are, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration within *Water Crest Ranch* are more particularly described above in this Declaration.
2. Additional land (the "**Additional Property**") may become subject to this Declaration, or the general scheme envisioned by this Declaration, as follows:
 - (a) The Declarant may (without the joinder and consent of any person or entity) add or annex Additional Property to the scheme of this Declaration within the Development Period by filing of record an appropriate enabling declaration, generally similar to this Declaration or incorporating this Declaration, which may extend the scheme of the Covenants to such Additional Property. Provided further; however, such other declaration(s) may contain such complementary additions and modifications of these Covenants as may be necessary to reflect the different character, if any, of the Additional Property as are not materially inconsistent with the concept and purpose of this Declaration.
 - (b) In the event any person or entity other than Declarant desires to add or annex Additional Property and/ or Common Areas to the scheme of this Declaration, such annexation proposal must have the express approval of the Board.
3. Any additions made pursuant to this section, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the Additional Property and correspondingly subject the Additional Property to the covenants of the enabling declaration. Upon any merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law or by lawful articles or agreement of merger, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law or by lawful articles or agreement of merger, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants established by this Declaration, together with the covenants and restrictions established upon any other properties, as one scheme.

ARTICLE I

USE RESTRICTIONS, CONSTRUCTION STANDARDS AND EASEMENTS

1.1 (a) **Single Family Residential Lots.** Lots located in Blocks B, C, D, E and F (hereinafter sometimes referred to as "the SF lots") shall be used for single family residential purposes only, and a "single-family residence" shall be defined as a single family dwelling used and occupied by one family and its constituent members. No building shall be erected, altered, placed, or permitted to remain on any SF lot other than one single family residence not to exceed two stories in height, and a private garage attached to the main residence providing for a minimum of two automobiles. Houses constructed on the SF lots shall contain at least 1,400 square feet of floor space, exclusive of garage, open or screened porch, storage rooms, basement and other space not equipped with heating and cooling. All construction plans must be approved by the Declarant or Association (as such term is defined herein) prior to commencement of construction.

(b) **Duplex Lots.** Lots in Block A (hereinafter sometimes referred to as “the duplex lots”) shall be used for two-family residential purposes only, and a “two-family dwelling” (hereinafter sometimes referred to as a “duplex”) shall be construed as defined by the City of Abilene Zoning Code as it exists as of the date set forth below. No building shall be erected, altered, placed, or permitted to remain on any duplex lot or lots other than one duplex consisting of no more than two (2) dwelling units and not exceeding two stories in height, and each dwelling unit of the duplex shall contain a private garage providing for a minimum of two automobiles, one garage attached to each unit of such duplex. Each dwelling unit of a duplex shall contain at least 1200 square feet of floor space, exclusive of garage, open or screened porch, storage rooms, basement and other space not equipped with heating and cooling (hereinafter sometimes referred to as “floor space”). Each garage shall be entered from and face the front of each respective lot and the garages of a duplex and the driveways servicing the same shall be located roughly in the center of each respective duplex lot to accommodate the public utility company easements referenced in Paragraph 2 hereof. All construction plans must be approved by the Declarant or Association (as such term is defined herein) prior to commencement of construction.

For purposes of the remainder of this Declaration, duplexes and single family residences may sometimes be referred to collectively as “residences” and duplex lots and SF lots may sometimes be referred to collectively as “lots.”

At least eighty percent (80%) of the exposed exterior walls of each residence shall be of brick masonry construction. In calculating the above eighty percent (80%) requirement, openings for doors, windows, etc., shall be excluded. It is the intent hereby to prohibit concrete blocks, as well as asbestos shingles, as an exterior siding. No residence may be constructed pursuant to an experimental design, including, but not limited to adobe, geodesic domes or all steel exterior construction; provided, the foregoing is not intended to prohibit steel frame construction. No residence shall be built with a roof of crushed stone, marble or gravel. Rather, each residence roof shall be constructed of thirty year or greater laminate shingles or other lifetime roofing materials (except as otherwise excluded) in earth tone colors only and shall have a pitch of 6 x 12 or more. Replacement shingles or other roofing materials shall be of the same or similar color as that being replaced. Residences consisting of two stories shall provide for sixty percent (60%) of floor space to be located on the first floor of such residence. There shall be no portable or "move in" homes allowed on any of the lots, which shall include (and thereby preclude) any modular or pre-built home of any kind. It is the intent of the foregoing to require that only newly-erected, permanent residences be placed on the lots and that such be built in-place and on-site. The garage shall be constructed of the same material as the residence, including the roof.

