



## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS

§

§

COUNTY OF CRANE

§

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made effective the 31<sup>st</sup> day of May, 2018, by Yancey Loyless, an individual ("Declarant").

### WITNESSETH:

WHEREAS, Declarant is the owner of the real property located in Crane County, Texas, described as DC TOWNSEND ADDITION I ("Subdivision"), one or more subdivisions recorded or to be recorded in Crane County, Texas; and

WHEREAS, Declarant wants to impose on the real property certain protective covenants, conditions, and restrictions, as described below, according to an established general plan for the improvement and development of the Subdivision.

NOW THEREFORE, Declarant hereby declares (a) that all of the Property (defined below) will be held, transferred, sold, conveyed, leased, mortgaged and otherwise and occupied subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of protecting the value and desirability of, and which will run with the Property and will be binding on all parties having or acquiring any right, title, or interest in or to the Property or any part of it, their heirs, successors, and assigns, and will inure to the benefit of each owner, and (b) that each contract or deed that may later be executed with regard to the Property or any portion of it will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether they are set forth or referred to in the contract or deed.

### **ARTICLE 1 DEFINITIONS**

Unless the context specifies or requires otherwise, the following words and phrases when used in this Declaration have the following meanings:

**1.01. Applicable Law.** "Applicable Law" means any and all applicable statutes, common laws, judicial determinations, ordinances, requirements, orders, rules and regulations having the force of law enacted or promulgated or issued by federal, state, county or municipal governments or courts or by any of their respective departments, bureaus and offices or by any other governmental authorities with jurisdiction over the Property or the ownership, design, construction, reconstruction, alteration, renovation, restoration, replacement, zoning, use, land use, operation, management, condition (including environmental and non-environmental conditions), repair or

maintenance of the Property as such statutes, common laws, judicial determinations, ordinances, requirements, orders, rules and regulations may exist now or in the future or may be amended from time to time.

**1.02. Declarant.** “Declarant” means Yancey Loyless, an individual, his duly authorized representatives or their successors or assigns. Any assignment of the rights of Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant will not be sufficient to constitute an assignment of the rights of Declarant under this Declaration.

**1.03. Declaration.** “Declaration” means this instrument as amended from time to time.

**1.04. Dwelling.** “Dwelling” means a unit designed as a complete, independent living facility for one or more persons and which includes permanent provisions for eating, sleeping, and sanitation; such as a single-family house, a garage apartment, a modular/manufactured/mobile home, and/or recreational vehicle.

**1.05. Improvement.** “Improvement” means every structure and all appurtenances to structures of every type and kind, including but not limited to buildings, outbuildings, warehouses, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning, water-softener fixtures or equipment, and poles, pumps, wells, tanks, pipes, lines, meters, antennas, towers, and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

**1.06. Lot.** “Lot” or “Lots” means any parcel or parcels of land within the Property shown as a subdivided lot on any Plat of the Subdivision, together with all Improvements located on the parcel or parcels.

**1.07. Mortgage.** “Mortgage” or “Mortgages” means any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**1.08. Mortgagee.** “Mortgagee” or “Mortgagees” means the holder or holders of any Mortgage or Mortgages.

**1.09. Owner.** “Owner” or “Owners” means the Person(s), including Declarant, holding a fee-simple interest in any portion of the Property, but does not include the Mortgagee of a Mortgage.

**1.10. Person.** “Person” or “Persons” means any individual(s), entity, or entities having the legal right to hold title to real property.

**1.11. Plat.** “Plat” or “Plats” means the subdivision plat of DC TOWNSEND ADDITION I filed of record in Cabinet 1, Pages 72-75, Crane County Plat Records, as amended from time to time.



**1.12. Property.** “Property” means all of the real property now or later constituting any portion, phase, or section of the Subdivision, together with such additional real property as may be subjected to the provisions of this Declaration in accordance with the provisions hereof.

**1.13. Restrictions.** “Restrictions” means this Declaration and all covenants, restrictions, easements, charges, liens and other obligations imposed by this Declaration.

**1.14. Roadways.** “Roadways” means all ingress and egress infrastructure constructed upon the Property including streets, roadways, driveways, parking areas, paths and sidewalks, to include but not be limited to all roads as shown on the Plat.

