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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**DEER CREEK VILLAGE II**

**DEER CREEK VILLAGE III**

**DEER CREEK VILLAGE IV**

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# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

DEER CREEK VILLAGE II

DEER CREEK VILLAGE III

&

DEER CREEK VILLAGE IV

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR DEER CREEK VILLAGE II, DEER CREEK VILLAGE III & DEER CREEK VILLAGE IV ("**Declaration**") is made as of the 26<sup>th</sup> day of May, 2009, by Deer Creek Village, L.L.C., an Oklahoma limited liability company (herein the "**Declarant**") and Alvand, LLC, an Oklahoma limited liability company (herein "**Alvand**").

Declarant, as the Developer and Alvand as a Builder and the purchaser from the Declarant of Lots 1 through 7 Block 12, Lot 2 Block 13 and Lots 11 through 14 Block 5 all in Deer Creek Village II are the owners of the real property described in **Exhibit A** attached hereto and referred to as (the "**Property**" or the "**Addition**"). The Property has been subdivided and platted into Deer Creek Village II, Deer Creek Village III and Deer Creek Village IV, parts of the S.E. ¼ of Section 4 Township 13 North Range 4 West of the Indian Meridian, all of which are subdivisions located within the City of Oklahoma City, Oklahoma County, Oklahoma, according to the recorded plats thereof (collectively, the "**Addition**"). This Declaration imposes upon the Addition mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. An integral part of the development plan is the creation of Deer Creek Village Community Association, Inc. (the "**Association**"), an association comprised of all Lot Owners in Deer Creek Village Section 1, Deer Creek Village II Deer Creek Village III and Deer Creek Village IV and subsequent phases of development of the land adjacent to the Property, which shall be annexed into the Association by the imposition of a Declaration of Covenants, Conditions and Restrictions for each additional phase of development, to own, operate, and maintain common property and Community improvements and to administer and enforce the Governing Documents for the Addition.

## Article I

### CREATION OF THE COMMUNITY

1.1. Development and Future Intent. Declarant hereby declares that all of the Property described on Exhibit "A" attached hereto shall be held, sold, used, and conveyed subject to the following covenants, conditions, and restrictions which shall run with title to the Property. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Addition. Declarant intends to further subdivide land adjacent to the Property into additional phases of Deer Creek Village and impose a Declaration of Covenants, Conditions

and Restrictions in form similar to this Declaration, thereby making the Owners of the Lots Members of the Deer Creek Village Community Association, Inc., as provided herein.

1.2. Duration. Unless terminated as provided below, this Declaration shall have perpetual duration. Unless otherwise provided by Oklahoma law, in which case such law shall control, this Declaration may not be terminated within 20 years of the date of recording without the consent of all Owners. After 20 years from the date of recording, this Declaration may be terminated only by an instrument in writing, signed by a majority of the then Owners and recorded in the Official Records, which specifies the termination of this Declaration.

1.3. Governing Documents. This Declaration together with the Bylaws of Deer Creek Village Community Association, Inc., the Certificate of Incorporation of Deer Creek Village Community Association, Inc., and any Covenant to Share Costs (collectively, the "**Governing Documents**") shall contain the standards for the Property and the Association. The Governing Documents shall be supplemented by the Use Restrictions and Rules, and Regulations of the Board of Directors.

## **Article II**

### **CONCEPTS AND DEFINITIONS**

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

"Addition": Deer Creek Village II, Deer Creek Village III and Deer Creek Village IV all of which are additions to the City of Oklahoma City, Oklahoma County, Oklahoma according to the recorded plats thereof and any further subdivisions of the Property for which a Final Plat approved by the City of Oklahoma City is filed for record in the office of the County Clerk of Oklahoma County.

"Area of Common Responsibility": The Common Area, together with those areas, if any, which the Association does not own but which by the terms of this Declaration or other applicable covenants, or by contract become the Association's responsibility, e.g. the rights-of-way of N. MacArthur Blvd. and N.W. 150<sup>th</sup> St. between the Common Area fence and the curbs and/or paved street.

"Association": Deer Creek Village Community Association, Inc., an Oklahoma not for Profit Corporation, its successors and assigns.

"Assessment": Assessments levied on all Lots subject to assessment under **Section 8.9** to fund Common Expenses for the general benefit of all Lots, as more particularly described in **Article VIII**.