Each residence shall have and there shall be erected a six foot or greater wood fence encompassing all of that residence's "back yard." The wood fence shall not be painted but rather left in its natural state, and shall be maintained in good repair and condition. In no instance shall a fence, wall or hedge be constructed, altered or maintained closer to any street than the minimum building setback line as promulgated by the City of Abilene, except that on corner lots the fence may be installed from the interior lot line, along the rear lot line to the side street property line, and forward along the side street property line to within ten (10) feet of the front of the residence, thence across the side yard to the residence.

Each residence shall have access to mail service delivered by the United States Postal Service to a cluster mailbox.. Therefore, each residence shall contribute it's pro rata portion of the cost to purchase and install such a mailbox, the placement of which shall be in compliance with regulations issued by the United States Postal Service. Mailboxes described in this paragraph shall be

constructed solely of metal components, including, but not limited to, iron components, and of an overall appearance as approved by the Declarant or Association.

Each residence built on a lot shall be located such that it fronts the street on which the lot faces.

All residences must have sod and an irrigation system in the front yard within one (1) year after construction of the home is complete.

(c) **Common Area** Tract "A" (each a "**Common Area**") shall only be used for landscaping, drainage, and other amenities as determined by Declarant. For purposes of this Declaration this part of the Common Area may sometimes be referred to collectively as "**tracts.**"

1.2. The minimum front building setback lines shall be those established by the City of Abilene, unless otherwise as may be requested by the Declarant. For purposes of complying with the setback requirements, eaves, steps and open porches shall not be considered as a part of the residence, but this shall not be interpreted as permitting encroachment on another lot.

Easements for installation and maintenance of utilities and drainage facilities are either reserved, as shown on the recorded plat, or recorded contemporaneously with the Dedication Deed. Right of use for ingress and egress shall be had at all times over any dedicated easement and for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation or installation of such utility.

1.3. An underground electrical distribution system will be installed to serve each lot; provided, however, that any existing overhead electrical lines serving the Addition shall not be required to be underground, but all line connections thereto shall be underground. The then owner of each lot shall, at that owner's cost and expense, furnish, install, own and maintain an underground service cable and appurtenances from the meter installed on each lot or Tract, as applicable, by the electric company to such point as may be designated by such company on the property line of the lot. The company furnishing electric service shall make the necessary connection at the property line and at the meter. The owner of each lot shall install, furnish, own and maintain, at that owner's cost and expense, a meter loop (in accordance with the then current standards and specifications of the electric company) for the improvements constructed on the property. For so long as underground service is maintained, the electric service to each lot shall be uniform in character and exclusively of the type known as "single-phase 120/240 volt, 3-wire, 60-cycle alternating current." Any and all of the foregoing notwithstanding, should any utility company providing electrical services to this Addition change or alter its policy in regard to underground utilities and/or electrical services provided to this Addition, such change or changes shall automatically be adhered to and followed by all lot owners, and the foregoing provisions of this, Paragraph 3, shall automatically be amended to thereby comply with any such policy change, whether one or more.

1.4 No garage, basement, trailer, tent, shack, or any other like building or shelter erected or located on any lot or tract, shall ever be used as a dwelling unit. No residence dwelling or other type building, or any part of any other type building, shall ever be moved from outside of the lots or tracts onto any one or more of the lots or tracts. For a period of 7 years beginning date hereof, Declarant reserves the right to require the owner of any lot to remove a portable storage building from such lot if, in the sole discretion of the Declarant, these conditions are not met. For purposes of enforcing this right, Declarant shall be considered as the owner of a lot with access to the options for enforcement set forth below.

No home beauty shops or home barber shops shall be allowed. Further, no occupations of any kind shall be allowed which require any structural alterations in any dwelling unit or room of any residence, or require the installation of machinery or equipment other than that customary to normal household operations, or require stocks in trade or inventory being kept and sold on the premises, or require exterior storage for equipment or materials. Any such occupation or activity shall be considered as noxious and offensive, and thereby deemed to be a nuisance.

Except for an entrance feature erected in the Common Area, no sign of any kind shall be displayed to the public view on any lot or tract, except one professional sign of not more than five square feet advertising the property for sale or rent, or a sign used by a building contractor to advertise the building of such property during the construction and sales period.

No radio or television antenna shall extend more than five (5) feet above the highest point of the roof of any building, and no antenna shall be erected or maintained on any lot not having a residence thereon.

2.6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

2.7. No oil drilling, oil development operations, oil refining, or quarrying or mining operations of any kind shall be permitted on or in any lot or tract, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on or in any lot or tract. No derrick or other structure designed for use of boring for oil and/or natural gas shall be erected, maintained or permitted on any lot or tract.

2.8. No trailer, camper, boat, motor home or other recreational vehicle, pickup truck of more than one ton capacity, or any other vehicle not used in day to day transportation, shall be parked, stored or maintained on any lot or tract in such a way as to be visible from the front street or nearer to the side street than the side street building set back line.

2.9. No lot or tract shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. All such garbage, trash and rubbish shall be kept in sanitary containers. All receptacles for disposal of such material shall be kept in a clean and sanitary condition.

2.10. No truck, bus or commercial trailer shall be parked in the street in front of any lot or tract. No truck, bus or commercial trailer shall be parked on the driveway or any portion of any lot or tract in such a manner as to be visible from the street.

2.11. Construction of the residence shall commence within one (1) year of the closing date, and "closing date" shall be construed as the date when Declarant transferred title to the respective lot. If construction has not commenced within one (1) year, Declarant shall be entitled to purchase the respective lot at the gross sales price of such lot at closing date plus a sum equal to the calculated interest from closing date to date of purchase by the Declarant on such gross sales price at the prime rate as published by the Wall Street Journal on closing date. Once commenced, construction shall be diligently pursued to the end that it will be completed within twenty-four (24) months from the date commenced.

ARTICLE II ASSOCIATION

2.1 Water Crest Ranch Homeowner's Association, Inc., a Texas nonprofit corporation, (the "**Association**") has been established by filing its certificate of formation and is governed by

the certificate, this Declaration, and the Bylaws of the Association (collectively, the “**Governing Documents**”). The Certificate of Formation was filed with the Secretary of State of Texas. The Association has the powers of a nonprofit corporation and a property owners association under the Texas Business Organizations Code, the Texas Property Code, and the Governing Documents. The Association shall be governed by the Board of Directors (the “**Board**”) as provided in the Bylaws.

2.2 The Board may adopt rules that do not conflict with law or the other Governing Documents. On request, owners will be provided a copy of any rules.

2.3 Every owner of a lot or tract is a member of the Association. Membership is appurtenant to and may not be separated from ownership of a lot or tract. Each member shall be entitled to one (1) vote in the Association for each lot or tract owner. When more than one person or entity holds an interest in any lot or tract, all such persons and entities shall be considered as one member. The vote for such lot or tract shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

2.4 The Board, for the benefit of the Association, the Properties and the Owners and the Members and Residents, may provide and may pay for, out of the Assessment fund(s) provided for in Article IV below, one or more of the following (unless such funds are limited to a particular use as expressly provided in this Declarant):

- (a) Care, preservation and maintenance of the Common Areas and the furnishing and upkeep of any desired personal property for use in or on the Common Areas;
- (b) Recreational and social programs and activities for the general benefit of the Residents and programs which are designed only for separately identifiable sub-groups of Residents, such as (but not limited to) infants, adolescents, teenagers, students, mothers and senior citizens;
- (c) Supplementing (to the extent, if any, deemed necessary, appropriate and affordable by the Board) the police, fire, ambulance, garbage and trash collection and similar services within the Properties traditionally provided by local governmental agencies (**NOTE: NOTHING WITHIN THIS DECLARATION SHALL BE CONSTRUED AS A REQUIREMENT, DUTY OR PROMISE ON THE PART OF THE ASSOCIATION OR THE DECLARANT TO PROVIDE SECURITY, UTILITY OR MEDICAL SERVICES TO ANY OWNER, RESIDENT OR MEMBER - ALL OWNERS, RESIDENTS AND MEMBERS SHALL BE SOLELY RESPONSIBLE FOR THEIR OWN SAFETY AND WELFARE, AND SHOULD TAKE SUCH PRECAUTIONS AS THEY DEEM NECESSARY TO PROTECT PERSONS AND PROPERTY**);
- (d) Taxes, insurance and utilities (including, without limitation, electricity, gas, water, sewer and telephone charges) which pertain to the Common Areas;
- (e) The services of any person or firm (including the Declarant and any affiliates of the Declarant) to manage the Association or any separate portion, thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager of the Association. The Board is specifically authorized to hire and employ one or more managers, secretarial, clerical, staff and support employees;
- (f) Legal and accounting services and all costs and expenses reasonably incurred

by the Architectural Review Committee; and

(g) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, taxes or Assessments which the Board is required to obtain or pay for pursuant to the terms of this Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board shall have the following additional rights, powers and duties:

(h) To execute all declarations of ownership for tax assessment purposes with regard to any of the Common Areas owned by the Association.

(i) To enter into agreements or contracts with insurance companies, Taxing Authorities, the holders of first mortgage liens on the individual Lots and utility companies with respect to: (i) any taxes on the Common Areas; (ii) monthly escrow and impound payments by a mortgagee regarding the Assessment, collection and disbursement process envisioned by Article V below; (iii) utility installation, consumption and service matters; and (iv) the escrow or impounding of monies sufficient to timely pay the Assessment applicable to any Lot (or any other Assessment authorized in this Declaration);

(j) To borrow funds (including, without limitation, the borrowing of funds from the Declarant and/or its affiliates) to pay costs of operation or the construction of improvements to the Common Areas, secured by such assets of the Association as deemed appropriate by the lender and the Association;

(k) To enter into contracts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

(l) To protect or defend the Common Areas from loss or damage by suit or otherwise, to sue or defend in any court on behalf of the Association and to provide adequate reserves for repairs and replacements;

(m) To make reasonable rules and regulations for the operation of the Association and the Common Areas and to amend them from time to time and to enter into concession agreements regarding food, beverage, vending and other products and services within the Common Areas;

(n) To prepare an annual operating budget and to make available for review by each Owner at the Association offices within ninety (90) days after the end of each Fiscal Year an annual report;

(o) Adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency; and

(p) To enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner, Resident or Member for violation of such provisions or rules. The Board is specifically authorized and empowered to establish (and to revise and amend from time to time) a monetary fines system which may include component steps such as warning citations, ticketing, due process hearings and appeals and a flat rate or discretionary range or geometric progression of fine amounts, which, when pronounced, shall constitute a permitted individual Lot Owner

Assessment secured by the continuing Payment and Performance Lien herein established.

2.5 The Association may: (i) borrow monies from the Declarant; (ii) lease equipment from the Declarant; (iii) contract with the Declarant concerning the provision of any personnel, labor, supplies, materials and services, provided such contract terms and conditions are: generally comparable (in terms of price, quality and timeliness) with those that might be otherwise obtained from unrelated third parties; and, as to professional management contracts, terminable by the Association at any time for any reason whatsoever and without penalty upon furnishing at least ninety (90) days advance notice thereof to Declarant. The Board shall not be required to solicit bids from unrelated third parties before entering into any contract with the Declarant and the reasonable judgment and resolution of the Board to enter into any such contract with the Declarant (absent fraud, gross negligence or willful misconduct) shall be final and conclusive and binding upon the Association and all of its Members.

2.6 The Board shall have the right and obligation to perform the functions of the Board on behalf of the Association; however, in the event or if for any reason the Board is not deemed authorized to act for and on behalf of the Association and the Members, then the Declarant may exercise its power and authority under this Declaration, to act for and on behalf of the Association and the Members, and the Association shall reimburse the Declarant for any and all reasonable expenses incurred in so acting.

2.7 Declarant shall control the operation and management of the Association by appointing officers and directors of the Association, pursuant to the rights and reservations contained in this Declaration, to the full extent and for the maximum duration permitted by applicable law (the “**Declarant Control Period**”). The duration of the Declarant Control Period will be from the date that this Declaration is recorded in the Official Public Records of Taylor County, Texas until three months after ninety percent (90%) of the Lots that may be created in the Property and any Additional Property have been improved with residences and conveyed to Owners other than homebuilders. If applicable law requires a stated term for the duration of the Declarant Control Period, then the Declarant Control shall run continuously from the date that this Declaration is recorded in the Official Public Records of Taylor County, Texas until the earlier of the following: (i) fifteen (15) years after the date that this Declaration is publicly recorded, and (ii) three months after the date that ninety percent (90%) of the Lots that may be created in the Property and any Additional Property have been improved with a residence and conveyed to Owners other than homebuilders. Declarant reserves the right to unilaterally amend this definition of "Declarant Control Period" for any purpose, including to increase or decrease the maximum length of the Declarant Control Period, except as may be prohibited by applicable law. No act, statement, or omission by the Association may cause termination of the Declarant Control Period earlier than the term stated in this paragraph. Declarant, however, may terminate the Declarant Control Period at any earlier time by publicly recording a notice of termination. The Declarant Control Period is for a term of years or until the stated status is attained, and does not require that Declarant own a Lot or any other land in the Property.

ARTICLE III ASSESSMENTS

3.1 The Association may levy assessments (an “**Assessment**”) against any lot or tract to promote the recreation, health, safety and welfare of the members of the Association, to fund the operating expenses of the Association and to improve and maintain the common areas, which includes any parks, traffic lights, street signs and entrances located in the subdivision and any other

common area as may be designated by the Declarant (collectively, the “**Common Areas**”). An Assessment is a personal obligation of each owner when the Assessment accrues.

3.2 Assessments are secured by a continuing lien on each lot or tract, which lien is reserved by the Declarant and assigned to the Association. By acceptance of a deed to a lot or a tract, each owner grants the lien, together with the power of sale, to the Association to secure Assessments; provided, however, such lien shall be inferior and subordinate to the tax lien held by local taxing authorities, any purchase money loan for the lot or tract, and the improvements, if any, placed upon the lot or tract, which are financed by any third-party lender.

3.3. A lot or tract becomes subject to Assessments on conveyance of the lot or tract by Declarant.

3.4. *Regular Assessments*

- a. Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses of the Association.
- b. Regular Assessments may be changed by the Board, but any such change will only be effective starting on the 1st day of January of the year next following such change. Written notice of any change of the Regular Assessment will be sent to every owner at least on or before December 1st of any year the change is adopted; provided, however, no notice will be sent to the owner if there has been no change in the Regular Assessment.
- c. Regular Assessments will be collected annually for the succeeding calendar year and will be due on or before January 31st of such calendar year. Example, the first assessments are due on or before January 31, 2026, and continue thereafter on or before the 31st day of January of each year following successively thereafter until amended in accordance with this Declaration or Bylaws of the Association.

3.5. *Special Assessments.* In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefiting the subdivision but requiring funds exceeding those available from the Regular Assessments. Special Assessments must be approved by the Members. Written notice of the terms of the Special Assessment will be sent to every owner. Any Special Assessment must be approved by a fifty-one percent (51%) of the votes cast at a meeting of the Members in accordance with the Bylaws.

3.6 The lien granted and reserved to the Association is subordinate to any lien granted by an owner against a lot or tract not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Association's lien as to Assessments due before the foreclosure; provided, however, the Association may still seek payment of the Assessments from the original owner who the assessment was made against.

3.7 Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of eighteen percent (18%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the lot or tract. Interest, costs and reasonable attorney's fees incurred in any such action shall be added to the amount of such assessment or charge. Each owner, by his or her acceptance of a deed to a lot or tract, hereby expressly vests in the Association or its agents, the right and power to bring

all actions against such owner personally for the collection of such charges as a debt and to enforce such lien by all methods available for the enforcements of such liens, including nonjudicial foreclosure pursuant to applicable law, and each owner hereby grants to the Association a power of sale in connection with such lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all owners. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his or her lot or tract.

3.8 An owner delinquent in payment of any Assessment may not vote on any business conducted by the Association. If an owner violates the Governing Documents, the Association may suspend the owner's rights under the Governing Documents in accordance with law until the violation is cured.

3.9 An owner is liable to the Association for damage to Common Areas caused by the owner or the owner's family, guests, agents, independent contractors and invitees in accordance with law.

3.10 The Association maintain property insurance and comprehensive liability insurance in amounts reasonable determined by the Board and covering the Common Area.

3.11 The following property otherwise subject to this Declaration shall be exempted from any Assessments, charge and lien created herein:

- (a) All properties dedicated to and accepted by a local public or governmental authority;
- (b) Common Areas; and
- (c) Lots owned by Declarant.

ARTICLE IV ARCHITECTURAL REVIEW

4.1 This Declaration creates rights to regulate the design, use and appearance of the Lots in order to preserve and enhance the value of the Property. During the Development Period, the Declarant reserves the right of architectural control.

4.2 During the Development Period, neither the Association, the Board, nor any committee appointed by the Board may involve itself with the approval of Improvements on Lots. During the Development Period, the Declarant shall be the sole member of the Architectural Review Committee ("**ARC**"); or, the Declarant may delegate such duties as provided below. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the Improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market the Property or the ability of homebuilders to sell homes in the Subdivision. Accordingly, each Owner agrees that during the Development Period, no Improvements will be commenced on an Owner's Lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications. During the Development Period, the Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to (i) a modifications or architectural committee appointed

by Declarant or the Board; (ii) a modifications or architectural committee elected by the Owners; or (iii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation is subject to the unilateral right of the Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated. References in this Declaration to the ARC shall refer to Declarant, when Declarant is acting as the sole member of the ARC during the Development Period.

4.3 On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant (which writing must be recorded in the Official Public Records of Taylor County, Texas), the Association, acting through the ARC, will assume jurisdiction over architectural control. The ARC will consist of at least three but not more than five persons appointed by the Board, pursuant to the Bylaws. Members of the ARC will serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ARC, in which case all references in the Governing Documents to the ARC are construed to mean the Board. Members of the ARC need not be Owners or Residents and may but need not be architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

4.4 No building, Structure, fence, wall, residence or Improvement of any kind or nature shall be erected, placed or altered on any Lot until all plans and specifications (the "Plans") have been submitted to and approved in writing by the ARC (or the Declarant during the Development Period), or a majority of its members, as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and proper facing of main elevation with respect to nearby streets, all in accordance with this Declaration and/or the Design Guidelines and/or bulletins;
- (b) minimum finished floor elevation and proposed footprint of the dwelling;
- (c) conformity and harmony of the external design, color, type and appearance of exterior surfaces and landscaping;
- (d) drainage solutions;
- (e) the observance of and compliance with applicable setback lines and easement areas and the enhancement of aesthetic views and visual corridors to and from the Common Areas; and
- (f) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within the Design Guidelines, bulletins promulgated by the ARC, or matters in which the ARC has been vested with the authority to render a final interpretation and decision.

The Plans to be submitted to the ARC will include: (i) a site plan showing the location, description of materials and architectural treatment of all walks, driveways, fences, walls, residences and any other Improvements; (ii) floor plan showing the exact window and door locations, exterior wall treatment and materials, and the total square feet of air conditioned living area; (iii) exterior elevations of all sides of any buildings must be included, the type of roofing materials must be indicated, and the type, use and color of exterior wall materials must be clearly indicated throughout; (iv) front, rear, and side elevations must show all ornamental and decorative details; (v) specifications of materials may be attached separately to the plans or written on the plans themselves (plans will not be approved without specifications - specifications must include type, grade of all exterior materials, and color of all exposed materials); and (vi) landscaping plan.

The ARC (and the Declarant during the Development Period) is authorized and empowered to consider and review any and all aspects of construction, location and landscaping, which may, in the reasonable opinion of the ARC, adversely affect the living enjoyment of one or more Owner(s) or Residents or the general value of the lots. Also, the ARC is permitted to consider technological advances and changes in design and materials and such comparable or alternative techniques, methods or materials may or may not be permitted, in accordance with the reasonable opinion of the ARC.

The ARC may require as a condition precedent to any approval of the Plans, that the applicant obtain and produce an appropriate building permit from the City of Abilene, Texas. The ARC is also authorized to coordinate with the City of Abilene and County of Taylor in connection with the applicant's observance and compliance of the construction standards set forth in this Declaration, the Design Guidelines, and any bulletins or lot information sheets promulgated thereunder. However, the mere fact that the City of Abilene issues a building permit with respect to a proposed structure does not automatically mean that the ARC is obliged to unconditionally approve the Plans. Similarly, the ARC's approval of any Plans does not mean that all applicable building requirements of the City of Abilene or County of Taylor have been satisfied.

4.5 The ARC may, from time to time, publish and promulgate additional or revised standards, restrictions, guidelines, recommendations and specifications applicable to most of the aspects of construction, placement, location, alteration, maintenance and design of any improvements to or within the Subdivision, and as further described in Article I of this Declaration (the "**Design Guidelines**"), and such Design Guidelines shall be explanatory and illustrative of the general intent of the proposed development of the Properties and are intended as a guide to assist the ARC in reviewing plans and specifications.

PRIOR TO ACQUIRING ANY INTEREST IN A LOT, EACH PROSPECTIVE PURCHASER, TRANSFEREE, MORTGAGEE AND OWNER OF ANY LOT IN THE SUBDIVISION JS STRONGLY ENCOURAGED TO CONTACT THE DECLARANT OR ASSOCIATION OR THE ARC TO OBTAIN AND REVIEW THE MOST RECENT DESIGN GUIDELINES WHICH WILL CONTROL THE DEVELOPMENT, CONSTRUCTION AND USE OF THE LOT.

4.6. Within ten (10) business days ("business days" being days other than Saturday, Sunday or legal holidays) following its receipt of the Plans, the ARC shall advise the submitting Owner whether or not the Plans are approved. If the ARC (or the Declarant) shall fail to approve or disapprove the Plans in writing within said ten-day period, it shall be conclusively presumed that the ARC has approved the Plans. Plans shall not be deemed to have been received by the ARC until the Plans are received and a written receipt is signed by the ARC (during the Development Period, when the Declarant is serving as the ARC, the written receipt must be signed by Declarant). If the Plans are not sufficiently complete or are otherwise inadequate, the ARC may reject them as being inadequate or may approve or disapprove certain portions of the same, whether conditionally or unconditionally. The ARC shall not approve any Plans unless it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding Lots, that the appearance of any structures affected thereby will be in harmony with surrounding structures and that the construction thereof will not detract from the beauty, wholesomeness and attractiveness of *Water Crest Ranch* or the enjoyment thereof by the Owners. Approval shall be based, among other things, on adequacy of site dimensions, structural design, proximity with and relation to existing neighboring structures and sites, as

well as proposed and future neighboring structures and sites, relation of finished grades and elevations and elevations to existing neighboring site and conformity to both specific and general intent of the terms of this Declaration. The ARC may adopt rules or guidelines setting forth procedures for the submission of Plans and may require a reasonable fee to accompany each application for approval in order to defray the costs of having the Plans reviewed. The ARC may require such details in Plans submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of the Plans and any other information or materials requested by the ARC, the ARC shall not be deemed to have received such Plans or be obligated to review the same.

4.7 Neither Declarant, nor the ARC, nor the officers, directors, managers, members, employees and agents of any of them, shall be liable in damages to anyone submitting Plans and specifications to any of them for approval, or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans or specifications. No approval of Plans and specifications and no publication of any Design Guidelines, architectural bulletins or lot information sheets shall be construed as representing or implying that such Plans, specifications, guidelines, bulletins or sheets will, if followed, result in properly designed Improvements and/or Improvements built in a good and workmanlike manner. Every person or entity who submits Plans or specifications, and every Owner of each and every Lot, agrees that he will not bring any action or suit against Declarant, the ARC, or the officers, directors, managers, members, employees and agents of any of them, to recover any such damages and hereby releases, remises and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. **The Declarant and the ARC has sole discretion with respect to taste, design, and all standards specified by this Declaration and any Design Guidelines. The Declarant and the ARC (and each of its members) has no liability for decisions made in good faith, and which are not arbitrary and capricious.**

4.8 No approval by the ARC of any Plans for any work done or proposed to be done shall be deemed to constitute a waiver of any rights on the part of the ARC to withhold approval or consent to any similar Plans which subsequently are submitted to the ARC for approval or consent.

4.9 Upon approval of the Plans by the ARC, the Owner submitting such Plans for approval promptly shall commence construction of all Improvements and Structures described therein and shall cause the same to be completed in compliance in all material respects with the approved Plans, and in compliance with these Covenants. If an Owner shall vary materially from the approved Plans in the construction of any Improvements and Structures, the ARC shall have the right to order such Owner to cease construction and to correct such variance so that the Improvement will conform in all material respects to the Plan as approved. If an Owner shall refuse to abide by the ARC's request, the ARC shall have the right to take appropriate action to restrain and enjoin any further construction on a Lot that is not in accordance with approved Plans. The ARC shall have the right, but not the obligation, to inspect the Improvements during construction to insure compliance with the Plans and compliance with City of Abilene and County of Taylor code requirements (to the extent that such requirements are applicable to the Properties). During the Development Period, the Declarant shall have all of the rights granted herein to the ARC.

4.10 The ARC may authorize variances from compliance with any of the provisions of this Declaration relating to construction of residences and other improvements on a Lot,

including restrictions upon height, size, floor area or replacement of residences, or similar restrictions, when circumstances such as governmental code changes, topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing, must be signed by at least a majority of the members of the ARC (or by the Declarant during the Development Period) and shall become effective upon their execution. Such variances may be recorded. If such variances are granted, no violation of any of the provisions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the use of the Lot.

ARTICLE V COMMON AREA USE AND MAINTENANCE

5.1. Each owner has an easement in and to the Common Area, subject to the right of the Association to:

- a. suspend an owner's rights under the Governing Documents;
- b. restrict use of any of portion of the Common Area as may be necessary for the health and safety of the Members;
- c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and
- d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of fifty percent (5%) of the Members casting a vote at a meeting in accordance with the Bylaws.

5.2 An owner's right to use and enjoy the Common Area extends to the owner's family, guests, agents, and invitees, subject to the Governing Documents.

5.3 An owner may not erect or alter any structure on, or clear, landscape, or disturb, any Common Area except as approved by the Board.

5.4 The Association shall be responsible for the maintenance of the Common Area including landscaping and maintaining any entrance feature or other improvements located in the Common Area.

ARTICLE VI MISCELLANEOUS

6.1 Regardless of any other provision contained herein, for a period of 10 years beginning on the date hereof, Declarant reserves the right (on application and request of the owner of any lot or tract) to waive, vary or amend (by an appropriate letter to that effect, addressed and delivered to such applicant owner by Declarant for filing in the Real Property Records of Taylor County) any of these covenants and restrictions to any particular lot or tract, if, in the sole discretion of the Declarant, such action relieves hardship or permits better architectural planning to be effected.

6.2 These covenants are to run with the land and shall be binding on all parties and all

persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Any one or more of these covenants may be amended by an instrument signed by at least 75% of the then owners of the lots and tracts agreeing to change any such covenant, condition, and restriction in whole or in part.

6.3. Enforcement shall be by proceedings, at law or in equity, by the owner of any lot or tract, against any person or persons, or any other entity, violating or attempting to violate any covenants. The person or entity seeking enforcement shall have the right to enforce, by any proceedings, at law or in equity, all restrictions, conditions and reservations now or hereafter imposed by the provisions of this declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or right to do so thereafter. If any lot or tract owner shall be required to employ an attorney to enforce or defend the rights of such lot owner hereunder, the prevailing lot owner shall be entitled to recover reasonable attorney's fees, court costs and out-of-pocket expenses incurred as a result thereof.

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

The undersigned, being the sole owner of the hereinabove described real property, does hereby revoke any and all prior restrictions or restrictive covenants, if any, placed on said land by any prior owners.

EXECUTED AND EFFECTIVE this ____ day of _____, 202__.

WATER CREST RANCH, LLC, a Texas limited liability company

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____§

On this ____ day of _____, 202__, before me, a Notary Public in and for said state, personally appeared _____, in his capacity as _____ of WATER CREST RANCH, LLC, a Texas limited liability, on behalf of said limited liability company.

[NOTARY STAMP]

Notary Public, State of Texas

After recording, please return to:
Water Crest Ranch, LLC
c/o Robert Wood
8213 Alcove Avenue
Lubbock, Texas 79424

CONSENT OF LIENHOLDER TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

The undersigned lienholder holds a first lien mortgage on the property described in the attached Declaration of Covenants, Conditions and Restrictions (the "Declaration"), as evidenced by that certain Deed of Trust (the "Deed of Trust") dated _____, recorded as Document No. _____, in the real property records of Taylor County, Texas. By signing this instrument, the lienholder hereby consents to the Declaration and subordinates the lien created by the Deed of Trust to the Declaration. The lienholder agrees that any foreclosure under the Deed of Trust will be subject to the restrictions contained in the Declaration.

By: _____
Name: _____
Title: _____

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 2022, by _____, the _____ of _____.

Notary Public, State of Texas

Notary's printed name

My Commission expires:
