

**CONSOLIDATED AND AMENDED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
SANGER CIRCLE**

**THE STATE OF TEXAS   §  
  §  
COUNTY OF DENTON   §**

**KNOW ALL MEN BY THESE PRESENTS:**

**THIS CONSOLIDATED AND AMENDED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SANGER CIRCLE** (this "Consolidated Declaration") is made this \_\_\_\_ day of \_\_\_\_\_, 2017, by the membership of Sanger Circle Homeowners' Association, Inc., a Texas nonprofit corporation (hereinafter the "Sanger Circle Association"), and Sanger Trail HOA, a Texas nonprofit corporation (hereinafter the "Sanger Trail Association").

**WITNESSETH:**

**WHEREAS**, Sanger Circle Property, LP, a Texas limited partnership (the "Sanger Circle Declarant"), prepared and recorded an instrument entitled "Declaration of Covenants, Conditions and Restrictions for Sanger Circle Homeowners' Association, Inc." on or about December 18, 2015 as Instrument No. 2015-144891 of the Deed Records of Denton County, Texas (the "Sanger Circle Declaration"); and

**WHEREAS**, Sanger Circle Homeowners' Association, Inc. (the "Sanger Circle Association") is the property owners association created by the Sanger Circle Declarant to manage and govern the Sanger Circle community established by the Sanger Circle Declaration, as more particularly described in the Sanger Circle Declaration; and

**WHEREAS**, Tribond Development, LP (the "Sanger Trail Declarant"), prepared and recorded an instrument entitled "Declaration of Restrictions, Covenants and Conditions of Sanger Trails" on or about September 21, 2004 as Instrument No. 2004-124621 of the Deed Records of Denton County, Texas (the "Sanger Trail Declaration"); and

**WHEREAS**, Sanger Trail HOA (the "Sanger Trail Association") is the property owners association created by the Sanger Trail Declarant to manage and govern the Sanger Trail community established by the Sanger Trail Declaration, as more particularly described in the Sanger Trail Declaration; and

**WHEREAS**, the Sanger Circle Declaration and the Sanger Trail Declaration are collectively referred to herein as the "Original Declarations"; and

**WHEREAS**, Article Four, Paragraph 4(j) of the Articles of Incorporation of Sanger Circle Homeowners' Association, Inc. (the "Circle Articles") provides that Sanger Circle may participate in mergers and consolidates with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such

merger shall have the assent of the Owners representing the requisite number of votes of voting Members in Sanger Circle as provided in the Declaration; and

**WHEREAS**, Article Seven, Section 7.15(c) of the Circle Declaration provides that, in the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of the Circle Declaration, such annexation proposed must have prior written consent and approval of the majority of the outstanding votes within each voting class of Sanger Circle; and

**WHEREAS**, the Board of Directors of Sanger Circle Association and the Board of Directors of Sanger Trail Association have proposed to consolidate each of the Original Declarations into a single instrument and to amend each of the Original Declarations as set forth in this Consolidated Declaration; and

**WHEREAS**, Article Seven, Section 7.5(a) of the Sanger Circle Declaration provides that the Sanger Circle Declaration may be amended or modified upon the written consent of at least forty percent (40%) of the outstanding votes held by Members at a meeting at which a quorum is present; and

**WHEREAS**, Section 10.001(a) of the Texas Business Organizations Code authorizes a domestic entity to effect a merger by complying with the applicable provisions of the Texas Business Organizations Code; and

**WHEREAS**, more than forty percent (40%) of the outstanding votes held by Members of Sanger Circle Association at a meeting of the Members held on February 6, 2018 at which a quorum was present approved amending Article Seven, Section 7.15(c) of the Sanger Circle Declaration to provide for merger of the Sanger Circle Association with any similar association then having jurisdiction over real property located (in whole or in part) within one (1) mile of any real property then subject to the jurisdiction of the Sanger Circle Association upon the written consent of at least forty percent (40%) of the outstanding votes held by Members at a meeting at which a quorum is present, and simultaneously approved the proposed merger with Sanger Trail Association; and

**WHEREAS**, Article III, Section 6 of the Sanger Trail Declaration provides that the Sanger Trail Declaration may be changed in whole or in part by the recording of an instrument signed by a simple majority (50% + 1 vote) of the then owners of the lots, agreeing to change the Sanger Trail Declaration in whole or in part; and

**WHEREAS**, the proposed amendments to the Sanger Circle Declaration and the consolidation of the Original Declarations into this Consolidated Declaration have been consented to by Members representing more than forty percent (40%) of the total outstanding votes in the Sanger Circle Association at a meeting of the Members held on February 6, 2018 at which a quorum was present; and

**WHEREAS**, the proposed amendments to the Sanger Trail Declaration and the consolidation of the Original Declarations into this Consolidated Declaration have been approved by a simple majority (50% + 1 vote) of the then owners of the lots; and

**NOW, THEREFORE**, this Consolidated Declaration does hereby replace and supersede each of the Original Declarations, and from and after the date of the recording of this Consolidated Declaration in the Deed Records of Denton County, Texas (the "Effective Date"), all of the Properties set forth on Exhibit "A" attached hereto and incorporated herein by reference, shall be owned, held, transferred, leased, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, liens and charges hereinafter set forth.

## **ARTICLE ONE**

### **ADDITIONAL DEFINITIONS**

**1.1 Association.** "Association" shall mean and refer to **SANGER CIRCLE HOMEOWNERS' ASSOCIATION, INC.**, a Texas nonprofit corporation, its successors and assigns.

**1.2 Areas of Common Responsibility.** "Areas of Common Responsibility" shall mean those areas listed below in which the Association shall maintain and repair:

(a) All Open Spaces (as hereinafter defined) (including all landscaping and improvements thereon) as may be designated on any Plats.

(b) Any screening wall, fence, and other improvements benefitting the Property, including but not limited to, the screening wall or fence along the edges of the Property which abuts Marion Road and other properties not included within the Property.

(c) Amenities and or/park areas plus improvements therein.

**1.3 Declarant.** The term "Declarant" shall mean Sanger Circle Property, LP, a Texas limited partnership, and Tribond Development, LP, and any part to whom either Sanger Circle Property, LP and/or Tribond Development, LP expressly assigned in writing, their rights, powers, and privileges and prerogatives hereunder.

**1.4 City.** "City" shall mean the City of Sanger, Texas.

**1.5 Detached Home.** "Detached Home" shall mean a single-family residential unit in a single-unit building constructed on a Lot being a part of the Property, including the parking garage utilized in connection therewith and the Lot upon which any Detached Home is located.

**1.6 Attached Home.** "Attached Home" shall mean a single-family residential unit in a multi-unit building constructed on a Lot being part of the Property, including the parking garage or parking spaces utilized in connection therewith and the Lot upon which any Attached Home is located.

**1.7 Lienholder.** "Lienholder" or "Mortgagee" shall mean the holder of a first mortgage lien, either on any Detached Home or Attached Home and/or any Lot.

**1.8 Lot.** "Lot" or "Lots" shall mean and refer to a portion of the Property designated as a Lot on a Plat of the Property, excluding Open Space, streets, alleys and any Area of Common Responsibility. Where the context requires or indicates, the term Lot shall include the Detached Home or Attached Home, as appropriate, and all other improvements which are or will be constructed.

**1.9 Member.** "Member" shall mean and refer to every person or entity that holds membership in the Association. The Declarant and each Owner shall be a Member in the Association.

**1.10 Open Spaces and Common Areas.** "Open Spaces" and "Common Areas" shall mean the areas of land which shall be owned by the Association and are designated on the recorded Plats of the Property.

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

**1.12 Builder.** "Builder" is any company, entity or person that purchases Lot(s) from the Declarant or another entity for the express purpose of the construction and sale of a new Attached Home residence or Detached Home residence within the Property.

**1.13 Contractor.** "Contractor" is any independent contractor or employee of a Builder or Declarant who is present on the Property to construct, assemble, fabricate, install or erect any improvements for the Declarant or Builder.

**1.14 Property.** "Property" shall mean and refer to the property platted as all Phases of Sanger Circle and Sanger Trail owned and/or developed by the Developer, in the City of Sanger, Denton County, Texas.

**1.15 Developer.** "Developer" shall mean and refer to Declarant, or any assignees to which Declarant shall assign its rights and which shall assume its obligations as Developer hereunder.

**1.16 Plat.** "Plat" shall mean and refer to the recorded subdivision plats of the Property.

## ARTICLE TWO

### PROPERTY RIGHTS

**2.1 Maintenance of Open Spaces by the Declarant and the Association.** Initially, the Declarant will be solely obligated to maintain and improve the Open Space areas and Areas of Common Responsibility in a prudent manner and to enhance the safety, security, welfare and overall appearance of the Property. Upon the happening of either of the events set forth in Section 3.2(b) hereunder or at any time at Declarant's sole discretion, the Association will be solely responsible in a prudent manner to enhance the safety, security, welfare and overall appearance of the Property. The Association, subject to HUD approval and as long as there are Class A and Class B members in the Association, shall have the following rights with regard to the Open Spaces:

(i) the right to dedicate or transfer all or any part of the Open Spaces to any public agency or authority (for the purpose of utility easements or otherwise) subject to such conditions may be agreed to by the Members. No such dedication or transfer shall be effective unless (a) an instrument of agreement to such dedication or transfer, signed by two-thirds (2/3) of all Members entitled to vote (determined pursuant to Section 3.2 hereof) is properly recorded, in the Deed Records of Denton County, Texas, (b) a written notice of proposed action under this Section is sent to every Owner (including Lienholder or Mortgagee) not less than thirty (30) days, nor more than sixty (60) days in advance of said action, and (c) that any public agency or authority receiving the dedication or transfer consents in writing to the dedication or transfer;

(ii) the right to borrow money to be secured by a lien against the Open Space; however, the rights under such improvement mortgage shall be subordinate and inferior to the rights of the Owners hereunder; and

(iii) the right to enter upon and make rules and regulations relating to the use of the Open Spaces.

**2.2 Title to Open Spaces.** Immediately upon the resolution of this Consolidated Declaration, the Declarant shall dedicate and convey to the Association by separate deed, without consideration, the fee simple title to the Open Spaces owned by Declarant free and clear of monetary liens and encumbrances other than those created in or subordinate to this Consolidated Declaration.

**2.3 Use of Common Areas.** Every Member shall have the right and easement in and to the Common Areas and such right and easement shall be appurtenant to and shall pass with the title of every Lot. Each Owner of Property in the Association shall be responsible for willful or accidental damage incurred as a result of actions of tenants or guests. The County of Denton, Texas will be indemnified against any loss or claims from damage or injury in any person or Property. Easements of record on the date hereof and any easements which may hereafter be granted (determined subject to 2.1(i) herein) by the Declarant or Association to any public or private utilities or governmental bodies for the installation and maintenance of electrical, telephone and television conduit and lines, gas pipes, sewers, water pipes, or any other utility

services serving any Lot within the Property or any portion thereof, however, that all conduit, lines, pipes, and similar facilities shall be underground.

### **ARTICLE THREE**

#### **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**3.1 Membership.** Declarant, during the time it owns any Lots, and each person or entity who is a record Owner of a fee or undivided fee interest in any Lot, shall be a Member of the Association. The foregoing is not intended to include persons or entities who own an interest merely as a security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot which is subject to assessment by the Association. Transfer of ownership, either voluntarily or by operation of law, shall terminate such Owner's membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such owner from any personal Obligations with respect to assessments which have accrued prior to such transfer.

**3.2 Voting Rights.** The Association shall have two classes of voting membership.

(a) **Class "A".** The Class "A" Members shall be the Owners. The Class "A" members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall be more than one vote.

(b) **Class "B".** The Class "B" Member shall be the Declarant. The Declarant shall be entitled to ten (10) votes for each Lot it owns; provided, however that Declarant shall cease to be a Class "B" Member and shall become a Class "A" Member entitled to one vote per Lot on the happening of either of the following events:

(i) when the total votes outstanding in the Class "A" membership equals the total votes outstanding in the Class "B" membership, or

(ii) the expiration of twenty (20) years from the recording date of the Sanger Circle Declaration in the Real Property Records of Denton County, Texas.

**3.3 No Cumulative Voting.** At all meetings of the Association, there shall be no cumulative voting. Prior to all meetings, the Board of Directors shall determine the total number of votes outstanding and entitled to vote by the Member.

**3.4 Association's Powers.** In addition to the rights of the Association set forth in other sections of this Consolidated Declaration, the Association shall have the duty to enforce the covenants under this Consolidated Declaration and maintain all Areas of Common Responsibility and shall have the right, power, and authority to do any act which is consistent with or required by the provisions of this Consolidated Declaration or the Bylaws, whether the same be expressed or implied, including but not limited to the following:

- (a) the power to levy and collect assessments (as hereinafter defined), of whatever nature for the maintenance, repair or replacement of the Areas of Common Responsibility existing on the property and for such other purposes as are herein provided;
- (b) the power to keep accounting records with respect to the Association's activities;
- (c) the power to contract with and employ others for maintenance and repair; and
- (d) the power to adopt rules and regulations concerning the operations of the Association.

## **ARTICLE FOUR**

### **ASSESSMENTS, MAINTENANCE FUND AND ASSESSMENT LIENS**

**4.1 Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed thereof covenants and agrees to pay to the Association: (i) annual assessments or charges; and (ii) special assessments for capital improvements. Such assessments (collectively, the "Assessments") are to be fixed, established, and collected as provided herein. A Builder is exempt from paying Assessments for a period of one (1) year after purchasing a Lot from the Developer. After one (1) year, the Builder will be assessed fees which will begin accruing on the first day of the second year. An amount equal to three (3) months of assessments are due at closing of each of an Attached Home or Detached Home and only begin to accrue upon the sale of the Home. Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall constitute a lien in favor of the Association upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest costs and reasonable attorney's fees shall also constitute a personal obligation of the person or entity that was record Owner of such Lot at the time of the Assessment. The personal obligation for delinquent Assessments shall not pass to successors in title unless expressly assumed by such successors; however, the lien upon the Lot shall continue until paid.

**4.2 Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of the Lots, the improvements and maintenance of the Areas of Common Responsibility and any other property owned by the Association, and the performance and/or exercise of the rights and obligations of the Association arising hereunder. Assessments shall include, but not limited to: funds to cover actual Association costs (including reasonable reserves) for all taxes, insurance, repair, replacement, maintenance, and other activities as may from time to time be authorized by the Board of Directors; legal and accounting fees and any fees for management services; expenses incurred in complying with any laws, ordinances or governmental requirements applicable; and other charges required or contemplated by this Consolidated Declaration and/or that which the Board of Directors of the Association shall determine to be necessary to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein.

#### **4.3 Basis and Maximum of Annual Assessments.**

(a) Commencing July 1, 2017, the regular maximum annual Assessment shall be an amount not to exceed:

(i) \$420.00 per sold Detached Home Lot per year paid in advance in equal quarterly installments; and

(ii) \$660.00 per sold Attached Home Unit per year paid in advance in equal quarterly installments. The purpose of additional Assessments associated with the Attached Home Lots is to maintain the front shared exterior grounds of the Lots upon which each Attached Home building is situated. This exterior maintenance shall include, but not limited to, regular mowing and annual Lots grounds landscaping and sprinkler systems and shall be conducted by the Association. The additional "mowing" Assessment is not due until the Attached Home receives a certificate of occupancy.

(b) From and after July 1, 2017, the maximum regular annual Assessment may be increased by any amount up to fifteen percent (15%) over the preceding year's regular annual Assessment solely by the Board of Directors. Any increase over and above 15% of the previous year's regular Assessment shall be done on by written approval of one-half (50%) the outstanding votes (determined pursuant to Section 3.2 hereof) held by Members at a meeting at which a quorum is present.

**4.4 Special Assessments.** In addition to the regular annual Assessment authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the costs incurred by the Association pursuant to the provisions of the Consolidated Declaration, provided that any such Assessment shall have the prior written approval of one-half (50%) of the outstanding votes (determined pursuant to Section 3.2 hereof) held by the Members at a meeting at which a quorum is present. Any Special Assessments shall be prorated based on the period of time the Owner owns the Lot during such year.

**4.5 Notice and Quorum for any Action Authorized Under Sections 4.3 and 4.4.** Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.3 and 4.4 hereunder shall be given to all Members not less than ten (10) days or no more than fifty (50) days in advance of such meeting. At such meeting, the presence of Members or of written proxies entitled to cast ten percent (10%) of all the votes entitled to be cast by the Members of the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. So long as a Declarant and the Builders control two-thirds (2/3) of the outstanding vote (determined pursuant to Section 3.2 hereof), the member may participate in a meeting by means of teleconference or similar communications by means of which all persons participating in the meeting can participate in said meeting by voting or taking appropriate action.



**4.6 Uniform Rate of Assessment.** Both the regular annual Assessments and Special Assessments shall be fixed at a uniform rate for all Lots under Sections 4.3 and 4.4 hereunder, and shall commence and be due in accordance with the provisions of Section 4.7 hereof. Each Owner shall pay one hundred percent (100%) of the established Assessment for each Lot he, she or it owns.

**4.7 Date of Commencement of Annual Assessments: Due Dates.**

(a) The obligation to pay regular annual Assessments provided for herein commenced as to the Lots originally subject to the Sanger Trail Declaration no earlier than September 21, 2004, and no earlier than July 1, 2014 for Lots originally subject to the Sanger Circle Declaration. The Assessments shall then be due on such payment dates as may be established by the Association. Assessments shall be due and payable on a quarterly basis unless otherwise designated by the Association.

(b) As long as Declarant is a Class "B" Member pursuant to Section 3.2 hereof, Declarant shall pay the deficiency (as funding check or a loan accruing 1% interest per month), resulting in the event the cost of maintenance exceeds the amount of the Assessments received by the Owners; provided, however, in such event, Declarant shall not otherwise be required to pay Assessments with respect to the portions of the Property owned by the Declarant; and further, provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established Assessment for each Lot it owns. When the Declarant is converted to a Class "A" Member, the Declarant: (i) shall no longer be responsible for contributing shortfalls outlined in the preceding sentence but rather; (ii) shall commence making regular annual and Special Assessments pursuant to Sections 4.3 and 4.4 hereof calculated on the number of Lots Declarant then owns.

(c) The Association shall fix the amount of the annual Assessment at least thirty days in advance of each Assessment year, which shall be the calendar year; provided, however, that the Association shall have the right to adjust the annual Assessment upon thirty days (30) written notice given to each Owner, as long as any such adjustment does not exceed the maximum permitted pursuant to Section 4 hereof. Written notice of the regular annual Assessment shall be given as soon as is practicable to every Owner subject thereto. The Association shall, upon demand at any time, furnish a certificate in writing signed either by the President, Vice President or the Treasurer of the Association setting forth whether the annual and special Assessments on a specified Lot have been paid and the amount of any delinquency. A reasonable charge may be made by the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(d) No Owner may exempt himself from liability for Assessments by waiver of the use or enjoyment of any portion of the Property or Open Spaces or by abandonment of his Attached Home or Detached Home.

#### **4.8 Effect of Non-Payment of Assessments; Remedies of the Association.**

(a) All payments of the Assessments shall be made to the Association at its principal place of business in Denton County, Texas or such other place as the Association may otherwise direct or permit. Payment shall be made in full regardless of whether any Owner has any dispute with the Declarant, the Association, any other person or entity regarding any matter to which this Consolidated Declaration relates or pertains. Payment of the Assessments shall be both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

(b) Any Assessment provided for in the Sanger Circle Declaration, the Sanger Trail Declaration, or in this Consolidated Declaration which is not paid when due shall be delinquent. If any Assessment is not paid within thirty (30) days after the date of delinquency, the Assessment shall bear interest from the date of delinquency at a rate of ten percent (10%) per annum or the maximum rate allowed by law, whichever is the lesser. In addition, the Board of Directors may set additional late fees as the Board deems necessary. Such late fees will be considered additional dues and payable as listed in this Consolidated Declaration. The Association may, at its option, bring an action at law against the Owner personally obligated to pay the same, or, upon compliance with the notice provisions hereof, foreclose the lien against the Lot as provided in Subsection 4.8(d) hereof. There shall be added to the amount of such Assessment the cost of preparing and filing the complaint in such an action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with the costs of action. Each Owner vests in the Association or its assigns, the right and power to bring all actions of law or in equity foreclosing such lien against such Owner, and the expenses incurred in connection therewith, including interest, costs and reasonable attorney's fees shall be chargeable to the Owner in default. Under no circumstances, however, shall Declarant or the Association be liable to any Owner or to any other person or entity for failure or inability to enforce any Assessments.

(c) No action shall be brought to foreclose said Assessment lien or to proceed under the power of sale herein provided in less than thirty (30) days after the date a notice of claim of lien is deposited with the postal authority, certified or registered, postage prepaid, to the Owner or said Lot, and a copy therefore is recorded by the Association in the Office of the County Clerk of Denton County, Texas; said notice of claim must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid Assessment at the maximum legal rate, plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien), and the name of the Association.

(d) Any such sale provided for above is to be conducted in accordance with the provisions applicable to the exercise of powers of sale in mortgages and deeds of trust, as set forth in Section 51.002 of the Property Code of the State of Texas (as it may be amended from time to time), or in any other manner provided by law. Each Owner by accepting a deed to a Lot, expressly grants to the Association a power of sale as set forth in said Section 51.002 of the Property Code, in connection with the Assessment lien. The Association, duly authorized agents,

shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

(e) Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, the appropriate release of such notice, upon payment of the defaulting Owner of a fee, to be determined by the Association but not to exceed the actual cost of preparing and filing or recording the lien and the release. The Assessment lien and the right to foreclosure sale hereunder shall be in addition to and not in substitution of all other rights and remedies which the Association and its successors or assigns may have hereunder and by law, including the right to suit to recover a money judgment for unpaid Assessments, as above provided.

**4.9 Subordination of Lien to First Mortgages.** The lien securing the Assessments provided for herein shall be expressly subordinate to the lien of any first lien mortgage on any Lot. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any first lien mortgage, pursuant to a decree of foreclosure or non-judicial foreclosure under such first lien mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessment thereafter becoming due, in accordance with the terms herein provided.

**4.10 Management Agreements.** The Association shall be authorized to enter into management agreements with third parties in connection with the operation and management of the Property and performance of its obligations hereunder. A copy of such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled with or without cause and without penalty by either party with thirty (30) days' written notice. Any and all management agreements shall be for a term not to exceed one year and shall be made with a professional and responsible party or parties with proven management skills and experience managing a project of this type. The Association may, at its discretion, assume self-management of the Property by the Association.

**4.11 Insurance Requirements.** The Association shall obtain insurance policies covering the Areas of Common Responsibility and Open Spaces and covering all damages or injury caused by the negligence of the Association, and its employees, officers, directors, and/or agents, including, but not limited to, commercial general liability insurance, directors and officers insurance, and other insurance as the Association may from time to time deem necessary or appropriate. Insurance on all Attached and Detached Homes is the responsibility of the Owners.

## **ARTICLE FIVE**

### **ARCHITECTURAL CONTROL COMMITTEE**

**5.1 Appointment of Members.** The Declarant has heretofore appointed an Architectural Control Committee (the "Committee"), consisting of at least three members who

are natural persons. The initial members of the Committee have been selected by the Declarant. All matters before the Committee shall be decided by a majority vote of its members. The Committee may, by a majority vote, appoint a representative (the "Representative") to accept the submission of plans and requests of the Committee and to approve or disapprove such submission or requests in accordance with this Consolidated Declaration and the Committee guidelines, if any. In the event of the death, incapacity or resignation of a member of the Committee, the successor for such member shall be appointed by the Board of Directors of The Association.

**5.2 Submission of Plans to Architectural Control Committee.** No building, fence, wall, parking area, swimming pool, spa, pole, mail box, driveway, fountain, pond, tennis court, sign, exterior color or shape, or new or modification of a structure shall be commenced, erected or maintained upon any Lot or the patio, parking space or garage used in connection with any Lot after the purchase of any Lot from Declarant, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same are submitted to the Committee at least thirty (30) days prior to the commencement of any construction or modification. The following shall be submitted for approval: a site plan showing the entire Lot with existing improvements, floor plan elevations of all faces of the proposed structure, and a description of all exterior construction materials. The Committee or Representative may request any addition information required for a reasonable review of the request. A copy of the above described plans, specifications and additional information, if any, shall be retained by the Committee.

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

**5.4 Committee Members' Liability.** Neither the Declarant, the Association, the Board, the Committee, nor any employees, officers, directors, or members thereof shall be liable for damages or otherwise to anyone submitting plans and specifications for approval to any Owner affected by the Consolidated Declaration by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications. Any errors in or omissions from the plans of the site plans submitted to the Committee shall be the responsibility of the Owner of the Lot to which the improvements related, and the Committee shall have no obligation to check for errors in or omissions from any such plans, or to check for such plans' compliance with the general provisions of this Consolidated Declaration, City codes, state statutes or the common law, whether the same relate to the Lot lines, building lines, easements or any other issue.

**5.5 Builder Plans.** Notwithstanding anything to the contrary contained herein, once a particular set of plans and specifications submitted by a Builder (which for purposes hereof shall be defined as any entity or person in the business of constructing single family residences in either single-unit buildings or multiple-unit buildings for the purpose of sale to third parties) has been approved by the Committee or deemed approved, such Builder may construct homes in the Property on any Lot in accordance with such plans and specifications without the necessity of obtaining subsequent approvals therefore, so long as there are no major material changes in the plans and specifications.

## **ARTICLE SIX**

### **CONSTRUCTION OF IMPROVEMENTS AND USE OF LOTS**

**6.1 Residential Use.** The Property shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached or attached single-family residence per Lot, which residence may not exceed two stories in height, and a private garage or rear parking spaces as provided below, which residence shall be constructed to minimum Federal Housing Authority ("FHA") and Veteran's Administration ("VA") standards, unless otherwise approved in writing by the Committee.

**6.2 Single Family Use.** Each residence shall be limited to occupancy by only one family consisting of persons related by blood, adoption or marriage or no more than four (4) unrelated persons residing together as a single housekeeping unit, in addition to any household or personal servant staff.

**6.3 Garage Requirements for Detached Homes.** Each Detached Home residence shall have an enclosed garage suitable for parking a minimum of two standard size automobiles, which garage shall conform in design and materials with the main structure. All garages must be front entry only; however, garages may be side entry if the Detached Home is situated on a corner Lot. No garage shall be sited so as to permit garage door openings to face an adjacent street, either fronting or siding the residence.

**6.4 Garage and Parking Requirements for Attached Homes.** Each Duplex shall have an enclosed garage for parking a minimum of two standard size automobiles, which garage

shall be front-entry and conform in design and materials with the main structure. Each Townhouse shall have either an enclosed garage for parking a minimum of two standard size automobiles, which garage shall conform in design and materials with the main structure, or two parking spaces. All garages for Townhouses may be front or rear entry. If there is no garage then the parking area spaces must be placed in the rear of the building, and there shall be a minimum of two parking spaces per residential unit.

**6.5 Restrictions on Resubdivision.** No Lot shall be subdivided into smaller Lots.

**6.6 Driveways and Alleyways.** All driveways and alleyways shall be surfaced with concrete or similar substance approved by the Committee.

**6.7 Uses Specifically Prohibited.**

(a) No temporary dwelling shop, trailer or mobile home of any kind or any improvement of a temporary character (except children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment which may be placed on a Lot only in places which are not visible to any street on which the Lot fronts) shall be permitted on any Lot except that the Builder or Contractor may have temporary improvements (such as a sales office or/ a construction trailer) on a specifically approved Lot. No building material of any kind or character shall be placed or stored upon the Property until construction is ready to commence.

(b) No boat, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body or similar vehicle may be parked for storage in the driveway or front yard of any dwelling or parked on any public street on the Property, nor shall any such vehicle or equipment be parked for storage in the side or rear yard of any residence unless properly concealed from public view inside a garage or approved enclosure. The phrase "approved enclosure" as used in this paragraph shall mean any fence, structure or other improvement approved by the Committee. No such vehicle or equipment shall be used as a residence or office, either temporarily or permanently. This restriction shall not apply to any vehicle, machinery or equipment temporarily parked while in use in construction, maintenance or repair of a residence in the Property. Notwithstanding anything contained in this Section 6.7(b) to the contrary, one boat, marine craft or other watercraft, inclusive of boat trailers or other support not exceeding nine (9) feet in height, measured from the ground or other support, may be parked or stored in the back yard of any Lot. No support device shall ever be allowed on any portion of any Lot which exceeds nine (9) feet in height. Any owner or occupant of any Lot parking or storing a craft in the back yard on any Lot pursuant to this paragraph agrees and consents to provide measurements, type and make and serial number of the craft, trailer and supports, if any, to the Association or Committee upon written request of any of its directors, officers, Committee members or Representative.

(c) Trucks with tonnage in excess of one and one-half (1 1/2) tons shall not be permitted to park overnight on the Property except those used by a Builder during the construction of improvements on a Lot.

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

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

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

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

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

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

(j) No individual water supply system shall be permitted on any Lot.

(k) No individual sewage disposal system shall be permitted on any Lot.

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

(m) No air-conditioning apparatus shall be installed on the ground forward of the front elevation of a residence. No air-conditioning apparatus shall be attached to any front wall or window of a residence. No evaporative cooler shall be installed on the front wall or window of a residence.

(n) No exterior antennas, aerials, satellite dishes or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed or maintained upon any portion of a Lot, except that (i) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; (ii) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; or (iii) antennas or satellite dishes designed to receive television broadcast signals [(i), (ii) and (iii) are collectively referred to as "Permitted Devices"] shall be permitted to be installed on a Lot, provided that any such Permitted Device is placed in the least conspicuous location on the Lot at which an acceptable quality signal can be received, is screened from the view from adjacent Lots and streets, and is installed in accordance with Federal Communication Commission (FCC) rules. The Association shall be notified in writing within 72 hours following the installation of a satellite dish or antenna. The Owner shall be responsible for the maintenance, repair and replacement of any satellite dish or antenna.

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

(p) No fence, wall or hedge or shrub planting, which obstructs sight lines at an elevation between three and six feet above the roadway, shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street curb lines a point twenty (20) feet along the curb from the point of intersection, or in the case of a radius curb line, from the intersection of the curb lines as extended. No tree shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at a minimum height of six feet above the adjacent ground line.

(q) Except for children's playhouses, dog houses, greenhouses, gazebos and buildings for storage of lawn maintenance equipment, no building previously constructed elsewhere shall be moved onto to any Lot, it being the intention that only new construction be placed and erected on the Property.



(r) Within those easements on each Lot as designated on the Plat of the Property, no improvement, structure, planting, or materials shall be placed or permitted to remain which might damage or interfere with the installation, operation or maintenance of public utilities, or which might alter the directions of flow within drainage channels or which might construct or retard the flow of water through drainage channels. The general grading, slope and drainage plan of a Lot as established by the Declarant's approved development plans may not be altered without the approval of the City and/or other appropriate agencies having authority to grant such approval.

(s) No sign of any kind or character (including any signs in the nature of a "protest" or complaint by any Owner against a homebuilder or any other party) shall be displayed to the public view on any Lot except for one professionally fabricated sign of not more than five square feet advertising the property for rent or sale, or signs used by the Builder to advertise their property during the construction and sales period. Declarant, the Association, or their agents shall have the right, without notice, to remove any sign, billboard or other advertising structure that does not comply with the above, and in doing so shall not be subject to any liability for trespass or any liability in connection with such removal. In addition, owners may display political signs not exceeding four (4) feet by six (6) feet in size advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal (but no more than one such sign for each candidate or ballot item) provided that such signs are ground-mounted, and are not erected more than ninety (90) days in advance of the election to which they pertain and are removed within ten (10) days after the election, and do not: (i) contain roofing material, siding, paving material, balloons or lights, or any other similar building, landscaping, or nonstandard decorative component; (ii) attach in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; (iii) include the painting of architectural surfaces; (iv) violate the law; (v) contain language, graphics, or any display that would be offensive to the ordinary person; or (vi) emit music or other sounds or display streamers or otherwise distract motorists.

(t) Outdoor clothes lines and drying racks visible to adjacent properties are prohibited. Owners or residents of Lots where the rear yard is not screened by solid fencing or other such enclosures shall construct a drying yard or other suitable enclosure or screening to shield from public view clothes drying racks, yard maintenance equipment and/or storage of materials.

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

**6.8 Minimum Floor Area.** The total air-conditioned living area of the main residential structure for Detached Homes, as measured to the outside of the exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings), shall be not less than one thousand five hundred twenty five (1,525) square feet or the minimum floor area as specified by the City of Sanger, whichever is greater. The total air-conditioned living area of the main residential structure for an Attached Home, as measured to the outside of the exterior walls (but exclusive of open porches, garages, patios and detached accessory buildings), shall be not

less than one thousand two hundred (1,200) square feet or the minimum floor area as specified by the City of Sanger, whichever is greater.

**6.9 Building Materials.** The total exterior wall area (excluding windows, doors, other openings and gables) of each residence constructed on a Lot shall not be less than eighty percent (80%) (but not less than the minimum percentage as established by the City of Sanger by ordinance or building code requirement) brick, brick veneer, stone, stone veneer, or other masonry materials approved by the Committee; provided, however, the front exterior wall area of the first floor, except windows and doors, of such buildings shall not be less than one-hundred percent (100%) of such materials unless approved by the Committee and the City of Sanger. Windows, doors, other openings, gables, or other areas above the height of the top of standard height first floor windows, doors, other openings, gables or other areas above the height of the top of standard height first-floor windows are excluded from calculation of the total exterior wall area. All roofing shall be 200 pounds per square inch fiberglass material of the "Prestique II" or dimensional type, or approved equal, or variegated pitch in "Weathered Wood" or other Committee approved color and shall comply with requirements of the City of Sanger, the FHA, the VA and the Committee. Roofing material must have a minimum 25-year warranty. All main residences shall have a minimum 6/12 roof pitch on the major portions of the building.

**6.10 Setback Requirements.** No dwelling shall be located on any Lot nearer to the front Lot line or nearer to the side Lot line than the minimum setback lines shown on the Plat or as required by the City of Sanger.

**6.11 Waiver of Setback Requirements.** With the written approval of the Committee and subject to plat and zoning restrictions, any building may be located further back from the front property line of a Lot than provided above, where in the opinion of the Committee, the proposed location of the building will enhance the value and appearance of the Lot and will not negatively impact the appear the value of adjoining Lots.

**6.12 Fences and Walls.** All fences and walls shall be constructed of masonry, brick, wood, iron work, steel, or other material approved by the Committee. No fence or wall on any Lot shall extend nearer to any street than the front of the residence thereon. Except as otherwise specifically approved by the Committee, all street-side yard fencing on corner Lots shall be no closer to the abutting side street than the side Lot line as shown on the subdivision Plat. No portion of any fence shall exceed six (6) feet in height unless approved by the Committee. Any fence or portion thereof that faces or adjoins the street right of way or faces the front public street shall be constructed so that all structural members and, unless Declarant determines otherwise, support posts will be on the side of the fence away from the street and are not public right of way. Fences or walls constructed by the Declarant (not deemed to be Areas of Common Responsibility) shall become the property of the Owner of the Lot on which the same erected and, as such, shall be maintained and repaired by such Owner. All park facing Lot lines shall be of wrought iron or equivalent type and shall be five (5) foot in height and be approved by the Committee.

**6.13 Sidewalks.** All Lots shall have walkways. All walkways along public right-of-ways shall conform to the minimum property standards of the City of Sanger, FHA and VA.

Front sidewalks shall be four (4) feet wide except where a mailbox is set. The sidewalk shall be rounded back where the outer boundary clears the box or construction (lights, street signs) four feet in any direction.

**6.14 Mailboxes.** Mailboxes shall be standardized and shall be constructed of a masonry material and design approved by the Committee (unless group boxes are required by the U.S. Postal Service).

**6.15 Windows.** Windows, jambs, and mullions shall be composed of anodized aluminum or wood. All front elevation windows shall have baked-on painted aluminum divided light windows (no mill finish).

**6.16 Landscaping.** Landscaping of each Lot shall be completed within thirty (30) days, subject to extension for delays caused by inclement weather, after the start of construction. At a minimum it shall include grassed front and side yards, a minimum of eight (8) two-gallon shrubs, and a minimum of one (1) two-inch caliper trees.

**6.17 General Maintenance of Lots.** Following occupancy of the Detached Home or Attached Home upon any Lot, each Owner shall maintain and care for the Home, all improvements and any trees, foliage, plants, and lawns on the Lot and otherwise keep the Lot and all improvements thereon in good condition and repair and in conformity with the general character and quality of the properties in the immediate area, such maintenance and repair to include but not limited to: (i) replacement of worn and/or rotted components; (ii) the regular painting of all exterior surfaces; (iii) the maintenance, repair, and replacement of roofs, rain gutters, downspouts, exterior walls, windows, doors, walks, drives, parking areas and other exterior portions of the improvements to maintain an attractive appearance; and (iv) regular mowing and edging of lawn and grass areas. Upon failure of any Owner to maintain a Lot owned by him in the manner prescribed herein, the Association, at its options and discretion, but without any obligation to do so, but only after ten (10) days written notice to such Owner to comply herewith, may enter upon such Owner's Lot and undertake to maintain and care for such Lot to the condition required hereunder and the Owner shall be obligated, when presented with an itemized statement, to reimburse the Association for the cost of such work within ten (10) days after the presentation of such statement. This provision, however, shall in no manner be construed to create a lien in favor of any party on any Lot for the cost or charge of such work or the reimbursement for such work. The maintenance of the front yards of the Attached Homes shall be the responsibility of the Association.

**6.18 Commencement of Construction.** Construction and improvements on each Lot shall be commenced and completed with due diligence promptly after approval by the City of Sanger and the Committee of the plans and specifications prepared in connection with such construction. It is the desire of the Developer that each Lot would be built on within one year (1) from the time of purchase. There is no hard time limit upon the start of construction provided, however, that the original purchaser or his successor has paid the Assessment fees in a timely manner and maintained the Lot in a clean and mowed manner. See Section 4.3(a) for Assessment fees. It is not the Developer's responsibility to maintain those Lots after closing.

**6.19 Completion of Construction.** Completion of yard, landscaping, sprinkler systems, retaining walls, or fences will be required within ninety (90) days of the certificate of occupancy as issued by the City of Sanger. The Owner should make every effort to have this work completed prior to occupancy; however, grass installation may be delayed until the growing season if necessary.

## **ARTICLE SEVEN**

### **GENERAL PROVISIONS**

**7.1 Easements.** Easements for the installation and maintenance of utilities and drainage facilities are reserved and shown on the Plat. Five (5) foot Wall Maintenance easements for the maintenance, upkeep and repair for the screening walls and fences abutting Marion Road and the Amenity Center are shown on the Plat and may be used by the Association for such purposes. Easements are also reserved for the installation, operation, maintenance and ownership of utility service lines from the property lines to the residences, Declarant reserves the right to make changes in and additions to the above-referenced easements for the purpose of most efficiently and economically installing the improvements to the Lots.

**7.2 Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Consolidated Declaration, the Bylaws, and Articles of Incorporation. Failure by the Association or by any Owner to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. With respect to any litigation hereunder, the prevailing party shall be entitled to recover reasonable attorney's fees from the non-prevailing party.

**7.3 Severability.** If any condition, covenant or restriction herein contained shall be invalid, which invalidity shall not be presumed until the same is determined by the final judgment or order of a court of competent jurisdiction, such invalidity shall in no way affect any other condition, covenant or restriction, each of which shall remain in full force and effect.

**7.4 Term.** The covenants and restrictions of this Consolidated Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by Declarant (during the time it owns any Lots), the Association, or the Owner of any Lot subject to this Consolidated Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Consolidated Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote, of the then Owners of forty percent (40%) of the Lots agree in writing to terminate this Consolidated Declaration in whole or in part and such writing is recorded in the Real Property Records of Denton County, Texas.

**7.5 Amendment.**

(a) This Consolidated Declaration may be amended or modified upon the approval of at least forty percent (40%) of the votes held by Members who are present, in person, by proxy,

or by absentee/electronic ballot, at a meeting at which a quorum is present. Any and all amendments shall be recorded in the office of County Clerk of Denton County, Texas. So long as there is a Class "B" Member, the amendment shall not become effective until approved by the Class "B" Member.

(b) Declarant intends that this Consolidated Declaration may be amended to comply if not in compliance with all requirements of the Federal Home Loan Mortgage Corporation ("FHLMC"), Federal National Mortgage Association ("FNMA"), FHA and VA. Notwithstanding anything to the contrary contained herein, if this Consolidated Declaration does not comply with FHLMC, FNMA, FHA or VA requirements, the Board and/or Declarant shall have the power in its discretion (on behalf of the Association and each any every Owner) to amend the terms of this Consolidated Declaration or to enter into any agreement with the FHLMC, FNMA, FHA or VA to allow this Consolidated Declaration to comply with such requirements. Should the FHLMC, FNMA, FHA or VA subsequently delete any of their respective requirements which necessitate any of the provisions of this Consolidated Declaration or make any such requirement less stringent, the Board and/or the Declarant, without approval of the Owners, may, upon reasonable justification, cause an amendment to this Consolidated Declaration to be executed and recorded to reflect such changes.

**7.6 Gender and Grammar.** The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply to corporations or individuals, men or women, in all cases shall be assumed as though fully expressed in each case.

**7.7 Remedies.** Enforcement of these covenants and restrictions shall be by any proceeding of law or in equity, including, without limitation, an action for injunctive relief, it being acknowledged and agreed that a violation of covenants, conditions and restrictions contained herein could cause irreparable injury to the Association and/or Owners individually, and that the Association's and/or the other Owners remedies by law for any breach of the Owners' obligations contained herein would be inadequate. Enforcement may be commenced by the Association or any Owner against any person or persons violating or attempting to violate them, and failure by the Association or Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The rights created herein are unique and enforceable by specific performance.

**7.8 Notices to Member/Owner.** Any notice required to be given by any member and/or Owner under the provisions of this Consolidated Declaration shall be deemed to have been properly delivered forty-eight hours (48) after being deposited in the United States Mail, postage prepaid, certified or registered mail, and addressed to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. In the absence of a forwarding address, the Lot address shall be adequate notification.

**7.9 Headings.** The headings contained in this Consolidated Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Consolidated Declaration. Words of any gender used herein shall be held and construed to

include any other gender and words in the singular shall be held to include the plural and vice versa unless the context requires otherwise.

**7.10 Formation of Association: Inspection of Documents, Books and Records.** The Association shall be formed by Declarant as a nonprofit corporation in accordance with the laws of the State of Texas. Management and governance of the Association shall be implemented and/or undertaken in accordance with its Articles of Incorporation, in accordance with this Consolidated Declaration, and in accordance with the Bylaws. The Association shall make available copies of the Consolidated Declaration, Bylaws, Articles of Incorporation, rules and regulations governing the Association as well as its books, records and financial statements of the Association for inspection by Owners or any Mortgagee during regular business hours or other reasonable times.

**7.11 Indemnity.** The Association shall indemnify, defend and hold harmless the Declarant, the Board, the Committee and each director, officer, employee and agent of the Declarant, the Board and the Committee from all judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses (including attorney's fees) incurred by such indemnified person under or in connection with this Consolidated Declaration or the Property to the fullest extent permitted by applicable law. Such indemnity is to include matters arising as a result of the sole or concurrent negligence of the indemnified party, to the extent permitted by applicable law.

**7.12 FHA/VA Approval Requirement.** As long as there remains any Class B membership, the following actions shall require prior approval of the FHA or VA if such approval is required under the then applicable FHA or VA regulations: amendment of the Articles of Incorporation, Consolidated Declaration or Bylaws; annexation of additional property; mortgaging or dedication of the Open Space; and dissolution or merger of the Association.

**7.13 Binding Effect.** Each of the conditions, covenants, restrictions and agreements herein contained is made for the mutual benefit of, and is binding upon, each and every person acquiring any part of the Property, it being understood that such conditions, covenants, restrictions and agreements are not for the benefit of the Owner of any land except land in the Property. This Consolidated Declaration, when executed, shall be filed of record in the Real Property Records of Denton County, Texas so that each and every owner or purchaser of any portion of the Property is on notice of the conditions, covenants, restrictions and agreement herein contained.

**7.14 Recorded Plats: Other Authorities.** All dedications, limitations, restrictions and reservations that are shown on the Plats are deemed to be incorporated herein and shall be construed as being adopted in each contract, deed or conveyance executed or to be executed by the Declarant, conveying the Lots, whether specifically referred to therein or not. Other authorities' imposition of lesser requirements than those that are set forth herein shall not supersede or diminish the requirements that are set forth herein.

**7.15 Additions to the Property.** Additional property may become subject to this Consolidated Declaration in any of the following manners:

(a) The Declarant may add or annex additional real property to the scheme of this Consolidated Declaration by filing a record of Supplementary Declaration of Covenants, Conditions and Restrictions which shall extend the scheme of this Consolidated Declaration to such property, provided, however, that such Supplementary Declaration may contain such complementary additions and modification of the covenants, conditions, and restrictions contained in this Consolidated Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not consistent with this Consolidated Declaration. For the purposes of this Consolidated Declaration and any Supplementary Declaration, the inclusion and maintenance, upkeep and repair, and additional Areas of Common Responsibility such as screening walls and fences, hike and bike trails, playgrounds, basketball courts and landscaping and irrigation responsibilities shall be deemed consistent with the covenants, conditions and restrictions of this Consolidated Declaration.

(b) In the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of this Consolidated Declaration, such annexation proposed must have prior written consent and approval of the majority of the outstanding votes within each voting class of the Association. Any additions made pursuant to paragraphs (a) and (b) of this Section, when made, shall automatically extend the jurisdiction, functions, duties and membership of the Association to the properties added.

(c) Upon the approval of at least forty percent (40%) of the votes held by Members who are present, in person, by proxy, or by absentee/electronic ballot, at a meeting at which a quorum is present, the Association may merge or consolidate with any similar association then having jurisdiction over real property located (in whole or part) within one (1) mile of any real property then subject to the jurisdiction of this Association. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, condition and restriction established by this Consolidated Declaration within the Property together with the covenants and restriction established upon any other properties as one scheme.

**7.16 No Warranty of Enforceability.** While the Declarant has no reason to believe that any of the restrictive covenants or other terms or provisions contained in this Consolidated Declaration are or may be invalid or unenforceable for any reason or any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenants. Any Owner acquiring a Lot in the Property 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 a Lot, agrees to hold Declarant and the Committee harmless therefrom. The Declarant shall not be responsible for the acts or omissions of any individual, entity or other Owners.

**7.17 Right of Enforcement.** The failure by the Association or the Committee to enforce any provision of this Consolidated Declaration shall in no event subject the Association or the Committee to any claims, liability, costs, or expense; it being the express intent of this Consolidated Declaration to provide the Association or the Committee with the right (such right to be exercised at their sole and absolute discretion), but not the obligation to enforce the terms of this Consolidated Declaration for the benefit of any Owner(s) of any Lot(s) in the Property.

**7.18 Residential Construction Liability Act.** Without waiving any rights under law or equity, all Owners acknowledge, covenant and agree that residential construction defect claims regarding any Detached or Attached Home against the Declarant or any homebuilder in Texas are controlled by the Texas Residential Construction Liability Act (Tex. Prop. Code §27.001 et seq., as amended) which preempts the Texas Deceptive Trade Practices Act (Tex. Bus. & Com. Code § 17.41 et seq., as amended) and other law.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



**IN WITNESS WHEREOF**, the Sanger Circle Association and the Sanger Trail Association have caused this Consolidated Declaration to be executed by their duly authorized agents as of the date first above written.

**SANGER CIRCLE HOMEOWNERS’  
ASSOCIATION, INC.,**  
a Texas nonprofit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF TEXAS                    §  
  §  
COUNTY OF DENTON            §

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Sanger Circle Homeowners’ Association, Inc., a Texas nonprofit corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_ day of \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires: \_\_\_\_\_

**SANGER TRAIL HOA,**  
a Texas nonprofit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF TEXAS                   §

§

COUNTY OF DENTON               §

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared \_\_\_\_\_, the \_\_\_\_\_ of Sanger Trail HOA, a Texas nonprofit corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that (s)he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires: \_\_\_\_\_

## **EXHIBIT "A"**

### **Property Subject to Consolidated Declaration**

Final Plat of Lots 1-4, Block A, Lot 1, Block B, Lot 1-X, Blocks A & B, Lot 2-X, Block B of Sanger Circle, Phase 1, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-206, Plat Records, Denton County, Texas.

Final Plat of Lots 11 & 12, Block 6, Lots 1-3, Block 8 of Sanger Circle, Phase 1A, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2014-282, Plat Records, Denton County, Texas.

Final Plat of Lots 24-27, Block 5, Lots 1-3, Block 8, Lots 1-3 & Lots 15-18, Block 9, Lots 9-16, Block 10 of Sanger Circle, Phase 1B, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-184, Plat Records, Denton County, Texas.

Amending Plat of Lots 5-7, Block A, Lots 2-9, Block B, Lots 1-3, 11-14, Block C, Lots 1-4, Block D of Sanger Circle, Phase 2, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-407, Plat Records, Denton County, Texas, and re-recorded as Document No. 2016-73, Plat Records, Denton County, Texas.

Final Plat of Lots 28-31, Block 1, Lots 11-14, Block 2 of Sanger Circle, Phase 3, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-77, Plat Records, Denton County, Texas.

Final Plat of Lots 10-25, Block B, Lots 4-10, Block C, Lots 5-41, Block D, Lots 1-16, Block E, Lots 1-6, Block F of Sanger Circle, Phase 3, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-433, Plat Records, Denton County, Texas.

Final Plat of Sanger Circle, Phase 4, Lots 26-28, Block B, Lots 17-28, Block E, Lots 7-13, Block F, Lots 1-33 & 9X, Block G, Lots 1-12, Block H, Lots 1-8, Block I & Lots 1-6, Block J, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2016-74, Plat Records, Denton County, Texas.

Amending Plat of Sanger Circle, Phase 5, Lots 28A-31A, Block 1, Lots 11A-14A, Block 2, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document No. 2015-404, Plat Records, Denton County, Texas.

Final Plat of Sanger Trails, Phase 1, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document 2001-113352, at Volume U, Page 77, Plat Records, Denton County, Texas.

Final Plat of Sanger Trails II, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document 2002-169115, at Volume U, Page 788, Plat Records, Denton County, Texas.

Final Plat of Sanger Trails, Phase 2A, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document 2003-116635, at Volume V, Page 138, Plat Records, Denton County, Texas.

Final Plat of Sanger Trails, Phase 2B, an addition to the City of Sanger, Denton County, Texas, according to the Plat thereof recorded as Document 2003-116636, at Volume V, Page 140, Plat Records, Denton County, Texas.