**1.15. Subdivision.** “Subdivision” means DC TOWNSEND ADDITION I, a subdivision in Crane County, Texas, consisting of a 361.7 acre tract out of Section 17, Block 42, T-4-S, T&P Ry. Co. Survey, Crane County, Texas, according to the Plat filed of record in Cabinet 1, Pages 72-75, Crane County Plat Records, LESS Lot 1, Block 1 and Lots 1-9, Block 15, DC TOWNSEND ADDITION I. For clarity sake, Lot 1, Block 1 and Lots 1-9, Block 15, DC TOWNSEND ADDITION I, a subdivision in Crane County, Texas, according to the Plat, shall be excluded from this Declaration and the Restrictions and shall not constitute any part of the Subdivision or Property, unless later added by Declarant pursuant to Article 2.04.

## **ARTICLE 2**

### **PROPERTY SUBJECT TO DECLARATION AND DEVELOPMENT OF THE PROPERTY**

**2.01. Title to Property.** At the time of the recording of this Declaration, Declarant is the fee simple owner of the Subdivision. Nothing contained in this Declaration is intended to prohibit or in any manner restrict Declarant’s ability to sell, transfer, convey, assign, lease, mortgage, encumber or otherwise dispose of any or all of its interest in all or a portion of the Property to any person.

**2.02. Development by Declarant.** The Property may be developed for any lawful purpose, including the construction and maintenance of Improvements. All development of the Property shall be in accordance with this Declaration and Applicable Law. It is expressly contemplated that such development may be utilized for residential and/or commercial purposes. Declarant may divide or subdivide the Property into several areas and develop some or all of the Property.

**2.03. Declarant’s Rights in the Property.** Notwithstanding anything to the contrary contained in this Declaration, or within any other agreement, document or writing, Declarant shall have and reserves unto itself non-exclusive use and access rights over, upon, under and across the Property (together with the right to assign all or any portion of such rights) including the right to: (i) erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment and service, gas, sewer, water or other public conveniences or utilities; (ii) make any grading of the soil; (iii) construct improvements as may be permitted by Applicable Laws and this Declaration; (iv) take

any other similar action reasonably necessary to provide economical and safe utility installation on or about the Property; provided, however, that such reservation and granting powers and rights shall not be considered to create, impose or imply any obligation of Declarant to provide any of the items listed in this paragraph.

**2.04. Addition of Land to Property.** Declarant may, at any time and from time to time, add land to the Property, and on such addition, this Declaration and the covenants, conditions, restrictions, and obligations set forth in it will apply to the added land, and the rights, privileges, duties, and liabilities of the Persons subject to this Declaration will be the same with respect to the added land as with respect to the lands originally covered by this Declaration. In order to add lands to the Property under this Declaration, Declarant will be required only to record in the Official Public Records of Crane County, Texas, a notice of addition of land containing the following provisions:

- (a) A reference to this Declaration, which must include the book and page numbers of the Official Public Records of Crane County, Texas, in which this Declaration is recorded.
- (b) A statement that the provisions of this Declaration will apply to the added land.
- (c) A legal description of the added land.

Declarant shall not be required to obtain the approval or consent of any Owner or Person, or any person claiming by, through, or under any Owner or Person, to add any real property to the Property.

**2.05. Other Declarant Property.** No other real property owned by Declarant shall in any way be affected by or become subject to this Declaration, except as specifically provided for in this Declaration, until such time, if ever, such real property is added to the Declaration.

**2.06. Deletions from Property.** Declarant may, without the consent of any Owner or Person, or any person claiming by, through, or under any Owner or Person, at any time delete any portion of the Property owned by Declarant from encumbrance by this Declaration by executing and filing of record in the Official Public Records of Crane County, Texas, a Notice of Deletion from Declaration. No Owner or Person, or any person claiming by, through, or under any Owner or Person, shall have any right to claim detrimental reliance on this Declaration with regard to any portion of the Property deleted from this Declaration by Declarant.

### **ARTICLE 3 GENERAL AND LAND USE RESTRICTIONS**

All of the Property will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

**3.01. Permitted Use.** The Property may be used from time to time during the term of this Declaration for any lawful purpose, including residential and commercial purposes, subject to the



provisions of this Declaration. It is expressly contemplated that a portion of the Property will be used for commercial purposes.

**3.02. Setback Lines.** No Improvement shall be located or constructed on any Lot or Lots nearer than thirty feet (30') from any Roadway easement line as depicted in the Plat.