"Board of Directors" or "Board": The body responsible for administration of the Association.

"Builder": Any Person which purchases one or more Lots or parcels of land within the Property for the purpose of constructing improvements for later sale to consumers and/or resale

in the ordinary course of such Person's business or which proposes to construct modifications or additions to any improvements to a Lot or other improvements on the Property, or which proposes to perform repairs, replacements or reconstruction of any such improvements.

"Bylaws": The Bylaws of Deer Creek Village Community Association, Inc. attached as **Exhibit C** and made a part hereof, as they may be amended from time to time.

"Certificate": The Certificate of Incorporation of Deer Creek Village Community Association, Inc., as filed with the Oklahoma Secretary of State.

"Class "B" Control Period": The period during which the Class "B" Member is entitled to appoint a majority of the Board members as provided in the Bylaws.

"Common Area": All real and personal property which the Association now or hereafter owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include all property designated as Common Areas on the Plat. The term Common Area may include, without limitation, a clubhouse, recreational facilities, entry features, signage, landscaped medians, common area and perimeter fences, water courses, wetlands, and sidewalks (whether or not such sidewalks and fences are located within a Common Area designated on any plat of Deer Creek Village).

"Common Expenses": Actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Lots, including reasonable reserves, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class "A" vote of the Association.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at Deer Creek Village. Such standard shall be established initially by Declarant and may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and demands of Deer Creek Village change.

"Declarant": Deer Creek Village, L.L.C., an Oklahoma limited liability company, or any successor, successor-in-title, or assignee of Deer Creek Village, L.L.C., who has or takes title to any portion of the Property for the purpose of development, leasing and/or resale in the ordinary course of business and who is designated as Declarant in the deed by which it acquires title or in any other instrument executed by the immediately preceding Declarant and recorded in the Official Records.

"Design Review Committee" or "DRC": The committee which Declarant or the Board may create, subject to the provisions of **Article IV**, and at such time as it shall determine in its discretion, to review new construction and administer and enforce architectural standards.

"Member": A Person entitled to membership in the Association. Every Owner shall automatically be a Member, subject to the limitations on co-Owners as provided in **Article VI** and the Bylaws.

“Mortgage”: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument.

“Mortgagee”: A beneficiary or holder of a Mortgage.

“Official Records”: The real property records in the Office of the County Clerk of Oklahoma County, Oklahoma.

“Owner”: Collectively, one or more Persons who hold record title to any Lot, but excluding in all cases any party holding an interest merely as security for performance of an obligation. If a Lot is sold under a recorded contract of sale, then, upon recording of such contract, the purchaser (rather than the fee owner) will be considered the Owner, unless the contract specifically provides otherwise.

“Person”: A natural person, a corporation, a limited liability company, a partnership, a trust or any other legal entity.

“Plat”: The final plats of Deer Creek Village II, Deer Creek Village III and Deer Creek Village IV as filed in the Official Records, as the same may be amended, updated, supplemented or vacated from time to time.

“Property”: The real property described in **Exhibit A**.

“Reviewer”: The Person or group of Persons authorized to exercise architectural review pursuant to **Article IV**.

“Special Assessment”: Assessments levied against all Owners to cover unanticipated costs, as more particularly described in **Section 8.6**.

“Specific Assessment”: Assessments levied on one or more but less than all Lots to cover costs attributable to such Lots, as more particularly described under **Section 8.7**.

“Lot”: A portion of the Property, whether improved or unimproved, which may be independently owned and is intended for construction, use, and occupancy as a detached residence for a single family. The term shall refer to the land as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on the subdivision plat of Deer Creek Village II in the Official Records and any additional lots contained in future subdivision plats of any portion of the Property, together with the structures, if any, constructed thereon, but shall not include Common Areas or property dedicated to the public.

“Use Restrictions”: The rules and use restrictions attached as **Exhibit B** and made a part hereof, as they may be modified, canceled, limited or expanded under **Article III**.



**Article III**  
**USE AND CONDUCT**

3.1. Framework for Regulation. All provisions of this Declaration and any Association rules shall apply to all Persons on the Property. The lessee and all occupants of leased Lots shall be bound by the terms of the Governing Documents, whether or not the lease so provides. All Owners shall be responsible for inserting a provision in any lease informing the lessee and all occupants of the Lot of all applicable rules and use restrictions affecting the Lot and the Common Area.

3.2. Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are hereby given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board and/or the Members may add, delete, modify, create exceptions to, or amend the Use Restrictions.

By acceptance of a deed, each Owner acknowledges and agrees that the use and enjoyment and marketability of the Owner's property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

3.3. Protection of Owners. Except as may be specifically set forth in the initial Use Restrictions, neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Speech. The rights of Owners and occupants to display on their Lot political signs and symbols of the kinds normally displayed in or outside residences located in single-family residential neighborhoods in individually owned property shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating signs and symbols which are visible from outside the Lot. This Declaration and any Rules adopted by the Board shall not be construed to supersede or limit applicable governmental ordinances regulating signs or symbols on Lots.

(c) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds customarily displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating displays which are visible from outside the Lot. Provided, however, all holiday displays shall be removed within 30 days of the holiday for which the same were originally displayed.

(d) Pets. Any rule prohibiting keeping ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Property in compliance with the rules in effect prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance as determined by the Board or its designee.

(e) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Plat.

(k) Application of Rules. No rule shall be applied retroactively except as otherwise required by law.

The limitations in this Section shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with **Article XIII**.

#### **Article IV** **ARCHITECTURE AND LANDSCAPING**

4.1. General Requirement for Prior Approval. In addition to the construction of dwellings and other buildings, it is specifically intended that placement or posting of other structures (e.g., fences, signs, antennae and satellite dishes, screened porches, clotheslines, playground equipment, basketball hoops, pools, propane and other fuel tanks (other than portable gas grills), lighting, temporary structures, solar devices, and artificial vegetation) on the exterior of any Lot or other portion of the Property shall be regulated by this Declaration and require the approval of the appropriate Reviewer under **Section 4.2**.

This Article may not be amended without Declarant's written consent so long as Declarant owns any portion of the Property or without the consent of sixty percent (60 %) of the Owners after Declarant no longer owns any portion of the Property.

#### 4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of Deer Creek Village, acknowledges that, as developer of Deer Creek Village and as an Owner of portions of Deer Creek Village, Declarant has a substantial interest in ensuring that the improvements within Deer Creek Village enhance Declarant's reputation as a Community developer and do not impair Declarant's ability to market, or sell its property. Therefore, each Owner agrees that no activity within the scope of this Article ("**Work**") shall be commenced on such Owner's Lot unless and until Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue so long as Declarant owns any portion of Deer Creek Village, unless earlier terminated in a written instrument executed and recorded by Declarant in the Official Records.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder. Declarant hereby designates the following individuals to act as the Design Review Committee: Anthony K. Mirzaie, Benny Hani and Jimmy Motiei.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) a Design Review Committee appointed by the Association's Board of Directors (the "DRC"), or (ii) a committee comprised of architects, engineers or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by Declarant.

(b) Design Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the DRC, shall assume jurisdiction over architectural matters hereunder. The DRC, when appointed, shall consist of at least three (3), but not more than seven (7), persons who shall serve and may be removed and replaced in the Board's discretion. Members of the DRC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the DRC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

4.3. No Waiver of Future Approvals. Each Owner acknowledges that members of the Reviewer will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval. Should the Reviewer permit nonconforming improvements through hardship or error, it shall not be construed as a waiver of future enforcement rights or permission for future noncompliance.

4.4. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and Declarant, the Association, the Board, the DRC, or any member of the foregoing, shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Declarant, the Association, the Board, the DRC, or any member of any of the foregoing shall not be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot. In all matters, the DRC and its members shall be defended and indemnified by the Association as provided in the Bylaws.

4.5. Enforcement. All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved Work and all Work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. The Association

shall be primarily responsible for enforcement of this Article. If, however, in Declarant's discretion, the Association fails to take appropriate enforcement action within a sixty (60) day time period, Declarant, for so long as it owns any portion of the Property, shall be authorized to exercise any enforcement rights which could have been exercised by the Association.

**Article V**  
**MAINTENANCE AND REPAIR**

5.1. Level of Maintenance Required. Deer Creek Village shall be maintained in a manner consistent with the Community-Wide Standard, all applicable covenants, and any development agreements or orders between Declarant and the City of Oklahoma City, Oklahoma. Each Person responsible for maintenance of any portion of the Property shall maintain or provide for such maintenance in accordance with such standards, which may include special requirements or exemptions for property owned by Declarant or the Association or for the Area of Common Responsibility.

Notwithstanding anything to the contrary contained herein, the Association, any Owner, or any other entity responsible for the maintenance of a portion of the Property shall not be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Lot in a manner consistent with the Community-Wide Standard and all applicable covenants and Use Restrictions, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to any supplement or amendment to this Declaration or other declaration of covenants applicable to such Lot.

In addition to any other enforcement rights provided for in the Governing Documents, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred in accordance with **Section 8.6**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

Upon Board resolution, Owners of Lots within Deer Creek Village shall be responsible for paying, through assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to Deer Creek Village. This may include, without limitation, costs of maintaining any signage, entry features, right-of-way, and open space between the Lots within Deer Creek Village and adjacent public roads and private streets within Deer Creek Village, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Owners who are similarly situated shall be treated similarly.

5.3 Association's Responsibility. The Association shall be obligated to assume maintenance responsibility for the Areas of Common Responsibility within Deer Creek Village, Section 1. Additionally, all specialty street signs and street lights shall be owned, operated, maintained, repaired and replaced by the Association. In the event one or more street lights or

street signs are damaged or destroyed, the Association shall use its best efforts to replace the same with the same type and size as the original.

5.4. Responsibility for Repair and Replacement. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with **Article IV**. The Owner shall pay any costs that are not covered by insurance proceeds.

## **Article VI**

### **THE ASSOCIATION AND ITS MEMBERS**

6.1. Functions of Association. The Association shall be (i) the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility; (ii) the primary entity responsible for compliance with and enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board may adopt; (iii) primarily responsible for monitoring compliance with and enforcing the Design Guidelines; and (iv) permitted to provide for and fund such Community activities and services as deemed necessary, appropriate, or desired in accordance with the Governing Documents, or as may be required by the Oklahoma County, Oklahoma. The Association may delegate such responsibilities to committees or engage outside Persons to monitor and enforce the Design Guidelines under the Board's supervision. The Association shall perform its functions in accordance with the Governing Documents and Oklahoma law.

6.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in **Section 6.3(c)** and in the Bylaws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, manager or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting. The Association shall have three classes of membership, Class "A", Class "B" and Class "C" Members.

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member and the Class "C" Members, if any. Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under **Section 6.2**, except that there shall be only one vote per Lot and no vote shall be exercised for any property which is exempt from assessment under **Section 8.11**. All Class "A" votes shall be cast as provided in **Section 6.3(c)** below.

(b) Class "B". The sole Class "B" Member shall be Declarant. The Class "B" Member shall have four votes for each Lot owned by the Class "B" Member and may appoint a majority of members of the Board during the Class "B" Control Period, as specified in the Bylaws. Additional rights of the Class "B" Member, including the right to approve, or withhold

approval of, actions proposed under this Declaration, the Bylaws, and the Certificate, are specified in the relevant sections of this Declaration, the Bylaws, and the Certificate. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the Bylaws.

The Class "B" membership shall terminate upon the earlier of:

(i) three (3) years after expiration of the Class "B" Control Period pursuant to **Article III** of the Bylaws; or

(ii) when, in its discretion, Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns.

(c) Class "C". Class "C" Members shall be the Builders who own Lots for the sole purpose of constructing a home for resale. The Class "C" Members shall have one equal vote for each Lot in which they hold the interest required for membership contained in **Section 6.2**, above.

(d) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, the vote for each Lot owned by a Class "A" or Class "C" Member shall be exercised by the Member representing that Lot.

In any situation where there is more than one Owner of a Lot or more than one representative of an Owner which is not a natural person, the vote for such Lot shall be exercised as the co-Owners or representatives determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

## **Article VII**

### **ASSOCIATION POWERS AND RESPONSIBILITIES**

7.1. Acceptance and Control of Association Property. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the Property, personal property, and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Area of Common Responsibility by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed, including but not limited to restrictions governing the use of such property.

7.2. Maintenance of the Area of Common Responsibility.

The Association shall maintain and keep in good repair the Area of Common Responsibility. The Association may also maintain and improve other property which it does not own, including, without limitation, section line road rights of way.

The Area of Common Responsibility shall include, but need not be limited to:

- (a) all portions of and structures situated upon the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Property;
- (c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association,
- (d) all lakes, ponds, streams, and/or wetlands located within the Property which serve as part of the storm water drainage system for the Property, including improvements and equipment installed therein or used in connection therewith; and

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described on **Exhibit A** of this Declaration.

### 7.3. Insurance.

(a) Types and Limits of Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering “all risks of direct physical loss” on a “special form” basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair, and/or replacement in the event of a casualty.

(ii) Commercial general liability insurance for all of Deer Creek Village, including, the Area of Common Responsibility, insuring the Association and its Members for damage injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with replacement costs in the Oklahoma City, Oklahoma area.

All Association policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association.

7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents and the rules of the Association. The Board may impose sanctions for violation of the Governing Documents or any rule or regulation, after notice and a hearing in accordance with the procedures set forth in the Bylaws.

(b) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the Bylaws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance(s) of the Oklahoma County, Oklahoma or statutes of the State of Oklahoma); and

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents or any rule or regulation, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees, expert witness fees, and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with the applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough or funds are not available to justify taking enforcement action. Any such determination shall not be construed as waiver of the right of the Association to enforce such provision at a later time under other circumstances or to estop the Association from enforcing any other covenant, restriction, or rule.

7.5. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws or which may be reasonably implied from or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

7.6. Powers of the Association Relating to Lot Owners. The Association also may require specific action to be taken by any Lot Owner to fulfill his or her obligations and responsibilities under this Declaration or any other applicable covenants. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or



aesthetic changes to be effectuated by the Lot Owner, and (b) impose a Specific Assessment on the Lot Owner to pay the cost of such work.

Any action specified by the Association in a written notice pursuant to the foregoing paragraph shall be taken within the reasonable time frame set in such written notice. If the Lot Owner fails to comply with such requirements, the Association shall have the right to take such action.

**7.7. Disclaimer of Liability.** The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to promote the health, safety and welfare of Owners and occupants of any Lot. Notwithstanding anything contained in the Governing Documents or any other document governing or binding the Association, neither the Association, the Board, the management company of the Association, Declarant nor any successor Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety, or welfare of any Owner or occupant of any Lot or any tenant, guest, or invitee of any Owner or occupant or for any property of any such Persons. Each Owner and occupant of a Lot and each tenant, guest and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Property, including all recreational facilities, if any, and may be required to execute specific liability waivers from time to time as a condition of such use.

Neither the Association, the Board, the Association's management company, Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness, or any other loss or damage caused by the presence or malfunction of utility lines, or utility sub-stations adjacent to, near, over, under, or on the Property. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner, Declarant' or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence or malfunction of utility lines, utility sub-stations, and electromagnetic fields and further acknowledges that the Association, the Board, the management company of the Association, Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any lessee, guest, or invitee of any Owner, Declarant, or occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations, or electromagnetic fields.

No provision of the Governing Documents shall be interpreted as creating a duty of the Association, the Board, the management company of the Association, Declarant nor any successor Declarant to protect or further the health, safety or welfare of any Person(s), even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Property (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, the Board, the Association's management company, Declarant and any successor Declarant, their directors, officers, committee and board members, employees, agents,

contractors, subcontractors, successors, and assigns arising from or connected with any matter for which the liability has been disclaimed.

## **Article VIII** **ASSOCIATION FINANCES**

8.1. Budgeting and Allocating Common Expenses. Not less than 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the Common Expenses estimated to be incurred during the coming year. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in **Section 8.2**, but shall not include expenses incurred during the Class "B" Control Period for initial development original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members representing a majority of the total Class "A" Members.

The Assessment shall be levied against all Lots subject to assessment as set forth in **Sections 8.4** and **8.5** below. The dues for Class "A" Members shall initially be set at \$350.00 which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including contributions to reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under **Section 8.9** on the first day of the fiscal year for which the budget is prepared and any additional Lots reasonably anticipated to become subject to assessment during the fiscal year. The budget shall become effective unless disapproved at a meeting by Members representing at least a majority of the total Association vote and by Declarant as long as Declarant owns any portion of the Property.

Notice of assessments shall be posted in a prominent place within the Property and included in the Association's newsletter, if any. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, the budget in effect for the immediately preceding year shall continue for the current year.

8.2. Budgeting for Reserves. The Board shall prepare, on an annual basis, reserve budgets which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of each asset.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. So long as Declarant owns any portion of the Property, neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written.

8.3. Authority to Assess Owners; Time of Payment. The Association may levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be three types of assessments for Association expenses: (a) Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special

Assessments as described in **Section 8.5**; and (c) Specific Assessments as described in **Section 8.6**. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Property is deemed to covenant and agree to pay these assessments.

Assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Assessment for each Lot shall be due and payable annually no later than February 1, after which date the Assessment shall be considered to be delinquent. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may assess a late charge and require unpaid installments of all outstanding assessments to be paid in full immediately. The Board shall file a lien against the Lot of any Owner whose outstanding assessments remain unpaid as of April 1.

8.4. Declarant's Obligation for Assessments. During the Class "B" Control Period, Declarant may satisfy its obligation for the Assessment on Lots which it owns by paying such assessments in the same manner as any other Owner. The Assessment on Lots owned by the Class "B" Member shall be 50% of Assessment on Lots owned by Class "A" Members.

8.5. Builder's Obligation for Assessments. The Assessment on Lots owned by Class "C" Members shall be 75% of the Assessment on Lots owned by Class "A" Members.

8.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessments may be levied against Class "A" Members only.

There shall be no obligation to call a meeting for the purpose of considering Special Assessments except on petition of Members as provided for special meetings in the Bylaws, which petition must be presented to the Board within 30 days after notice of the Special Assessment. Notice of Special Assessment shall be provided as set forth in **Section 8.1**. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.7. Specific Assessments. The Board may levy Specific Assessments against particular Lots for expenses incurred or to be incurred by the Association, as follows:

- (a) transfer fees, as provided in **Section 8.13** below;
- (b) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize, which assessments may be levied in advance of the provision of the requested benefit, item, or service as a deposit against charges to be incurred by the Owner; and
- (c) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, any applicable supplement or amendment to this Declaration, the Bylaws, the Design Guidelines, or rules of the Association, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their licensees, invitees, or guests; provided, the Board

shall give the Lot Owner prior written notice and an opportunity for a hearing before levying a Specific Assessment under this subsection (c).

8.8. Personal Obligation. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay all assessments authorized in this Declaration. All assessments, together with interest from the due date of such assessment at a rate determined by the Board (but not less than 10% per annum, subject to the limitations of Oklahoma law), reasonable late charges in such amount as is established by Board resolution, costs, and reasonable attorney's fees, shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title, unless a notice of such delinquent assessments was recorded in the Official Records prior to the date such Mortgage was recorded.

Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Assessments on the same basis as during the last year for which an assessment was levied, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Board shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Board or its designated agent setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Board may require the advance payment of a processing fee for the issuance of such certificate.

8.9. Lien for Assessments. All assessments authorized in this Article shall constitute a lien against the Lot against which they are levied until paid unless otherwise specifically precluded in this Declaration. The lien shall also secure payment of interest (subject to the limitations of Oklahoma law), late charges, and costs of collection (including attorneys' fees, lien fees, and administrative costs). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value prior to recordation of any notice of delinquent assessments in the Official Records. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment, and foreclosure.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, a Mortgagee holding a Mortgage of record or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title, unless a notice of such delinquent assessments was recorded in the Official Records prior to the date such Mortgage was recorded.

8.10. Date of Commencement of Assessment Obligations. The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the date the Lot is made subject to this Declaration, or (b) the date the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Assessments against each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

8.11. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

8.12. Exempt Property. The following property shall be exempt from payment of Assessments and Special Assessments:

- (a) all Common Area; and
- (b) all property or interests in property dedicated to and accepted by any governmental authority or public utility.

8.13 Transfer Fees.

(a) Authority. The Board shall have the authority, on behalf of the Association, to collect a transfer fee from each transferring Owner after the Lot has been occupied for residential purposes. Upon each subsequent transfer of title to the Lot, a fee shall be collected from the Buyer and paid to the Association out of the closing proceeds and shall be secured by the Association's lien for assessments under **Section 8.8** above.

(b) Fee Limit. The amount of the transfer fee shall be set by the Board. Initially, the transfer fee shall be the sum of one hundred dollars (\$100.00).

(c) Exempt Transfers. Notwithstanding the foregoing, no transfer fee shall be levied upon transfer of title to a Lot: (1) by or to Declarant or an initial Owner; (2) by a Builder who held title solely for purposes of building a home for resale; (3) by a co-Owner to any Person who was a co-Owner immediately prior to such transfer; (4) to the Owner's estate, surviving spouse or child upon the death of the Owner; (5) to an entity wholly-owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the transfer fee shall become due; or (6) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

## **Article IX**

### **SPECIAL RIGHTS RESERVED TO DECLARANT**

9.1. Construction of Improvements. Declarant and its employees, agents, and designees shall have a right and easement over and upon all of the Common Area for the purpose of making, constructing, installing, modifying, expanding, replacing, and removing such improvements to the Common Area as it deems appropriate in its sole discretion as long as Declarant owns any property described in **Exhibit A**.

9.2. Right To Use Common Area. Declarant and its designees may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model Lots, and sales offices. Declarant and its designees shall have easements for access to and use of such facilities.

Declarant and its employees, agents, and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

9.3. Right To Transfer or Assign Declarant Rights. Any or all of the special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Official Records.

9.4. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as Declarant owns any property described in **Exhibit A**. The rights contained in this Article shall terminate upon the earlier of (a) 50 years after the conveyance of the first Lot to an Owner, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, Declarant and its designees may continue to use the Common Area for purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and/or such designee and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Area.

## **Article X**

### **EASEMENTS**

10.1. Easements in Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt rules, regulations, or policies regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to owners of Lots and their guests, and rules limiting the number of occupants and guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to **Section 7.4**;
- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to governmental entities pursuant to **Section 7.10**;
- (f) The right of the Board to impose reasonable membership requirements and charge reasonable membership, admission, or other fees for the use of any recreational facility situated upon the Common Area;
- (g) The right of the Board to permit use of any Common Area recreational, educational, or cultural facilities by non-Owners, their families, lessees, and guests upon payment of Board established use fees or such other basis as the Board determines;
- (h) The right of the Board to create, enter into agreements with, grant easements to, and transfer portions of the Common Area to tax-exempt organizations under **Section 14.1**;
- (i) The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for Association obligations; and
- (j) The right of the Board to change the use of any portion of the Common Area with the consent of Declarant so long as it owns any property described on **Exhibit A**.

10.2. Easements For Access Over Sidewalks, Walking Trails and to Common Area Utility Services. Every Lot with a or sidewalk or walking trail is hereby benefited and burdened with an easement over such sidewalk or walking trail for the purposes of permitting access through and upon the sidewalk or walking trail to the garages and entrances of the Lots sharing such sidewalks or walking trails (the "**Sharing Lots**"). No Owner of a Sharing Lot shall block or obstruct the sidewalk or walking trail or otherwise impair such access so as to deny the other Sharing Owner a reasonable means of access to his or her Lot. Common Area Utility Services, including but not limited to the electric meter for Common Area lighting, the water meter and backflow preventers for the Common Area sprinkler system, the sprinkler system controls and timers are enclosed within an eight foot by five foot wooden fence situated on Lot 1 Block 10 Deer Creek Village II. An easement is hereby imposed on Lot 1 Block 10 Deer Creek Village II for the benefit of the Association to operate and maintain the Common Area utilities currently existing within the area enclosed by the 8 foot by 5 foot fence as well as other Common Area utilities which may be installed therein in the future.

10.3. Easements for Cross-Drainage Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Property, provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Property without the consent of the Owner(s) of the affected property, the Board, and Declarant as long as it owns any portion of the Property.

10.4. Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Property, including each Lot to (a) perform its maintenance responsibilities under **Article V**, and (b) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment of Owners' property, and any damage caused by the Association shall be repaired by the Association at its expense. The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, things or condition which violates the Governing Documents.

10.5. Rights to Storm Water Runoff, Effluent, and Water Reclamation. Declarant hereby reserves for itself and its designees, all rights to ground water, surface water and storm water runoff located or produced within the Property. Such right shall include an easement over the Property for access to and for installation and maintenance of facilities and equipment to capture and transport such water and runoff. This Section may not be amended without the consent of Declarant or its successor, and the rights created in this Section shall survive termination of this Declaration.

The Property is hereby burdened with a non-exclusive easement in favor of the Association for overspray of water from any irrigation system serving the Area of Common Responsibility. The Association may use treated effluent to irrigate any Area of Common Responsibility. The Association shall not be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

10.6. Easements for Drainage Maintenance and Flood Water. Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, as shown on the recorded plat, but not the obligation, to enter upon the Lots, drainage ways, streams, lakes, ponds and wetlands located within the Addition to (a) construct, maintain, repair and remove structures, planting or other material which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the utility easements or which may obstruct or retard the flow of water through drainage channels in the utility easements. The utility easements on each Lot and all improvements permitted therein shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible. Each Owner shall (a) construct, maintain, and repair any drainage swale, channel, retaining wall, bulkhead, or other structure located on a Lot the purpose of which is to manage the flow of water across the Lot; and (b) remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any Lot contained in the Property



abutting or containing any portion of any of the drainage ways, streams, or wetlands to the extent reasonably necessary to exercise the rights and obligations contained in this Section.

There is further reserved herein for the benefit of Declarant, the Association, and their successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to the drainage ways, streams and wetlands within the Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, and generally maintain the drainage ways, streams, and wetlands within the Area of Common Responsibility subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such drainage ways, streams, and wetlands; and (d) enter upon and across such portions of the Property for the purpose of exercising their rights under this Section. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from, the intentional exercise of the rights granted under such easements. Nothing herein shall be construed to make Declarant, the Association or any other Person liable for damage resulting from flooding due to heavy rainfall, tornadoes, hurricanes or other natural occurrences.

## **Article XI**

### **PARTY WALLS AND OTHER SHARED STRUCTURES**

11.1. General Rules of Law to Apply. Each retaining wall, fence, driveway, or similar structure built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

11.2. Maintenance; Damage and Destruction. All Owners who make use of any party structure shall share the cost of reasonable repair and maintenance of such structure equally.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners also have used or subsequently use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful or omissions.

11.3. Right To Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

## **Article XII**

### **RELATIONSHIPS WITH OTHER ENTITIES**

12.1 Conflicts. This Declaration is not intended to supersede applicable County ordinances, and all Owners and Members are required to comply with County codes and ordinances. In the event of any conflict between the standards set forth in this Declaration

or any supplement or amendment to this Declaration, and the standards contained in County ordinances, the more stringent standard shall apply.

**Article XIII**  
**AMENDMENT OF DECLARATION**

13.1. Amendment by Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, so long as Declarant owns any Lot, Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make or purchase Mortgage loans on the Lots; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; or (v) otherwise necessary to satisfy the requirements of any governmental agency for approval of this Declaration. However, any such amendment shall not adversely affect the title to any Lot unless the affected Owner shall consent thereto in writing. In addition, so long as Declarant owns any portion of the Property, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

13.2. Amendment by Owners. Except as otherwise specifically provided in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 66% of the total Class "A" votes, and the consent of Declarant, so long as Declarant owns any portion of the Property.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

13.3. Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the Official Records unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. A change of conditions or circumstances shall not operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege as long as Declarant owns any portion of the Property.

IN WITNESS WHEREOF, the undersigned Declarant and all of the other Owners of the Lots in the Addition have executed this Declaration effective this 26<sup>th</sup> day of May, 2009.

**DECLARANT**

**Deer Creek Village, L.L.C.**, an Oklahoma limited liability company

By: Anthony K. Mirzaie  
Name: Anthony K. Mirzaie  
Title: Manager

STATE OF OKLAHOMA )  
) SS:  
COUNTY OF OKLAHOMA )

This instrument was acknowledged before me on May 26<sup>th</sup>, 2009, by Anthony K. Mirzaie, as Manager of Deer Creek Village, L.L.C., an Oklahoma limited liability company.



Susan Miller  
Notary Public

My Commission Expires:  
October 19, 2011

**Alvand, LLC**, an Oklahoma limited liability company

By: Anthony K. Mirzaie  
Name: Anthony K. Mirzaie  
Title: Manager

STATE OF OKLAHOMA )  
) SS:  
COUNTY OF OKLAHOMA )

This instrument was acknowledged before me on the 26<sup>th</sup> day of May, 2009, by Anthony K. Mirzaie, as Manager of Alvand, LLC, an Oklahoma limited liability company.



Susan Miller  
Notary Public

My Commission Expires:  
October 19, 2011