**3.03. Prohibited Uses.**

- (a) **Dwellings.** No more than two (2) Dwellings shall be permitted on any Lot.
- (b) **Mobile Home/RV Park.** No Lot or Lots shall be used to build or operate a mobile home/modular home/trailer park or recreational vehicle park. This prohibition shall include, but not be limited to workforce housing/mancamps and/or transient lodging for use of employees of other entities.
- (c) **Mining and Drilling.** Except as allowed by valid leases, grants, exceptions or reservations of oil, gas and other minerals, together with all rights and privileges relating thereto, no portion of the Property will be used for the purpose of mining, strip-mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. Further, the Property may not be used to mine surface or subsurface minerals by strip-mining or by any other method, for resale. This restriction is inclusive of caliche, sand, gravel and other similarly known soil materials.
- (d) **Rubbish and Debris.** No rubbish or debris of any kind will be placed or permitted to accumulate on the Property, and no odors will be permitted to arise from it so as to make the Property or any portion of it unsanitary, unsightly, offensive, or detrimental to any other property or to its occupants. Refuse, garbage, and trash must be kept at all times in covered containers. No fires for the burning of refuse, garbage or other debris shall be permitted on any part of the Property except as permitted by Applicable Law. If collection service is not provided by a governmental entity, an Owner may contract with an independent disposal service to collect all garbage or other wastes. No Lot shall be used or maintained as a dumping ground for rubbish, trash or debris of any kind.
- (e) **Hazardous Materials and Waste.** In order to preserve and enhance the use and enjoyment of the Property, there shall be no possession, storage, use or handling of any hazardous materials on the Property, except in compliance with Applicable Law. To the extent that any hazardous waste is generated on or at the Property during the term of this Declaration, whether as a result of ongoing business or recreational activities or as a result of cleanup or remedial activities, it shall be the sole obligation of the Owner or other Person generating the hazardous waste to comply with Applicable Law relating to the generation, temporary collection and offsite disposition of any such hazardous waste.

- (f) **Water Sales and Salt Water Disposal Wells.** No portion of the Property shall be used for the sale of fresh water, commercial or otherwise, including but not limited to storage, hauling or any other incidental activities related thereto. Further, the Property may not be used for the construction/operation of or otherwise be used for a salt water disposal well facility, any attendant fixtures or any other incidental activities related thereto.
- (g) **Sexually Explicit Material/Drug Paraphernalia.** No portion of the Property shall be used for a commercial establishment whose primary business is the sale, rental or display of sexually explicit materials or illegal drug related paraphernalia.
- (h) **Junked Motor Vehicles, Etc. Prohibited.** No portion of the Property shall be used as a depository for abandoned or junked motor vehicles, boats, trailers, etc. An abandoned or junked motor vehicle is one without a current, valid state vehicle registration/inspection sticker and license plate. No junk of any kind or character, or dilapidated structure or building of any kind or character shall be kept on any portion of the Property. No accessories, parts or objects used with cars, boats, buses, trucks, trailers, house trailers or the like, shall be kept on any portion of the Property other than in a garage or other structure.
- (i) **Hunting.** No portion of the Property shall be used for hunting of any kind.

**3.04. Household Pets and Livestock.** No animals (which term includes reptiles, fowl, or livestock) shall be raised, bred, boarded or kept on any Lot for commercial purposes. Domesticated household pets (dogs or cats) shall be permitted, provided that the pets are contained within the boundaries of the property of the Owner, on a leash or inside a fenced area. No more than three (3) dogs or cats, in the aggregate, shall be allowed per acre of Property, provided that no animals, or pets are bred or reared on such premises for commercial purposes or sold therefrom. Notwithstanding the foregoing, however, offspring of permitted household pets may be kept and sold from the premises for a period of up to eight months. Any dog that has been determined to be "dangerous" by the city or any other political subdivision, animal-control authority, or governmental agency, will never be maintained, kept, or cared for on the Property.

Additionally, the equivalent of one (1) "animal unit" per one (1) acre may be kept for non-commercial purposes if the animal is owned by the Lot Owner, the Lot Owner's family, a tenant or tenant's family of the Lot Owner and if the animal's Owner resides on the Lot. An "animal unit" shall be defined as follows:

- (a) Two (2) head of cattle;
- (b) Two (2) horses;
- (c) Five (5) goats;
- (d) Five (5) sheep;
- (e) Twenty (20) chickens;
- (f) Ten (10) ducks;



- (g) Five (5) turkeys; or
- (h) Five (5) geese.

Combinations of animals based on these totals are permitted. All poultry will be kept in cages, and no cage will be located within fifty (50) feet of any property boundary. All undomesticated animals shall be confined by fence and be sheltered, and proper sanitary conditions must be maintained and reasonably free of refuse, insects, and waste at all times. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. Except when an animal is under the immediate personal supervision and command of its owner or handler, every animal shall be kept physically restrained from leaving the Lot of the Owner or handler of such animal. Allowing an animal to leave the premises of its owner or handler while not under the personal supervision and command of said owner or handler is hereby declared to be a nuisance. Animals may not be kept on a Lot prior to the Owner living in and occupying the Property.

**3.05. Noise and Nuisances.** No noise or other nuisance will be permitted to exist or operate on any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants. No exterior lighting of any sort will be installed or maintained on a Lot where the light source is offensive or a nuisance to neighboring property (except reasonable security or landscape lighting). However, it is expressly contemplated that portions of the Property may be operated as commercial property which may have nighttime hours of operation and which may result in noise or light levels in excess of levels typically occurring in areas consisting solely of residential accommodations. Nothing contained within this Declaration shall be deemed to prohibit such commercial activity.

**3.06. Water and Other Tanks.** No individual water-supply systems will be permitted on any Lot, including but not limited to water wells and water-collection tanks, unless the system located, constructed, and equipped in accordance with the applicable requirements, standards, and recommendations of Crane County, Texas and/or any other governmental entity with jurisdiction over such matters, and approval of the system as installed shall be obtained from that authority. Each Owner must, at its expense, maintain its water-supply system (and all sprinkler and other associated systems) at all times in accordance with all applicable federal, State, and local laws, codes, ordinances, rules, and regulations (including without limitation all setback requirements and restrictions).

**3.07. Septic and Sewer Systems.** No individual sewage-disposal system shall be permitted on any Lot unless the system is designed, located, and constructed in accordance with the applicable requirements, standards, and recommendations of Crane County, Texas and/or any other governmental entity with jurisdiction over such matters, and approval of the system as installed shall be obtained from that authority. Each Owner must, at its expense, maintain its septic system (and all sprinkler and other associated systems) at all times in accordance with all applicable federal, State, and local laws, codes, ordinances, rules, and regulations (including without limitation all setback requirements and restrictions). Septic systems must be maintained so as not to emit noxious odors or otherwise constitute a nuisance under applicable law.

**3.08. Ponds.** No ponds shall be permitted on any Lot unless the pond is lined with an impermeable geomembrane used for retention of liquids, provided that any such ponds may not exceed one-hundred (100) square feet in size.

**3.09. Compliance with the Restrictions.** Each Owner must comply strictly with the provisions of the Restrictions as amended from time to time. Failure to comply with any of the Restrictions constitutes a violation of this Declaration and gives rise to a cause of action to recover amounts due for damages or injunctive relief or both, maintainable by the Declarant, an aggrieved Owner, or, if applicable, any Municipal Utility District having jurisdiction over the Property.

**3.10. Leasing.** Nothing in this Declaration will prevent the rental or leasing of any Lot and the Improvements on it by the Owner, provided that all rentals must be for terms of at least one (1) year. However, any such lease shall require, without limitation, that the tenant acknowledge receipt of a copy of this Declaration, and the lease shall obligate the tenant to comply with the Restrictions and all other terms of this Declaration.

**3.11. Sight-Line Obstruction.** No fence, wall, hedge, or shrub planting that obstructs sight lines will be placed or permitted to remain on any corner Lot within the triangular area formed by the roadway easement property lines and a line connecting them at points twenty-five (25) feet from the intersection of the roadway easement lines or in the case of a rounded property corner, from the intersection of the roadway easement line extended. The same sight-line limits will apply on any Lot within ten (10) feet from the intersection of the roadway easement property lines with the edge of a driveway or alley. No tree will be permitted to remain within such distance of these intersections, unless the foliage is maintained at sufficient height to prevent obstruction of the sight lines.

**3.12. Drainage.** There will be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage. Natural drainage of Roadways or of the Property will not be impaired by any Person.

**3.13. Construction Activities.** This Declaration will not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) on any Lot within the Property. Specifically, no construction activities will be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs, or similar activities, provided that the construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area.

#### **ARTICLE 4 PLAT AND EASEMENTS**

**4.01. Reserved Easements.** All dedications, limitations, restrictions, roadway easements, and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions, and related rights made before the Property became subject to this Declaration are



incorporated by reference and made a part of this Declaration for all purposes as if fully set forth in this Declaration and will be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the easements for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve, or otherwise create, at any time or from time to time, easements for public-utility purposes (including without limitation gas, water, electricity, telephone, and drainage) in favor of any Person along any front, rear, or side boundary line of any Lot, which easements will have a maximum width of ten (10) feet (however, easements alongside yard lot lines will straddle the lot lines with five (5) feet on each of the adjoining Owner's Lots).

**4.02. Implied Easements/Conveyance Subject to Mineral Estate.** The conveyance of any portion of the Property is made subject to the rights of the owner(s) of the Mineral Estate and any lessees of the same, who may have the perpetual right to drill, mine, explore, and remove any of the subsurface mineral and/or oil or gas resources on or from the property either directly from the surface of the property or from a nearby location. The "Mineral Estate" means all oil, gas, and other minerals in and under and that may be produced from the Property, any royalty under any existing or future mineral lease covering any part of the Property, executive rights (including the right to sign a mineral lease covering any part of the Property), implied rights of ingress and egress, exploration and development rights, production and drilling rights, mineral lease payments, and all related rights and benefits. The Mineral Estate does NOT include water, sand, gravel, limestone, building stone, caliche, surface shale, near-surface lignite, and iron, but DOES include the reasonable use of these surface materials for mining, drilling, exploring, operating, developing, or removing the oil, gas, and other minerals from the Property. EACH AND EVERY OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT OR LOTS, ACKNOWLEDGES THAT THE OWNER AND/OR LESSEE OF THE MINERAL ESTATE RETAINS IMPLIED RIGHTS OF INGRESS AND EGRESS AND OF REASONABLE USE OF THE PROPERTY (INCLUDING SURFACE MATERIALS) FOR MINING, DRILLING, EXPLORING, OPERATING, DEVELOPING, OR REMOVING THE OIL, GAS, AND OTHER MINERALS.

**4.03. Conveyance Subject to All Pipelines.** The conveyance of any portion of the Property is made subject to all pipelines running through, on, across, over, and under all of the Property, whether by easement, express or implied, or not, including but not limited to any and all buried pipelines and pipelines located on the surface of the Property, and those pipelines owned or operated by the owner(s) and/or lessee(s) of the Mineral Estate.

**4.04. Roadways.** Unless required under Applicable Law, Roadways shall not be dedicated or required for public use, and such Roadways are not and will not be a part of the county system of roads; provided however, that Declarant may, without the consent and joinder of any Owner, dedicate or grant easements to any other governmental entity for all or any part of the Roadways as to which the other governmental entity has agreed to maintain or service. The Roadways shall be the sole and exclusive property of Declarant or the Owner of the property upon which such Roadways are constructed, as applicable; provided, however, that Declarant does reserve unto itself



and grant to its guests, purchasers, invitees, licensees, and domestic help, to delivery, pickup, fire protection and emergency services, police and other authorities of the law, United States mail carriers, representatives of utilities authorized by Declarant or any Owner to serve the Property, holders of mortgage liens on such lands and such other persons as Declarant may from time to time designate, a license and right of enjoyment for reasonable ingress and egress over and across the Roadways and to any dedicated rights of way. Nothing contained in this Declaration shall require Declarant or any Owner to construct any Roadways other than as Declarant or such Owner may be required by any Applicable Law, and nothing contained in this Declaration shall prevent the construction and maintenance of improvements as described above on the Property.

**4.05. Roadway Maintenance.** Maintenance of the Roadways as shown on the Plat shall be the responsibility of the Owner of the property upon which such Roadways are constructed. Any such Roadway maintenance shall be undertaken and made whenever necessary to maintain the road in a good and safe condition so as to allow free and reasonable passage of such vehicular traffic as may be reasonable and necessary. Roadway maintenance shall include, but is not limited to, grading, filling of holes, repairing and resurfacing of roadbeds, repairing and maintaining drainage structures, removing debris, maintaining any signs, markers, striping and lighting, if any, and other work reasonably necessary or proper to repair and preserve the easement for all weather road purposes. Except as set forth in this Declaration, Declarant shall not be responsible or liable for the maintenance of any of the Roadways and easements leading into or contained within the Property.

**4.06. Roadway Easements.** Each Owner and their respective guests, lessees and invitees, shall enjoy a non-exclusive easement over the Roadways as shown in the Plat and easements appurtenant thereto for the purposes of ingress and egress to and from dedicated rights of way.

**4.07. Utility Easements.** Declarant and each Owner may grant such easements over, upon, under and across the portion of the Property owned by Declarant or such Owner, as are reasonably necessary to enable any company to provide utility services to the Property. Further, there is by this Declaration created, for the benefit of the City and other governmental entities and public utilities with jurisdiction over or providing utility services to the Subdivision, an easement on, across, over, and under all of the Property for ingress and egress in connection with installing, replacing, repairing, and maintaining all utilities (including but not limited to water, wastewater, gas, telephones, electricity lines, and related appurtenances) and for conducting authorized official governmental business. By virtue of this easement, it will be expressly permissible for the utility companies and other entities supplying utility service to install and maintain pipes, wires, conduits, service line, or other utility facilities or appurtenances on, above, across, and under the Property, within the public-utility easements from time to time existing and from service lines situated within the easements to the point of service on or in any Improvement.

**4.08. Surface Areas.** The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns, or flowers. However, neither the Declarant nor any supplier of any utility service using any easement area will be liable to any Owner for any damage done by them or either of them, or their respective agents, employees, servants, or assigns, to any



of this vegetation as a result of any activity relating to the construction, maintenance, operation, or repair of any facility in any of these easement areas.

## **ARTICLE 5 MISCELLANEOUS**

**5.01. Term.** This Declaration, including all of its covenants, conditions, and restrictions, will be effective as of the date set forth on the signature below and will continue in effect for a period of twenty (20) years following the date this Declaration is recorded in the Official Public Records of Crane County, Texas, after which it will be automatically extended for successive periods of ten (10) years each, unless amended or extinguished as set forth in Section 5.02 or as otherwise allowed in this Declaration.

**5.02. Amendment; Extinguishment.** Except as otherwise provided herein, this Declaration may be amended or extinguished only in accordance with the provisions of this Section. All provisions of this Declaration may be amended or extinguished by an instrument signed by more than 75 percent (75%) of the Owners. Any amendment, termination or extinguishment pursuant to this Section shall not be effective until recorded in the Official Public Records of Crane County, Texas, and all requisite governmental approvals, if any, have been obtained.

**5.03. No Representations or Warranties.** EACH OWNER SHALL INSPECT AND EXAMINE THE PROPERTY AND SHALL NOT RELY ON ANY REPRESENTATIONS OR WARRANTIES AS TO THE CONDITION OF THE PROPERTY, INCLUDING ANY LOT OR LOTS, (EXCEPT WITH RESPECT TO ANY EXPRESS REPRESENTATIONS AND WARRANTIES DECLARANT MAY PROVIDE IN A WRITING SIGNED BY DECLARANT AUTHORIZING RELIANCE). PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION ON THE PROPERTY, AN OWNER SHALL CONDUCT SUCH TESTS OF THE SUBSURFACE AND SOIL CONDITIONS AS THE OWNER MAY DEEM NECESSARY OR DESIRABLE TO ASCERTAIN THE EXISTENCE OF ANY HAZARDS AS WELL AS THE SUITABILITY OF THE PROPERTY FOR THE CONTEMPLATED DEVELOPMENT AND SHALL FURNISH SUCH FILL AND TAKE SUCH OTHER STEPS AS MAY BE REQUIRED PRIOR TO THE COMMENCEMENT OF CONSTRUCTION, ALL IN ACCORDANCE WITH APPLICABLE LAWS. DECLARANT SHALL NOT HAVE ANY LIABILITY BECAUSE OF, OR AS A RESULT OF, THE EXISTENCE (EITHER UPON THE COMMENCEMENT OF THE TERM OF THIS DECLARATION OR AT ANY TIME DURING THE TERM) OF ANY SUBSURFACE OR SOIL OR HAZARDOUS CONDITION, EITHER ON THE PROPERTY OR LAND ADJACENT THERETO, WHICH MIGHT AFFECT AN OWNER'S CONSTRUCTION AND/OR USE OF THE PROPERTY, OR OTHERWISE CAUSE AN OWNER OR ANY PERSON CLAIMING BY, THROUGH OR UNDER AN OWNER, TO SUFFER OR INCUR ANY DAMAGE, LOSS, FINE, PENALTY, LIABILITY, COST OR EXPENSE.

**5.04. Groundwater Sufficiency Disclaimer.** EACH AND EVERY OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT OR LOTS, ACKNOWLEDGES THAT THE SOURCE OF THE WATER SUPPLY INTENDED FOR THE PROPERTY IS GROUNDWATER

AND THAT DECLARANT MAKES NO REPRESENTATION, GUARANTEE OR WARRANTY THAT ADEQUATE GROUNDWATER IS AVAILABLE FOR THE PROPERTY. FURTHER, DECLARANT MAKES NO REPRESENTATION, GUARANTEE OR WARRANTY AS TO THE QUALITY OF THE SUPPLY OF WATER AVAILABLE TO THE PROPERTY.

**5.05. No Warranty of Enforceability.** While Declarant has no reason to believe that any of the Restrictions or other terms and provisions contained in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions. ANY OWNER ACQUIRING A LOT IN RELIANCE ON ONE OR MORE OF THE RESTRICTIVE COVENANTS, TERMS, OR PROVISIONS ASSUMES ALL RISKS OF THEIR VALIDITY AND ENFORCEABILITY AND, BY ACQUIRING THE LOT, AGREES TO HOLD DECLARANT HARMLESS IF THEY ARE HELD TO BE INVALID OR UNENFORCEABLE. DECLARANT SHALL HAVE NO LIABILITY OF ANY KIND AS A RESULT OF SUCH UNENFORCEABILITY, AND EACH AND EVERY OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT OR LOTS, ACKNOWLEDGES THAT DECLARANT SHALL HAVE NO SUCH LIABILITY.

**5.06. Notices.** Any notice permitted or required to be given by this Declaration will be in writing and may be delivered either by certified mail, return receipt requested, or by personal delivery with a written receipt received. If delivery is made by certified mail, it will be deemed to have been delivered the date on which it was received by the Person to whom the notice was addressed. The address at which a Person is given notice may be changed from time to time by notice in writing given by the Person to the Association.

**5.07. Governing Law.** The provisions of this Declaration will be liberally construed to effectuate the purposes of creating a uniform plan for the development and operation of the Property and of promoting and effectuating the fundamental concepts of the Property set forth in this Declaration. This Declaration will be governed by and interpreted under the laws of the State of Texas.

**5.08. Exemption of Declarant.** Despite any provision in this Declaration to the contrary, this Declaration will not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices, and similar facilities, and to post signs incidental to construction, sales, and leasing anywhere within the Property.

**5.09. Assignment of Declarant.** Despite any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any other Person in any of these privileges, exemptions, rights, and duties.

**5.10. Enforcement and Non-waiver.** Except as otherwise provided in this Declaration, any Owner at its own expense and Declarant will have the right to enforce any and all provisions



of the Restrictions. This right of enforcement will include both damages for, and injunctive relief against, the breach of any provision. The failure to enforce any provision at any time will not constitute a waiver of the right to enforce the provision or any other provision in the future. All waivers must be in writing and signed by the party to be bound.

**5.11. Attorney's Fees/Costs.** If any controversy, claim, or dispute arises relating to this Declaration, its breach, or enforcement, the prevailing party shall be entitled to recover from the losing party all costs in connection therewith, including all expenses, court costs and reasonable attorney's fees, whether or not judicial proceedings are involved and including those incurred in any bankruptcy or probate proceedings.

**5.12. Construction.** The provisions of the Restrictions will be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion of a provision will not affect the validity or enforceability of any other provision or portion of a provision. Unless the context requires a contrary construction, the singular includes the plural and the plural the singular, and the masculine, feminine, or neuter each includes the masculine, feminine, and neuter. All headings and titles used in this Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles in this Declaration.

EXECUTED as of the 31 day of May, 2018.

**DECLARANT:**

  
\_\_\_\_\_  
YANCEY LOYLESS

THE STATE OF TEXAS     §  
                                     §  
COUNTY OF ECTOR     §

This instrument was acknowledged before me on the 31 day of May, 2018 by Yancey Loyless.



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS