

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AKA "DEED RESTRICTIONS" OF PALOMINO RUN, PHASES 1 ADDITION TO ERATH COUNTY, TEXAS

STATE OF TEXAS )(

)( KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF ERATH )(

**WHEREAS**, Canyon Cattle Company, LLC. dba, Heritage Land Stewards, a Texas limited liability company (hereinafter referred to as the "Declarant"), is the owner and developer of those certain lots in that certain tract or parcel of land described as Residential lots 1 through 44 in Phase 1 of the PALOMINO RUN SUBDIVISIONS and Residential lots 1 through XX in Phase 2, a planned development Subdivisions addition in and to Erath County, Texas (hereinafter referred to as "Palomino Run, Phase 1 & 2 Residential Subdivisions" or the "Property"), according to the Plat thereof recorded on \_\_\_\_\_, 2023 as Slide Number \_\_\_\_\_, in Cabinet \_\_\_\_\_ of the Plat Records of Erath County, Texas, established these Covenants, Conditions and Restrictions (hereinafter referred to as the "Deed Restrictions") applicable to the following described Palomino Run, Phase 1 & 2 Residential Subdivisions property, to wit:

**PALOMINO RUN SUBDIVISIONS, PHASES 1 & 2**

BEING A TRACT OF LAND SITUATED IN \_\_\_\_\_ SURVEY, ABSTRACT NO. \_\_\_\_\_, AND BEING ALL OF A CALLED \_\_\_\_\_ DEEDED ACRES TRACT DESCRIBED IN DEED TO \_\_\_\_\_, AS RECORDED IN INSTRUMENT NO. \_\_\_\_\_

\_\_\_\_\_ OF THE OFFICIAL PUBLIC RECORDS OF ERATH COUNTY, TEXAS (OPRECT), BEING A MASTER PLANNED SUBDIVISIONS KNOWN AS THE PALOMINO RUN SUBDIVISIONS, AN ADDITION TO ERATH COUNTY, TEXAS, MORE PARTICULARLY DESCRIBED BY **METES AND BOUNDS AS DESCRIBED ON EXHIBIT A** ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN, THE ENTIRE \_\_\_\_\_ ACRES OF THE MASTER PLANNED PALOMINO RUN TWO PHASES SUBDIVISIONS, AN ADDITION TO ERATH COUNTY, TEXAS; INCLUDING FORTY FOUR (44) SINGLE FAMILY, DETACHED RESIDENTIAL LOTS, ALL LOTS ARE APPROXIMATELY BETWEEN TWO (2) AND FOUR PLUS (4+) ACRES IN SIZE, IN PHASE 1 & 2, AND **XXXXXXXXXX (XX)** SINGLE FAMILY, DETACHED RESIDENTIAL LOTS CONTAINING A MINIMUM OF 2 ACRES IN EACH LOT IN PHASE 2.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, AKA "DEED RESTRICTIONS" RESTRICTS AND GOVERNS ONLY PALOMINO RUN, PHASES 1 & 2 OF THE MASTER PLANNED PALOMINO RUN ADDITION TO ERATH COUNTY, TEXAS. PHASES 1 & 2 ARE DESCRIBED AS FOLLOWS:

**PHASE 1**

THAT PORTION OF THE MASTER PLANNED PALOMINO RUN SUBDIVISIONS \_\_\_\_\_ DEEDED ACRES, OF WHICH \_\_\_\_\_ ACRES IS

RESTRICTED HEREBY FOR SINGLE FAMILY RESIDENTIAL DWELLINGS, KNOWN AS THE PALOMINO RUN, PHASE 1 RESIDENTIAL SUBDIVISION, COMPRISED OF AND CONTAINING LOTS 1 – 44 OF THE PALOMINO RUN, PHASE I RESIDENTIAL SUBDIVISIONS, SUBJECT TO AND RESTRICTED BY THE SUBDIVISIONS ORDINANCE OF ERATH COUNTY, TEXAS, THE PHASE 1 ENTIRE \_\_\_\_\_ ACRES BEING MORE PARTICULARLY DESCRIBED BY **METES AND BOUNDS AS DESCRIBED ON EXHIBIT B** ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN, WHICH PHASE 1 PROPERTY IS FURTHER DESCRIBED AS THE PALOMINO RUN, PHASE 1 SUBDIVISION, AN ADDITION TO ERATH COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED ON \_\_\_\_\_, 2023 AS SLIDE NUMBER \_\_\_\_\_ IN THE MAP AND PLAT RECORDS OF ERATH COUNTY, TEXAS, SUBJECT TO THE DEDICATION TO THE PUBLIC USE, WITHOUT RESERVATION, OF THE STREETS, EASEMENTS, RIGHTS-OF-WAY AND ANY OTHER PUBLIC AREAS SHOWN ON SAID PLAT.

## PHASE 2

THAT PORTION OF THE MASTER PLANNED PALOMINO RUN SUBDIVISIONS \_\_\_\_\_ DEEDED ACRES OF WHICH \_\_\_\_\_ ACRES IS RESTRICTED HEREBY FOR SINGLE FAMILY RESIDENTIAL DWELLINGS, KNOWN AS THE PALOMINO RUN, PHASE 2 RESIDENTIAL SUBDIVISIONS, COMPRISED OF AND CONTAINING LOTS **X-XX** OF THE PALOMINO RUN, PHASE 2 RESIDENTIAL SUBDIVISIONS, SUBJECT TO AND RESTRICTED BY THE SUBDIVISIONS ORDINANCE OF ERATH COUNTY, TEXAS, THE PHASE 2 ENTIRE \_\_\_\_\_ ACRES BEING MORE PARTICULARLY DESCRIBED BY **METES AND BOUNDS AS DESCRIBED ON EXHIBIT C** ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN, WHICH PHASE 2 PROPERTY IS FURTHER DESCRIBED AS THE PALOMINO RUN, PHASE 2 RESIDENTIAL SUBDIVISIONS, AN ADDITION TO ERATH COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED ON \_\_\_\_\_, 2023 AS SLIDE NUMBER \_\_\_\_\_ IN THE MAP AND PLAT RECORDS OF ERATH COUNTY, TEXAS, SUBJECT TO THE DEDICATION TO THE PUBLIC USE, WITHOUT RESERVATION, OF THE STREETS, EASEMENTS, RIGHTS-OF-WAY AND ANY OTHER PUBLIC AREAS SHOWN ON SAID PLAT

**WHEREAS**, Declarant does by these presents reaffirm the adoption of the Final Plat recorded on \_\_\_\_\_, 2023 as Slide Number \_\_\_\_\_ of the Map and Plat Records of Erath County, Texas, as Declarant's plan for subdividing the Property, containing \_\_\_\_\_ (\_\_\_\_\_) acres into forty four (44) single family residential lots designated as Phase 1, lots 1 through 44, each Lot containing a minimum of at least two (2) acres to the largest at four and 68 hundredths (4.68) acres and containing \_\_\_\_\_ (\_\_\_\_\_) acres into **XXXXXXXXXX (XX)** single family residential lots designated as Phase 2, lots 1 through **XX**, each Lot containing a minimum of at least two (2) acres to the largest at **XXXXXX** acres, with the building set-backs also as shown on such Plat, and with the utility and storm

drainage easements also as shown on such Plat of the Palomino Run Phase 1 & 2 Addition to Erath County, Texas (also referred to herein as the “Palomino Run Phase 1 & 2 Residential Subdivisions;” and

**WHEREAS**, Declarant desires that the Palomino Run Phase 1 & 2 Residential Subdivisions Property be developed with covenants, conditions and restrictions, and uses and limitations, and further desires to provide for the preservation, administration, and maintenance of the entire Property known as the Palomino Run Subdivisions, and to protect the value, desirability, and attractiveness of the Palomino Run Phase 1 & 2 Residential Subdivisions. Declarant does therefore by these presents hereby establish a general plan for the improvement, development, maintenance and preservation of such Palomino Run Phase 1 & 2 Residential Subdivisions, and;

**DOES HEREBY ESTABLISH** the Declaration of Covenants, Conditions and Restrictions (this “Declaration” aka “Deed Restrictions”) upon which, and subject to which, all lots and portions of such lots shall be improved or sold and conveyed by Declarant as Owner thereof. Every one of these Covenants, Conditions and Restrictions is and are for the benefit of each Owner of a lot in such Palomino Run Phase 1 & 2 Residential Subdivisions or any interest therein, and shall inure to and pass with each and every parcel of such Palomino Run Phase 1 & 2 Residential Subdivisions, and shall bind the respective heirs, assigns and personal representatives or other successors in interest of Declarant (the present owner of all the Palomino Run Phase 1 & 2 Residential Subdivisions Property), specifically including but not limited to a successor Property Owners Association which may be formed by Declarant or formed by the Lot Owners following the sale by Declarant of all the lots in the Palomino Run Phase 1 & 2 Residential Subdivisions.

**NOW THEREFORE**, Declarant hereby adopts this Declaration, which Covenants, Conditions and Restrictions contained herein are, and each thereof is, hereby imposed upon such real property, declaring that all of which Covenants, Conditions and Restrictions are to be construed as respective covenants running with the title to the respective lots and with each and every parcel thereof to be held, sold and conveyed subject to this Declaration and the Plat and easements thereon, as said Plat and easements may be amended in the future. This Declaration, the Plat and the easements shall run with the land and be binding upon all parties purchasing lots within the Palomino Run Phase 1 & 2 Residential Subdivisions and all persons or entities claiming by, through or under Declarant until December 31, 2043, at which time said Declaration shall be automatically extended for successive periods of ten (10) years, unless by vote in writing of eighty percent (80%) of the eleven (11) residential lots, it is agreed to change this Declaration in whole or in part.

## **ARTICLE I** **DEFINITIONS**

The following words and phrases, whether capitalized or not, have specified meanings when used herein, unless a different meaning is apparent from the context in which the word or phrase is used.

- 1.1 **“Applicable Law”** means the statutes and public laws and ordinances in effect at the time a provision of this document, as amended, is applied, and pertaining to the subject matter of any provision hereof.

- 1.2 “**Architectural Control Committee**” (ACC) means Declarant or the successor person or entity having jurisdiction over a particular application for architectural approval. During the Development Period (aka the Declarant Control Period), the Architectural Control Committee is Declarant, Declarant’s designee, or Declarant’s delegate.
- 1.3 “**Assessment**” means any charge levied against a Lot or Lot Owner by the Declarant or by a successor Declarant or a successor Property Owners’ Association, pursuant to State law.
- 1.4 “**Builders**” means and refers to persons or entities that purchase one or more lots and build speculative or custom homes thereon for third party purchasers.
- 1.5 “**Contractor**” means and refers to the person or entity with whom an Owner contracts to construct a structure or any improvement on such Owner’s lot.
- 1.6 “**Declarant**” means Canyon Cattle Company, LLC. dba, Heritage Land Stewards, a Texas limited liability company, the Developer of the Property, or the respective successors and assigns of Canyon Cattle Company, LLC. dba, Heritage Land Stewards, LLC, which acquire any portion of the Property for the purpose of development, are designated a Successor Declarant by Declarant, or by any such successor and assign, in a recorded document. Unless clearly stated otherwise herein, “Declarant” refers jointly to Declarant, Declarant’s designee, Declarant’s delegate, and Declarant’s Successor.
- 1.7 “**Declarant Control Period**” means that period of time during which Declarant controls the development, operation and management of the Palomino Run Phase 1 & 2 Residential Subdivisions, pursuant to this Declaration.
- 1.8 “**Developer**” means and refers to Canyon Cattle Company, LLC. dba, Heritage Land Stewards, LLC, a Texas limited liability company, and its successors and assigns.
- 1.9 “**Development Period**” means the 10-year period beginning the date this Declaration is recorded, during which Declarant has certain rights pursuant to this Document, including rights relating to development, architectural design, construction, maintenance and marketing of the Palomino Run Phase 1 & 2 Residential Subdivisions Property. The Development Period is for a term of years but shall terminate when Declarant no longer owns any land in the Palomino Run Phase 1 & 2 Residential Subdivisions. Declarant may terminate the Development Period at any time by recording a notice of termination or a recordable Declarant Transfer of Control Assignment.
- 1.10 “**Document**” means, singly or collectively as the case may be, these Covenants, Conditions and Restrictions (the “Declaration” aka the “Deed Restrictions”) and the Plat as these may be amended from time to time. An Appendix, Exhibit, Schedule, or Certification accompanying a Document is a part of that Document.

- 1.11 “**Dwelling**” means a residential building having accommodations for and occupied by not more than one Family (as defined by Declarant).
- 1.12 “**Lot**” means a portion of the Palomino Run Phase 1 & 2 Residential Subdivisions Property intended for independent ownership, on which there is or will be constructed a detached single-family residential dwelling, as such lots are shown on the Plat. Where the context indicates or requires, “lot” includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the lot.
- 1.13 “**Owner**” means a holder of fee simple title to a lot in the Palomino Run Phase 1 & 2 Residential Subdivisions as platted and recorded in the Deed Records of Erath County, Texas, including contract sellers (a seller under a Contract-for-Deed). Declarant is the initial Owner of all lots in the Palomino Run Phase 1 & 2 Residential Subdivisions. Contract sellers and mortgagees, who acquire title to a lot through a deed in lieu of foreclosure or through judicial or nonjudicial foreclosure, are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners.
- 1.14 “**Plat**” means the Palomino Run Phase 1 & 2 Residential Subdivisions, a Subdivisions in Erath County, Texas (hereinafter referred to as the “Palomino Run Phase 1 & 2 Residential Subdivisions” or the “Property”), according to the Final Plat thereof recorded on \_\_\_\_\_, 2023 as Slide Number \_\_\_\_\_ of the Map and Plat Records of Erath County, Texas, and all Plat amendments, singly and collectively, recorded in the Real Property Records of Erath County, Texas, and pertaining to the real property, including all dedications, limitations, restrictions, covenants, easements, conditions, liens, notes, and reservations shown on the Plat, as it may be amended from time to time.
- 1.15 “**Property**” means all the land subject to this Declaration and all improvements, easements, rights, and appurtenances to the land. The name of the Property is Palomino Run Phase 1 & 2 Residential Subdivisions and includes every Residential lot thereon in the Palomino Run Phase 1 & 2 Residential Subdivisions property described above and by metes and bounds on **Exhibit A** attached hereto and incorporated by reference herein, plus any “Additional Land” hereafter added to the Subdivisions and platted of record in Erath County, Texas, and made subject to the jurisdiction of the Association. The “Property” is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, reservations, liens, and easements of this Declaration (aka “Deed Restrictions”), which run with the Property and bind all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and inure to the benefit of each Owner of the Property. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Declaration and the Documents referenced herein, and further agrees to maintain any easement that crosses his/her Lot and for which the Declarant or Declarant’s successors does not have express responsibility.
- 1.16 “**Covenants, Conditions and Restrictions**” means this document, also known as the “Declaration” and alternatively known as the “Deed Restrictions” as it may be amended from time to time.

- 1.17 “**Resident**” means any occupant of any Palomino Run Phase 1 & 2 Residential Subdivisions single-family residential principal or guest dwelling, regardless of whether the person owns the lot.
- 1.18 “**Rules**” means rules and regulations which may be adopted by Declarant for the benefit of the Lot Owners as a whole and for the Palomino Run Phase 1 & 2 Residential Subdivisions.
- 1.19 “**Street Line**” means the boundary line of a lot which is also the boundary line of a Street.
- 1.20 “**Underwriting Lender**” means Federal Home Loan Mortgage Corporation (Freddie Mac), Federal Housing Administration (HUD/FHA), Federal National Mortgage Association (Fannie Mae), or U.S. Department of Veterans Affairs (VA), singly or collectively. The use of this term and these institutions may not be construed as a limitation on an Owner’s financing options, nor as a representation that the Property is approved by any institution.

## ARTICLE II

### PROPERTY SUBJECT TO DOCUMENTS, ORDINANCES, EASEMENTS AND DEDICATIONS

- 2.1 **Improvements Compliance.** All improvements on a lot must (1) comply with any applicable Erath County ordinances and codes, and (2) have the Architectural Control Committee’s prior written approval in compliance with this Declaration. These two (2) requirements are independent; that is, one does not ensure or eliminate the need for another. The lot Owner and/or Owner’s Builder or Contractor must comply with both requirements.
- 1.21 **Residential Use of Lots.** Lots may be used only for the construction and use by its owner, or by Owner’s Lessee or Guest, of one single-family residence (herein the “principal dwelling”) and improvements and one single-family guest residence (herein the “guest dwelling”) approved by Declarant or Declarant’s designated agent. The architectural design, construction dimensions, exterior roof and siding materials, and colors of all structures, and the location and orientation of all structures, improvements (specifically including but not limited to the location and design of all ingress and egress access and other driveway and parking improvements), and landscaping within said lots, must each be first approved in writing by Declarant, Declarant’s designated agent or Declarant’s heirs, assigns, personal representatives or other successors in interest, representing and on behalf of the Palomino Run Phase 1 & 2 Residential Subdivisions. As a general rule, the Owner or residents (including tenants) of a residential lot has the sole and exclusive use of the Owner’s lot from boundary to boundary and is solely responsible for the maintenance of all portions of such lot and all of the improvements on the lot from boundary to boundary.
- 1.22 **Lot Subdivisions, Combination, Replat and Composite Building Site.** None of the lots in the Palomino Run Subdivisions, phases 1 or 2 may be subdivided and / or replatted.

- 1.23 **Erath County's Subdivisions Ordinance - General.** Erath County, Texas contains Subdivisions ordinances pertaining to residential Subdivisions and to property owners' associations. No amendment of the Documents, nor any act or decision of the lot Owners or a successor property owners association after the passage of an ordinance or an amendment to an ordinance, which is not in compliance with the ordinance during its period of effectiveness, may violate the requirements of the ordinance. The Declarant and the lot Owners, or a successor property owners association, should stay informed about the county's ordinances and requirements.
- 1.24 **Erath County Regulations.** Declarant has and will continue to use its "best efforts" to comply with the Erath County Regulations, specifically to meet (a) the Erath County requirements for a development served by water wells within the Upper Trinity Water Quality District; (b) the planned emergency accessibility, as well as the placement of fire hydrants, as shall be approved by the Erath County SUD, and to meet the requirements of Erath County; and (c) the Palomino Run Phase 1 & 2 Residential Subdivision's engineered drainage plan, along with density reports during roadway construction. Declarant and the Association shall continue to use their respective "best efforts" to remain in compliance with the Erath County regulations as to current or future uses - actual or permitted - of any land in Erath County that is adjacent to or near the Property.
- 1.25 **Plat Dedications, Easements & Restrictions.** In addition to the dedications, easements, restrictions and protective covenants contained in this Declaration, the Property is subject to the reservations, dedications, limitations, notes, easements, restrictions, and reservations shown or cited on the Plat, which is incorporated herein by reference. All dedications, easements, restrictions, and reservations created herein or shown on the Plat, replats or amendments of the Plat of the Palomino Run Phase 1 & 2 Residential Subdivisions recorded or hereafter recorded in the Plat records of Erath County, Texas, shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Declarant, and on or behalf of conveyances of lots executed by Lot Owners, whether specifically referred to therein or not. Each Owner, by accepting an interest in or title to a lot, whether it is so expressed in the instrument of conveyance, covenants and agrees to be bound by the Plat, and further agrees to maintain any easement that crosses his lot and for which the Declarant or Declarant's successor does not have express responsibility.
- 1.25.1 **Dedication of Utility Easements.** Declarant dedicates to the public, the nonexclusive, utility easements over, under and across areas, as described or shown on the Plat. Further, the Declarant dedicates for public use the easements shown on the Plat for the purpose of constructing, maintaining, repairing, removing and/or replacing a system or systems (including all utilities equipment and facilities) of water, sanitary sewer, drainage, electric lighting, electric power, telegraph and telephone line or lines, storm surface drainage, cable television and/or internet, or any other utility the Declarant sees fit to install in, across and/or under the Property. All utility easements may be used for the construction of drainage swales to provide for improved surface drainage of Common Area and/or lot(s). Any utility company serving the community shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities. Neither Declarant nor any utility company, political Subdivisions, or other authorized entity, or any of their agents, employees, or servants using the easements

herein referred to, shall be liable for any damages done to trees and lawns, fences, shrubbery, or to other property of the Owner on the property covered by said easements. No Improvement or Structure shall be constructed or placed on any such public easement without the express prior written consent of the Architectural Control Committee. Full rights of ingress and egress shall be had by the Declarant, the Association, and all utility and CATV companies serving the Palomino Run Phase 1 & 2 Residential Subdivisions, and their respective successors and assigns, at all times over the Subdivisions for the installation, operation, maintenance, repair or removal of any utility together with the right to remove any obstruction (excluding, however any driveway, fence or other Improvements or Structures which has been heretofore specifically approved by the Architectural Control Committee) that may be placed in such easement that would constitute interference with the use of such easement, or with the use, maintenance, operation or installation of such utility.

1.25.2 **Dedication of Visibility, Access and Maintenance Easements (“VAM”).** Declarant gives, grants and dedicates to Erath County, its successors and assigns, the area or areas as described or as shown on the Plat as “VAM” (Visibility, Access and Maintenance) as easement(s) to provide visibility, right of access, and maintenance upon and across said VAM Easement(s). Erath County shall have the right but not the obligation to maintain all landscaping within the VAM Easement(s). Should Erath County exercise this maintenance right, it shall be permitted to remove and dispose of all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. Erath County may withdraw maintenance of any or all of the VAM Easements at any time. The ultimate maintenance responsibility for the VAM Easement(s) shall rest with the Declarant. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways may be placed or permitted to remain on any corner lot with the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25’) from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. No tree will be permitted to remain within that distance of intersections unless the foliage line is maintained at sufficient height to prevent obstruction of the sight lines. Erath County shall have the right, but not the obligation, to add and maintain any landscape improvements to the VAM Easement(s), to erect any traffic control devices or signs on the VAM Easement(s) and to remove any obstruction thereon. Erath County, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement(s) or any part thereof for the purposes and with all rights and privileges set forth herein.

1.25.3 **Interior Streets within Property.** The Subdivision’s interior streets in Phases 1 and 2, when platted, shall be dedicated to the public for public access. The platted street easement provides that Erath County shall have the right of access for any purpose related to the exercise of a governmental service or function on a public street, including, but not limited to, fire and police protection, inspection, code enforcement and postal service. The street easement shall permit Erath County to remove any vehicle or obstacle within the street that impairs emergency access. Heritage Land Stewards, LLC, the Developer and Declarant of the Palomino Run Phases 1 and 2 Residential Subdivisions, shall be responsible for the initial two-years maintenance and repair of the Subdivision’s streets and associated easements. During the first two years following the

recording of the Plat of Palomino Run Phase 1 & 2 Residential Subdivisions, Declarant shall be responsible for the maintenance and repair of the Palomino Run residential Subdivision's interior streets, and the Declarant will indemnify, defend and hold harmless Erath County, its officers, employees and agents from any direct or indirect loss, damage, liability or expense and attorney's fees for any negligence whatsoever, arising out of the design, construction, operation, maintenance condition or use of the streets and associated easements and improvements. At the expiration of the first two years respectively following the recording of the Plat or Plats of either or both of the Palomino Run Phase 2 Residential Subdivision, Erath County shall thereafter be responsible for the maintenance and repair of the Subdivision's interior streets. Declarant will require any successor in interest to accept full responsibility and liability for any such negligence. All the above shall be covenants running with the land. The Palomino Run Residential Phases 1 & 2 Subdivision's streets, as platted, within the Property are those certain entry and exit driveway, common areas and the interior streets situated within Phases 1 and 2 in the Subdivisions, including the entire interior streets as depicted on the Subdivisions Plat in Phases 1 and 2, when platted. Access onto and off the Subdivision's interior streets are governed by Erath County. To the extent not prohibited by public law and with the approval of Erath County, the Declarant and Declarant's successor is specifically authorized to adopt, amend, repeal, and enforce rules, regulations, and procedures for access and use of the Subdivision's interior streets, including but not limited to:

- 1.25.3.1 Identification of vehicles used by Owners and residents and their guests.
  - 1.25.3.2 Subject to regulation by Erath County, speed limits, initially designated by the Association shall be 30 mph on the Subdivision's interior streets and shall be as otherwise designated in Rules adopted periodically by Declarant and Declarant's successor, following the prior approval of Erath County.
  - 1.25.3.3 Limitations or prohibitions on curbside parking and no-parking areas.
  - 1.25.3.4 Removal or prohibition of vehicles that violate the Palomino Run Phases 1 and/or 2 Residential Subdivision's applicable Rules & Regulations.
  - 1.25.3.5 Fines for violations of the Palomino Run Phases 2 and/or 3 Residential Subdivision's applicable Rules & Regulations.
- 1.26 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Declarant to any of the lots by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, electric lighting, electric power, water, natural gas, telegraph or telephone purposes, and subject to Party Fence agreements, and other easements hereafter granted affecting the lots. The Owners of the respective lots shall not be deemed to own pipes, wires, conduits or other service lines or equipment running through, or existing on, their lots which are utilized for their lots or service other lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his lot.

**ARTICLE III**  
**PROPERTY EASEMENTS, RIGHTS AND RESTRICTIONS**

- 2.1 **General.** In addition to other easements and rights established by the Documents, the Property is subject to the easements and rights contained in this Article.
- 2.2 **Emergency, Safety and Law Enforcement Public Access Easement.** Whether or not noted and shown on the Plat or Plats, when recorded, of Palomino Run Phases 1 & 2 Residential Subdivisions, various interior streets, private driveways and other access areas are burdened by public access easements that may be used by emergency personnel for emergencies, safety, law enforcement and other necessary Erath County purposes.
- 2.3 **Drainage Easements.** Certain Common Maintenance Areas are burdened by “Drainage Easements.” The Drainage Easements, including drainage maintenance and related matters thereon, shall be maintained by the Declarant or the Declarant’s successor or designated agent as a Common Expense of the Property Owners.
- 2.4 **Party Wall Fence Easements.** A fence located on or near the dividing line between two lots and intended to benefit both lots constitutes a “Party Wall Fence” and, to the extent consistent with the provisions of this Article, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions. Any matters concerning party fences on the common boundary of contiguous Lots, which are not covered by this Declaration’s terms, shall be governed by the general rules of law concerning party fences.
- 2.5 **Owner’s Easement of Enjoyment.** Every Owner is granted a right and easement of enjoyment over the Palomino Run Subdivision’s interior roads and any platted Common Areas and to use of all improvements therein, subject to other rights and easements contained in the Documents. An Owner who does not occupy a lot, delegates this right of enjoyment to the residents of his or her lot.
- 2.6 **Owner’s Ingress / Egress Easements.** Every Owner is granted a perpetual easement over the Property’s streets, as may be required, for vehicular ingress to and egress from his lot. Similarly, every Owner is granted a perpetual easement over any other of the Property’s Common Areas, subject to abiding by the rules of the Declarant or the Declarant’s successor.
- 2.7 **Enforcement of Erath County Ordinances.** Erath County, including its agents and employees, have the right of immediate access to the Subdivision’s interior streets and any Common Areas at all times as necessary for the welfare, safety and protection of the public, to enforce county ordinances.
- 2.8 **Declarant’s Lot Access Easement.** The Declarant or Declarant’s successor is granted an easement of access and entry to every lot and any platted Common Area to perform maintenance, to enforce

architectural and use restrictions, to respond to emergencies, and to perform any other duties required by the Documents.

- 2.9 **Utility Easements.** The Declarant or Declarant's successor may grant permits, licenses, and easements over unsold lots or platted Common Areas for utilities, roads, and other purposes necessary for the proper operation of the Property and the Palomino Run Phase 1 & 2 Subdivisions mixed use residential and commercial community. Any company or entity, public or private, furnishing utility service to the Property, is granted an easement over the Property for ingress, egress, meter reading, installation, maintenance, repair, removal or replacement of utility lines and equipment, and to do anything else necessary to properly maintain and furnish utility service to the Property; provided, however, this easement may not be exercised without prior notice to the Declarant or Declarant's successor. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, satellite or cable television and/or internet, and security.
- 2.10 **Drilling of Water Wells for Domestic Use.** The drilling of water wells for domestic use is permitted; however, the drilling and the location of each such water well on any residential lots in the Palomino Run Phase 1 & 2 Residential Subdivisions must be at the locations designated on **Exhibit F** attached hereto and incorporated by reference herein. The Declarant shall not have any liability whatsoever for the design, construction, operation, maintenance or compliance with regulatory requirements of Erath County, the State of Texas or the federal authorities within the Water Quality District, including but not limited to the permitted or prohibited use of water wells for domestic consumption and/or for irrigation and lawn sprinkler systems. This Section 3.11 may not be amended by the Declarant or the Declarant's successor or the Members without the written approval of the Declarant.
- 2.11 **Mineral Rights.** No commercial oil or gas drilling, oil or gas development operations or refining, quarrying or mining operation of any kind shall be permitted upon or in any Lot. No derrick or other rigging or structures designed for the use of boring or drilling for oil or natural gas shall be erected, maintained or permitted upon any Lot. Nevertheless, some or all of the Property may be subject to a previous owner's acquisition, reservation, or conveyance of oil, gas, or mineral rights pursuant to one or more deeds recorded in the Real Property Records of Erath County, Texas, including but not limited to rights to all oil, gas, or other minerals lying on, in, or under the Property and surface rights of ingress and egress. Because any deed reserving a mineral interest may have been recorded prior to this Declaration, it would be a superior interest in the Property and is not affected by any provision to the contrary in this Declaration. By accepting title to or interest in a Lot, every Owner acknowledges the existence of the mineral right or reservation referenced in this Section 3.11 and its attendant rights in favor of the owner of the mineral interest.
- 2.12 **Notice of Limitation on Developer's / Declarant's Liability.** The development of the Property occurs during a period when many local governments are trying to be absolved of liability for flood damage to private property. As a condition of Plat approval, a governmental entity may require a Plat note that not only disavows the entity's liability for flood damage, but affirmatively assigns the liability to the Developer / Declarant. Developer / Declarant does not intend or desire to impose such absolute liability on the lot Owners. Notwithstanding Plat notes or public codes or ordinances now in existence or hereafter created, the Declarant or Declarant's successor cannot and should not

be liable for acts of God or for property damage that is not the result of the Declarant's negligence or willful misconduct. Declarant hereby gives notice that the Declarant does not accept liabilities imposed by any governmental entity for which the Declarant cannot obtain insurance at a reasonable cost, or for which its Members refuse to fund reserve accounts at levels sufficiently high to pay the damages for which the governmental entity may seek to make the Declarant liable. This notice is not intended to create a liability for any governmental entity. Nor may this notice be construed to create a duty for the Declarant to obtain insurance or to fund reserve accounts for damage from rising or flooding waters.

Plans and specifications are not approved for engineering or structural design or adequacy of materials, and by approving such plans and specifications, neither the undersigned nor the committee assumes liability or responsibility therefore, nor for any defect in any structure constructed from such plans and specifications. Lot Owners. Builders and their Engineers are exclusively responsible for engineering and construction of site drainage, finished floor elevations and foundations.

- 2.13 **Surface Water.** Each Lot Owner shall comply with Texas law, particularly Texas Water Code, section 11.086 (Vernon's 1997). Each Lot Owner shall follow water pollution erosion and runoff procedures as required by local, state and federal law. No Lot Owner shall permit construction activity except in conformance with such actions.
- 2.14 **Security.** Each Owner and resident acknowledge and agrees, for himself/herself and his/her guests, that Declarant, Declarant's successor, or a Homeowners Association formed by the Members in the future, and each of their respective directors, officers, committees, agents, and employees, are not providers, insurers, or guarantors of security within the Property. Each Owner and resident acknowledge and accepts his sole responsibility to provide security for his own person and property and assumes all risks for loss or damage to same. Each Owner and resident acknowledge and agrees that Declarant, Declarant's successor, or a Homeowners Association formed by the Members in the future, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.
- 2.15 **Risk.** Each resident uses the Palomino Run Residential Subdivisions interior roads and entrances at his or her own risk. These areas are unattended and unsupervised. Each resident is solely responsible for his or her own safety and that of his or her guests. Declarant and Declarant's successor disclaims all liability or responsibility for injury or death occurring from use of the Palomino Run Subdivisions interior roads or the entrances.
- 2.16 **Enforcement.** If in the opinion of the Declarant or Declarant's successor, or the Architectural Control Committee, any such Owner or Resident (including lessees) has failed to comply with any of the foregoing restrictions or has failed in any of the foregoing duties or responsibilities, then the Declarant or Declarant's successor or their designated Agent(s) shall deliver to such Owner or Resident (including lessees) written notice of such failure and such Owner or Resident (including lessees) must within thirty (30) days from and after delivery of such notice, comply with the

restrictions and/or perform the care and maintenance required. In the event of any emergency safety or health related restriction violations, or repeated violations where thirty (30) days' notice has previously been delivered, the required notice period may be less or unnecessary as permitted by the Texas Property Code, as amended. Should any such Owner or Resident (Including lessees) fail to fulfill this duty and responsibility within such a period, then the Declarant or Declarant's successor, or their designated Agent(s), may seek other legal avenues for remedy including through the courts. If this action is taken and the Declarant or its assigns are ruled in favor of by the courts, the Owner or Resident will fully abide by the ruling of the court, correct the issue and adhere to these rules moving forward. If the Declarant or its successors or assigns is ruled in favor of by the courts, the Owner will also be liable for paying all the Declarant's or Declarant's successor's or assigns legal fees and any other fees attributable to the case.

#### **ARTICLE IV** **RESIDENTIAL LOTS**

- 3.1 **Purposes.** As a general rule, the Owner or Resident (including lessees) of a residential lot has the sole and exclusive use of the Owner's lot - from boundary to boundary, and except for the Declarant's or the Declarant's successor's maintenance responsibilities and rights defined herein, is solely responsible for the maintenance of all portions of such lot and all of the improvements on the lot from boundary to boundary.
- 3.2 **Erath County Ordinances.** Ordinances of Erath County affecting the residential lots in the Palomino Run Phase 1 & 2 Residential Subdivisions will be provided to Owners by the Declarant or the Declarant's successor and will be complied with if the physical nature of the Property and each lot permit. Ordinances of Erath County affecting the Commercial Lots in added phases of the Palomino Run Residential Subdivisions will be provided to Owners by the Declarant or the Declarant's successor and will be complied with if the physical nature of the Property and each lot permit.
- 3.3 **Encroachment Reservations and Easements.** Driveways and additional parking pads encroachment reservations and easements are created by this Declaration and are in addition to easements, if any, shown on a Plat or created by separate instrument. Concrete driveways and any additional parking pads shall be constructed as the initial improvements on the Property with respect to individual lot lines. The Owner of the lot that is served by the driveway or parking pad has exclusive use of those improvements and is solely responsible for the maintenance, repair, replacement, and reconstruction of same as if it were constructed entirely on the Owner's lot.
- 3.4 **Damage to Property.** If a lot Owner or Resident (including lessees) damages the adjoining lot, or damages or destroys any improvement or personal property on the adjoining lot, in exercising the easements and reservation created by this Article, the Owner is obligated to restore the damaged property to its original condition (just prior to the damage), at his or her or its expense, within a reasonable period of time.

**ARTICLE V**  
**ARCHITECTURAL COVENANTS AND CONTROL**

- 4.1 **Purpose.** Because the lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the lots and the Common Areas to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a lot, including but not limited to dwellings, other structures, fences, landscaping, retaining walls, yard art, sidewalks and driveways, and further including replacements or modifications of original construction or installation. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.
- 4.2 **Declarant's Architectural Control During Development Period.** During the Development Period and during Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions, neither the Owners, nor a committee of the Owners (no matter how the committee is named) may involve itself with the approval of the structural design or construction modification or exterior appearance of the homes and other improvements on the Lots, except as may be delegated by the Declarant. During the Development Period and during Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions, all applications for dwellings, accessory structures and all other approvals must be submitted to the Declarant's Architectural Control Committee using the attached **Exhibit E "Architectural Design & Construction Application"** form attached hereto and incorporated herein, containing Design and Construction Rules of the Palomino Run Phase 1 & 2 Subdivisions, the provisions of which must be complied with throughout construction of the dwellings and improvements on lots in Phase 1 & 2 of the Palomino Run Subdivisions. The Declarant's appointed Architectural Control Committee shall also be responsible for the review and written approval of all structural design and construction modification, and the exterior appearance, of the homes and all other improvements. The design and construction review and approval are the responsibility of the Declarant or its delegates, unless released in writing by Declarant to the Owners, or to an Association formed in the future by the Owners.
- 4.2.1 **Declarant's Rights Reserved.** Each Owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market its property or the ability of Builders to sell homes in the Property. Accordingly, each Owner agrees that during the Development Period, and during Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions, no improvements, demolition, or exterior alteration of improvements will be started or progressed on Owner's Lot without the prior written approval of the Declarant or Declarant's delegates, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval,

Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

- 4.2.2 **Delegation by Declarant.** During the Development Period, and during Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to an Architectural Control Committee appointed by Declarant, whose committee members may be comprised of architects, engineers, or other qualified persons who may or may not be lot Owners in the Subdivisions. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is always subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

**BEFORE MAKING ANY IMPROVEMENT OR ANY ALTERATION TO A LOT, A DWELLING OR TO ANY OTHER STRUCTURE OR IMPROVEMENT, A BUILDER OR OWNER MUST APPLY TO THE DECLARANT OR TO THE ARCHITECTURAL CONTROL COMMITTEE FOR WRITTEN APPROVAL!**

- 4.3 **Architectural Control by Lot Owners.** Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee to be staffed and controlled by the Lot Owners, or the Development Period is terminated or expires, the lot Owners have no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the lot Owners or a newly established Homeowners Association for the Palomino Run Phase 1 & 2 Residential Subdivisions, acting through the Architectural Control Committee, will assume jurisdiction over architectural control.

- 4.3.1 **Architectural Control Committee Membership.** The Architectural Control Committee, when established, will consist of three (3) persons appointed by the Declarant during the Development Period and during Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions. Following the termination of the Development Period and the Declarant's continued management of the Palomino Run Phase 1 & 2 Residential Subdivisions, the Architectural Control Committee will consist of three (3) persons elected by a majority of the lot Owners who attend a meeting called by any lot Owner giving at least thirty (30) days written notice of the meeting. In the event at least 80% of the Lot Owners vote by written ballot to form a Homeowners Association, the Architectural Control Committee will consist of three (3) persons elected by a majority of the Board of Directors of the Association in accordance with the Bylaws of the Association. Members of the Architectural Control Committee shall serve at the pleasure of the lot Owners or the Association Board (whichever is appropriate) and may be removed and replaced at the lot Owners or the Board's discretion. During the Declarant's Control Period, at the Association Board's

option, the Board may act as the Architectural Control Committee, in which case all references in the Documents to the Architectural Control Committee shall at that time be construed to mean the Association's Board. Following the Declarant's Control Period, no member of the Property Owners Association Architectural Control Committee may also be a member of the Association's Board of Directors. Members of the Architectural Control Committee need not be Owners or residents, and may, but need not, include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Association's Board.

- 4.4 **Limits on Liability.** The Architectural Control Committee has sole discretion with respect to taste, design, and all standards specified by this Article. The members of the Architectural Control Committee have no liability for the Architectural Control Committee's decisions made in good faith, and which are not arbitrary or capricious. Plans and specifications are not approved by the Architectural Control Committee for engineering or structural design or the adequacy or structural integrity of materials. The Architectural Control Committee is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the Architectural Control Committee, (2) supervising construction for the Owner's compliance with approved plans and specifications, (3) any defect in any structure constructed from the approved plans and specifications, or (4) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.
- 4.5 **Prohibition of Construction, Alteration & Improvement.** Without the Architectural Reviewer's prior written approval, a person may not construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property, if it will be visible from a street or another Lot. The Architectural Control Committee has the right, but not the duty, to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.
- 4.6 **Architectural Approval.** To request architectural approval, an Owner must make written application to the Architectural Control Committee ("ACC") (1) by submitting a complete PDF digital application to the ACC, and (2) by submitting one (1) identical hard copy set of plans and specifications showing the nature, kind, shape, color, size, materials, including one (1) set of plot plans showing locations on the lot of the work to be performed, and a foundation, storm drainage and landscaping plan. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Control Committee will deliver to the ACC applicant a written document within 30 days after receiving the request specifying the Architectural Control Committee's response, such as "Approved," "Conditionally Approved," "Denied," or "More Information Required." The Architectural Control Committee may retain the digital set of plans and specifications, together with the application, for the Architectural Control Committee's files. Verbal approval by the Declarant, an Association Director or Officer, the Association's Manager, the Architectural Control Committee, or a member of the Architectural Control Committee, does not constitute architectural approval by the Declarant or the appropriate Architectural Control Committee, which must be in writing.

4.6.1 **Deemed Approval.** Under the following limited conditions, the applicant may presume that his request has been approved by the Declarant or the Architectural Control Committee:

- A. if the applicant or a person affiliated with the applicant has not received the Architectural Reviewer's written response approving, denying, or requesting additional information within thirty (30) days after delivering his complete application to the Architectural Control Committee; or
- B. if the proposed improvement or modification strictly conforms to requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.
- C. If those conditions are satisfied, the Owner may then proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the Owner to document the Board's actual receipt of the Owner's complete application. Under no circumstance may approval of the Declarant or the Architectural Control Committee be deemed, implied, or presumed for an improvement or modification that would require a variance from the requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.

4.6.2 **No Approval Required.** No approval is required to repaint exteriors in accordance with the same color scheme previously approved by the Architectural Control Committee, or to rebuild a dwelling in accordance with any previously approved plans and specifications. Nor is approval required for an Owner to remodel or repaint the interior of a dwelling.

4.6.3 **Building Permit.** If the application is for work that requires a building permit from Erath County, the Architectural Control Committee's approval is conditioned on the issuance of the appropriate permit. The Architectural Control Committee's approval of plans and specifications does not mean that they comply with the requirements of the Erath County. Alternatively, Erath County's approval does not ensure Architectural Control Committee approval.

4.6.4 **Declarant Approved.** Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made or approved in writing by Declarant during the Declarant Control Period is deemed to have been approved by the Architectural Control Committee.

4.7 **Architectural Guidelines.** Declarant, during the Declarant Control Period, Declarant or its delegates, or Declarant's successors, or if released in writing by Declarant to the Owners, a Homeowners Association formed in the future by the Owners, that Association's Board of Directors, or a committee appointed by that Association or the Board, may publish architectural restrictions, guidelines, and standards in the Association's Rules And Regulations, which may be revised from time to time by the Association's Board to reflect changes in circumstances in the

Palomino Run Phase 1 & 2 Residential Subdivisions, or in subsequently added Phases to the Palomino Run Phase 1 & 2 Residential Subdivisions, of technology, style, and taste.

- 4.8 **Variance.** The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to this Article. The Declarant or Declarant's successors, or the Architectural Control Committee may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate and may limit or condition its grant. The Declarant or the Architectural Control Committee may authorize variances from compliance with any of the provisions of this Declaration or minimum acceptable construction standards or regulations and requirements as promulgated from time to time by the Declarant when circumstances such as topography, natural obstructions, Lot configuration, Lot size, hardship, aesthetic or environmental considerations may require a variance. The Declarant reserves the right to grant variances as to building set-back lines, minimum square footage of the residence, building materials, colors and other items. To be effective, a variance must be in writing. The grant of a variance does not constitute a waiver or estoppel of the Declarant's or the Declarant's successor or the Architectural Control Committee's right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance. The granting of any variance shall not affect in any way the Owner's obligation to comply with all governmental laws and Erath County ordinances or regulations affecting the property and the Plat.

Each variance request is treated individually by the Architectural Control Committee. The circumstances of those variance requests may differ from owner to owner or lot to lot. The Declarant or Declarant's successors or the Architectural Control Committee may grant a variance to one owner and may not grant a similar request to another Owner. This discretion rests solely with the Declarant, Declarant's successors and the ACC. Under the circumstance where one variance was requested and approved and a similar request was denied, the Owner whose request was denied may resubmit their variance request to the governing body at that time for reconsideration. This variance resubmittal must be in writing and is not guaranteed to be approved. In these circumstances where the variance is denied again, the Owner agrees that the decision of the ACC or the Declarant for the variance resubmittal is final. By resubmitting the variance request, the Owner agrees to hold harmless the Declarant, Declarant's successors and the ACC for those decisions. The Declarant, Declarant's successors and the ACC will either approve or deny any resubmitted variance requests within 30 days of receipt.

## **ARTICLE VI**

### **CONSTRUCTION SPECIFICATIONS AND USE RESTRICTIONS**

- 5.1 **Improvements Compliance.** All improvements on a lot must (1) comply with any applicable Erath County ordinances and codes, and (2) have the Architectural Control Committee's prior written approval in compliance with this Declaration. These two (2) requirements are independent; that is, one does not ensure or eliminate the need for another. The lot Owner and/or Owner's Builder or Contractor must comply with both requirements.

- 5.2 **Single-Family Detached Residential Construction.** The residential improvements on all lots shall be site-constructed, single-family detached residences, as such residences are defined, restricted and permitted by the Erath County Ordinances. No building shall be erected, altered, placed or permitted to remain on any lot prior to the construction of the one “principal dwelling” unit per each lot to be used for residential purposes; and if approved by the Declarant or the Architectural Control Committee, may then consider for approval an additional detached dwelling, which shall be known hereinafter as the “guest dwelling” or “guest house.” All principal dwellings and guest houses, detached garages, workshops, out buildings and other structures must be approved in writing by the Architectural Control Committee prior to being erected, altered or placed on the Property. The term “dwelling” does not include single or double wide manufactured homes; and said manufactured homes are not permitted within the Palomino Run platted Residential Subdivisions.

Any building, structure or improvement whose construction has commenced on any lot shall be completed as to exterior finish and appearance within twelve (12) months from the commencement of construction. For the purposes hereof, the phrase “commencement of construction” shall be deemed to mean the date on which the foundation forms are set on the lot. As used herein, the term “residential purposes” shall be construed to prohibit mobile homes or trailers being placed on said lots, or the use of said lots for duplex houses, townhomes, condominiums or apartment houses.

- 5.3 **Construction Restrictions.** The principal improvement on a lot must be one detached single-family dwelling, as may be further defined by Erath County, to be known herein as the “principal dwelling.” All principal dwellings will face the front yard of each lot, which “front yard” of each Lot shall be determined and designated by the Architectural Control Committee. The principal dwelling size, setbacks, and exterior materials must comply with the Erath County Subdivisions Ordinances and with any higher standards established by the Palomino Run Phase 1 & 2 Residential Subdivisions or by the Palomino Run Residential Subdivisions Plat, or by this Declaration, or by a Variance issued in writing by the Architectural Control Committee. Without the Architectural Control Committee’s prior written approval for a variance, improvements constructed on every lot must have the characteristics described in this Article 6, which may be treated as the minimum requirements for improving and using a lot. The Architectural Control Committee and the Board may promulgate additional rules and restrictions, as well as interpretations, additions, and specifications of the restrictions contained in this Article. An Owner should review the Association’s architectural restrictions, if any, before planning improvements, repairs, or replacements to his lot and dwelling. In addition to the Declarant’s Rules and Regulations, as amended from time to time by Declarant or Declarant’s successor, all lots within the platted Subject Property shall be subject to the following restrictions:

A. **Building Locations.** Each house must be reasonably placed within the Owners lot and shall comply with the building setback lines established herein or shown per the Plat of the Subdivisions for the Subject Property.

B. **Building Lines.** All residences (aka “dwellings”) erected or placed on any lot shall face the Subdivision’s interior road or street adjacent to the Lot as shown on the recorded plat of the Subject Property, or in the case of corner Lots, as determined in the sole discretion by the Architectural Control Committee. No portion of such dwelling or residence in Palomino Run Phase 1 & 2 Residential Subdivisions shall be nearer to the front property line of lots 1 thru 47 than fifty feet (50’) whether the front build line is designated on the recorded Plat of the Subject Property. No structure or improvement of any kind shall be nearer to the side property line of any lot other than five feet (5’) as designated on the recorded plat of the Subject Property. No lot shall be permitted to have a structure or improvement of any kind nearer to the rear property line of any of the lots than twenty-five feet (25’) as designated on the recorded plat of the Subject Property.

C. **Dwelling Minimum Square Footage.** All principal dwellings shall have the minimum square footage of air-conditioned living area required hereinbelow. “Air-Conditioned Living Area” as used herein, is defined as the area measured from outside exterior wall to outside exterior wall, computed in square footage, exclusive however of any square footage contained within the garage, covered porches, patios and walkways. Notwithstanding any variances hereafter granted by either Declarant or by the Architectural Control Committee, the principal dwelling on each lot in the Palomino Run Phase 1 & 2 Subdivisions shall have at least One Thousand, Five Hundred (1,500) square feet of air-conditioned living area. Any dwelling on a lot in Palomino Run Phase 1 & 2 Residential Subdivisions shall have situated on the first floor at least One Thousand, Three Hundred (1,300) square feet of air-conditioned living area.

D. **Guest Dwelling Minimum Square Footage.** A detached dwelling, in addition to the principal dwelling on a residential lot, shall be known hereinafter as the “guest dwelling” which shall have at least Three Hundred, Fifty (350) square feet of airconditioned living area, but no more than One Thousand (1,000) square feet of airconditioned living area.

5.4 **Location and Height of the Improvements upon the Lot.** The set-back requirements shall be as designated on the Plat and shall be subject to the current Erath County Subdivisions regulations. The maximum height of any improvement shall be two stories or thirty (30) feet, depending on structure as set forth in this document.

5.5 **New Construction Single Family Residential Construction.** A “principal dwelling” must be constructed on each Lot in the Palomino Run Phase 1 & 2 Residential Subdivisions. No building shall be erected, altered, placed or permitted to remain on any Palomino Run Phase 1 & 2 Residential Subdivisions lot other than one principal dwelling unit per each Lot to be used for residential purposes and other improvements approved by Declarant, Declarant’s designated agent or Declarant’s heirs, assigns, personal representatives or other successors in interest. All dwellings (including principal dwellings and guest dwellings), detached garages, workshops, and other outbuildings must be approved in writing by the Declarant prior to being erected, altered or placed on the Property. The term “dwelling” does not include single or double-wide manufactured homes, or any manufactured homes or residential living quarters of a similar nature, as determined in the sole discretion of the Declarant, and are not permitted within the Palomino Run Phase 1 & 2 Residential Subdivisions. The construction of any building, structure or improvement commenced on any lot shall be completed as to exterior finish and appearance within twelve (12) months from

the commencement date. As used herein, the term “residential purposes” shall be construed to also prohibit mobile homes or trailers being placed on said Lots. All Lots shall be for residential purposes and all homes must be site constructed.

- 5.6 **Occupancy.** Other than the completed principal dwelling and a guest dwelling, if a guest dwelling is approved by the Architectural Control Committee to be constructed on a lot, no other thing or structure on a lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, a carport, mobile homes, recreational vehicles, campers, tents, workshops, storage sheds or any other type of accessory building. Declarant will consider an occupancy variance on a case-by-case basis.
- 5.7 **Exterior Wall Materials.** The type, quality, and color of the principal dwelling exterior wall materials must be approved by the Declarant or the Architectural Control Committee. The principal dwelling on a Lot, and a detached guest dwelling if approved by Declarant or by the Architectural Control Committee to be constructed on a lot, must each be built with matching, new, exterior construction material on all sides of the dwelling, of which at least eighty percent (80%) of the coverage of the total exterior walls, excluding doors and windows shall be comprised of the Primary Exterior Siding described below. The exterior construction material must be glass, stone, brick or other masonry or masonry-like construction material (including an approved masonry stucco), cementitious siding, aka concrete barrier board (such as Hardiplank or Smart Siding), or a glass building material of the kind usually used for exterior wall construction, referred to herein as the “Primary Exterior Siding.” Other materials of equal or similar characteristics may be approved by the Declarant or the Architectural Control Committee for the Primary Exterior Siding.

The remainder of the total exterior siding of the principal dwelling on a lot and a detached guest dwelling, if approved to be constructed on a lot, beyond the Primary Exterior Siding, referred to herein is known as the “Remainder Exterior Siding” which may, with the approval of the Declarant or the Architectural Control Committee, include masonry stucco, cementitious siding, aka concrete barrier board (such as Hardiplank or Smart Siding), and approved hardwoods, including redwood, and other materials of equal or similar characteristics.

The exterior siding of a detached auxiliary building, planned to be utilized as a garage, workshop, or for storage, if approved by the Declarant or the Architectural Control Committee to be constructed on a lot, the Primary Exterior Siding of the detached auxiliary building must be built with a wainscot constructed of new, brick or rock (aka stone) exterior construction material matching the material and color of the Primary Exterior Siding of the principal dwelling on at least the lower forty percent (40%) of the height of the building’s exterior walls. The remainder of the total exterior siding of the detached auxiliary building on a Lot, if approved to be constructed on a Lot, beyond the Primary Exterior Siding, referred to herein as the “Remainder Exterior Siding,” may with the approval of the Declarant or the Architectural Control Committee include metal, cementitious siding, aka concrete barrier board (such as Hardiplank or Smart Siding), masonry stucco, approved hardwoods, including redwood, and other materials of equal or similar characteristics, and with colors of such materials approved by the Architectural Control Committee to be harmonious in the sole discretion of the Architectural Control Committee with preferably one of darker colors of the Primary Exterior Siding of the home. Aluminum siding and similar low quality or unattractive siding materials in the opinion of the Architectural Control Committee are

not a permitted exterior wall material, the exceptions being “accessory structures defined in Section 6.14 below.

- 5.8 **Roofs.** The construction design and materials for roofs of residences and all other structures to be constructed on lots in the Palomino Run Phase 1 & 2 Residential Subdivisions must be submitted to and approved by the Declarant, Declarant’s successors, or the Architectural Control Committee, and comply in all respects with the applicable Erath County ordinance, prior to commencing any roof construction. The principal dwelling on a lot, and any detached guest dwelling, and/or any detached auxiliary building approved by Declarant or by the Architectural Control Committee to be constructed on a lot, must each be built with matching, new, construction roofing material. All residential roofs must have a minimum of at least 2 different pitches shall be a minimum of eight feet by twelve feet (“8/12”) pitch. All accessory building’s roof pitches shall be a minimum of four feet by twelve feet (“4/12”) pitch. Roofs must be covered with material having a manufacturer’s warranty of at least thirty (30) years. Wood shake shingles shall not be permitted. The use of asphalt tile dimensional shingles, steel, slate, clay tile, and fiberglass shingles are permitted. Metal roof panels are permitted but must be certified as at least 26 gauge. The color of roofing material must be an earth tone color approved by the Declarant or the Architectural Control Committee. The Declarant or the Architectural Control Committee may permit or require other weights, materials, and exterior colors.

- 5.9 **Garage Orientation.** Each principal dwelling must have an attached or detached garage for at least two (2) full-size automobiles. Absent the issuance of a written approval by the Declarant, Declarant’s successors or the Architectural Control Committee for street-front facing garage doors in a particular phase or street of the development, each attached principal dwelling garage shall be oriented on a lot so that the garage doors do not face the street or streets which abut the lot.

If the Principal Dwelling has at least a two-car garage, then an outbuilding planned to be utilized as a workshop or detached garage for storage of mowers and other types of landscape maintenance equipment, tractors, recreational vehicles, all-terrain vehicles and similar vehicles, antique or inoperable vehicles, commercial vehicles, boats, jet skis, camper trailers, work trailers, and other types of similar vehicles and equipment, built behind the rear line of the principal dwelling may with the approval of the Architectural Control Committee, have garage doors that face the front street of the Lot.

- 5.10 **Garage Restrictions.** Without the Association Board’s prior written approval, the original garage area of the principal dwelling on a lot may not be enclosed or used for any purpose that prohibits the parking of at least two standard-size operable vehicles therein.

- 5.11 **Barns, Workshops & Storage Buildings.** Barns, workshops, and storage buildings shall be allowed so long as such buildings are constructed with material harmonious with the main residence. All outbuildings that exceed Five Thousand (5,000) square feet in size and are more than 30’ in height will need approval from the Architectural Control Committee or Declarant. Detailed Plans and Specifications for barns, workshops and storage buildings must be submitted to the Declarant or ACC in order to be considered for approval. All such structures must be located

behind the main residence. Exterior requirements for all such structures can be found in Section 6.7 of this document.

- 5.12 **Driveways and Parking Restrictions.** Beginning from the paved portion of the edge or end of any exterior road, the first twenty linear feet (20') of any lot's driveway which is connected to a road must be surfaced with Portland white concrete. After the first twenty linear feet (20') of any lot's driveway, the remainder of each lot's driveway must be constructed of either concrete, hot mix asphalt, brick or similar material paving, or any other road paving material approved by the Declarant or the Architectural Control Committee. Driveways that require culverts will be CMP culverts with safety end caps and concrete base. All culverts must adhere to any Erath County regulations. Driveway widths are not to exceed Forty (40) feet. The driveway flare from the street cannot exceed Fifty percent (50%) of the width of the driveway. For instance, if you chose to build a Thirty (30) foot wide driveway, the driveway flare portion that adjoins the street cannot exceed Forty-Five (45) feet in width. The driveway portion of a lot may not be used for any purpose that interferes with its ongoing use as a route of vehicular access to the garage or to the principal dwelling, the guest dwelling or an auxiliary building. A driveway may not be used (1) for outdoor storage purposes, including storage of Boats, Jet skis, large Trucks, Commercial vehicles, and inoperable vehicles; or (2) for repair or restoration of vehicles, boats, or trailers. Owners are limited to parking / storing a total of two (2) large towable items such as RV's, horse trailers or bumper-pull / gooseneck trailers per lot.
- 5.13 **Carports.** Carports are discouraged, although with the written approval of the Declarant or the Architectural Control Committee, in their sole discretion, "covered" carports "with full siding on the sides of the carport" may be installed, constructed, and maintained on a lot in the Palomino Run Phase 1 & 2 Residential Subdivisions. However, carports that are "not covered and do not have full siding" may not be used (1) for outdoor storage purposes, including storage of RVs, Boats, Camper Trailers, Jet skis, Trailers, large Trucks, Commercial vehicles, and inoperable vehicles; or (2) for repair or restoration of vehicles, boats, or trailers.
- 5.14 **Exterior Accessories and Lighting.** Installation of all exterior items and surfaces, including address numbers on dwellings, decorative hardware, external ornamentation, all exterior lighting and light fixtures, and exterior paint and stain, is subject to the Architectural Control Committee's prior approval, including approval of design, color, materials, and location. Notwithstanding such prior approval, upon being given notice by the Architectural Control Committee that any exterior light is objectionable, the Owner of the Lot on which the lighting is located must immediately remove or shield the light in such a manner that it is no longer objectionable to any neighbor or unsafe to motorists on the streets.
- 5.15 **Accessory Structures, Spas and Swimming Pools.** Accessory structures, such as dog houses, gazebos, storage sheds, playhouses and greenhouses, and spas or swimming pools may not be located in front yards or in unfenced portions of side or rear yards. Above-ground swimming pools are not permitted. An accessory structure may not be permitted on any lot if it is visible from any street and exceeds the height, length, width or the total square footage footprint, or is in violation of the design and construction specifications established by the Declarant, Declarant's successors, or the Architectural Control Committee. If an accessory structure that is visible from a street or

another lot is installed on a lot without the prior written approval of the Architectural Control Committee, the Architectural Control Committee reserves the right to determine that the accessory structure is unattractive or inappropriate or otherwise unsuitable for the Property, and may require the Owner to relocate it, screen it, or remove it.

- 5.16 **Temporary Structures.** With the approval of the ACC or the Declarant, certain temporary structures may be permitted during construction. These temporary structures will need to be approved prior to arrival on the Lot. Unless approved by the ACC or Declarant, no temporary dwelling, shop, portable shed, tent, trailer, mobile home, camper or recreational vehicle of any kind, or any improvements of a temporary character, except as permitted in Section 6.14 above or in this Section 6.15, shall be permitted on any Lot, further except that the Declarant, Builder or Contractor may have temporary improvements (such as a sales office and/or construction trailer and/or a portable toilet) on a given Lot during construction of the residences on that Lot. Dwellings and a detached, auxiliary building under construction shall be required to have one portable toilet for up to three houses and one trash container (plywood box) per house, which must be onsite before foundation forms are set and continuously until the required final building inspection. No building materials of any kind or character shall be placed or stored upon the property until the Owner thereof is ready to commence construction of improvements, and then such materials shall be placed within the property lines of the Lot upon which the improvements are to be erected.
- 5.17 **Air Conditioners.** Air conditioning equipment may not be installed in the front yard of a dwelling. Window units are prohibited.
- 5.18 **Dwelling Addresses and Mailboxes.** All principal dwellings in the Palomino Run Phase 1 & 2 Residential Subdivisions shall have their own address numbers, with a design and location established by the Architectural Control Committee, mounted in a stone address block on the exterior front wall of each such dwelling facing the street. Unless the United States Postal Service requires the use of one or more cluster mailboxes, curbside mailboxes are to be installed for the homes on lots R-1 thru R-11 on their front entrance driveways being located on Erath County Road 380, all dwellings shall have an individual mailbox installed according to United States Postal Service requirements and guidelines. If cluster mailboxes are required, the cost of each Homeowner's cluster mailbox installation shall be assessed and collected at Closing.
- 5.19 **All Roadside Lots' Perimeters, all Lots' Common Boundaries with Dedicated Drainage Channels and all Lot-to-Lot Rear Perimeter Fencing.** All Perimeter Fencing of Roadside Lots on and along the Subdivision's property border abutting Erath County Road 428 and all Lots having Common Boundaries with Dedicated Drainage Channels, and all Lot-to-Lot Rear Perimeter fencing shall be required to have a low profile, at least six feet (6'), but no more than eight feet (8') tall cedar, three (3) horizontal rails privacy fencing approved by the Architectural Control Committee. The smooth, finished sides of the fence must face both sides of the lot-to-lot Rear Perimeters of rear fences of adjoining Lots along a common boundary; and the smooth, finished side of the Lot fences with a common boundary with a dedicated drainage channel must face the interiors of the Lots. The cedar vertical horizontal rails privacy fencing must have anchor posts not more than ten feet (10') apart set in concrete at least one and one-half feet in the ground. This

perimeter fencing is not to be altered or removed on any Lot and is to be maintained by the Lot Owners (shared equally when the rear lot fence is common to two lots). In the event a backyard perimeter fence along the Subdivision's property border abutting Erath County Road 380 exists at the time of Buyer's purchase of a Lot, at the closing of Buyer's purchase of such Lot, Buyer must pay developer an agreed price for the construction and staining of any such existing perimeter fence.

- 5.20 **All Other Subdivisions Lot Fencing**. Except as required in Section 6.18 above, perimeter fencing of lots along the sides of the lots (other than Perimeter Fencing of Roadside Lots per Section 6.18 above) is permitted but shall not be required. If the lot Owner elects to install side lot perimeter fencing, it must be approved by the Architectural Control Committee, and it must be constructed along the entire common side boundaries of the Owner's lot, extending from the corners of the rear boundary line and the side boundary lines to a point along each side boundary line at or before the front line of the lots. Partial fencing of the perimeter of the Lot authorized hereby shall be permitted. All perimeter Lot fencing shall only be all-black fencing constructed of steel anchor posts set in concrete at a depth of at least one and one-half feet in the ground, installed 2" above the ground, with a black, top steel pipe rail. The all-black side, and if desired by the lot owner, the front perimeter fence, must be at least four feet (4') to eight feet (8') tall, with 2" by 4" no-climb Horse wire mesh (approved by the Architectural Control Committee) attached to the Lot's interior side of the fence. Partial perimeter fencing shall be permitted.

Interior backyard privacy fences designed to enclose and provide privacy for the backyard of a dwelling around a patio, swimming pool or playground or similar equipment within the Lot may not be constructed between a dwelling's front building line and the front street property line. Backyard privacy fencing is permissible and must be approved by the Architectural Control Committee prior to construction. Any interior backyard privacy fencing may be either cedar wood privacy fencing approved by the Architectural Control Committee or all-black fencing constructed of steel anchor posts set in concrete at a depth of at least one and one-half feet in the ground, open view, low profile, four feet (4') to eight feet (8') tall, and constructed either of ornamental wrought iron or aluminum materials, open vertical tines four inches (4") apart. It shall be permissible if the Lot Owner elects to install 2" by 4" mesh no-climb Horse wire attached to the Lot's interior (inside) of the fence to a height from the ground of up to two feet, designed to contain a small dog. Subject to receiving written approval from the Architectural Control Committee, it shall also be permissible if the Lot Owner elects to install a small wire mesh designed to contain a small dog. The wire mesh must be attached to the Lot's interior (inside) of the fence to a maximum height from the ground of two feet, installed 2" above the ground to permit grass and weed maintenance.

The use of other styles of wood privacy or wooden pickets fencing, vinyl or plastic, chain link, barbed wire, hog wire, rock, brick, unfinished concrete block, and similarly undesirable fencing materials, as determined in the sole discretion of the Architectural Control Committee, is prohibited. Fencing exceptions to this Section 6.19, designed and used for dog runs, must not be visible from the street, and must be approved by the Architectural Control Committee in its sole discretion. The use of electric fencing is not permitted in Palomino Run Phase 1 or 2.

Section 6.18 and this Section 6.19 are subject to the Architectural Control Committee's right to adopt additional or different specifications for construction or reconstruction of fences and walls. Retaining walls must be constructed entirely with Architectural Control Committee approved design and materials; however, railroad ties may not be used for a retaining wall. A fence located on or near the dividing line between two Lots and intended to benefit both lots constitutes a "Party Wall Fence" and, to the extent consistent with the provisions of this Article, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions. Matters concerning party fences and party walls of adjoining Lots are governed by Section 3.4 of this Declaration and by the general rules of law concerning party walls and party fences.

- 5.21 **Colors & Color Changes.** The colors of buildings, window treatments visible from the street or from another dwelling, fences, walls, exterior decorative items, and all other improvements on a lot are subjective matters of taste and preference. The Owner is allowed to pick all colors for these items. The Architectural Control Committee has the final determination if these colors that are acceptable. If the ACC determines that a color used is appropriate, the Owner must find a new color that is approved by the ACC.

All window treatments within the dwelling that are visible from the street or another dwelling must be maintained in good condition and must not detract from the appearance of the Property. The Architectural Control Committee may require an Owner to change or remove a window treatment that the Architectural Control Committee determines to be inappropriate or unattractive. The Architectural Control Committee in their sole discretion may prohibit the use of certain colors, materials or inappropriate designs or graphics for window treatments.

- 5.22 **Utilities.** Except for temporary water and sewage facilities and systems which may be installed and used by Declarant or by Builders (and which must comply with the requirements of Erath County Subdivisions Ordinances) prior to having access to water wells and on-site septic facilities, as appropriately approved by Erath County and the Upper Trinity Conservation District (for water wells), no dwelling may be occupied until such systems are available and functional for use by such dwellings in the Palomino Run Phase 1 & 2 Subdivisions. All temporary water and sewage systems must be removed within 60 days of certification by Erath County of the approved water well and the on-site septic facilities installed and are fully functional for use by each such dwelling on the lots in the Palomino Run Phase 1 & 2 Subdivisions. All dwellings must also be served with electricity. All utility lines and equipment, including propane tanks, must be located underground or otherwise screened from view from any street and neighboring Lots (as approved by the Architectural Control Committee), except for: (1) elevated or surface lines or equipment required by a public utility or the city or county; (2) elevated or surface lines or equipment installed by Declarant as part of the development plan; and (3) surface equipment necessary to maintain, operate, or read underground facilities, such as meters, risers, service pedestals, and transformers. The Architectural Control Committee may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring lots.

- 5.23 **Annoyance.** No lot or Common Area may be used in any way that: (1) may reasonably be considered to be annoying or a nuisance to neighbors; (2) may be calculated to reduce the desirability of the Property as a residential neighborhood; (3) may endanger the health or safety of residents of other Lots; (4) may result in the cancellation of insurance on the Property; or (5) violates any law. Declarant or Declarant's successors, or the Architectural Control Committee shall have the sole and absolute discretion to determine what constitutes a nuisance or annoyance.
- 5.24 **Appearance.** The lot and each dwelling and any detached auxiliary building or any accessory structure must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. The Architectural Control Committee is the arbitrator of acceptable appearance standards.
- 5.25 **Garbage & Trash Disposal and Debris.** No lot may be used or maintained as a dumping ground for rubbish. Trash, garbage, other waste or debris shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of frequently and regularly. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition, out-of-public-site location. Garbage and trash or other debris accumulated in the Palomino Run Phase 1 & 2 Residential Subdivisions shall not be permitted to be dumped at any place upon adjoining land where a nuisance to any residence of the Palomino Run Phase 1 & 2 Residential Subdivisions or to a neighbor of the Palomino Run Phase 1 & 2 Residential Subdivisions is or may be created. Materials incident to construction or repair of improvements on a lot may be stored temporarily on the lot during construction while work progresses and must be removed when construction or repair is complete. However, construction waste materials and debris shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of frequently and regularly.

In the event of the failure of any Owner to comply with the above requirements after ten (10) days written notice thereof and should any such Owner or Resident (Including lessees) fail to fulfill this duty and responsibility within such a period, then the Declarant or Declarant's successor, or their designated Agent(s), may seek other legal avenues for remedy including through the courts. If this action is taken and the Declarant or its assigns are ruled in favor of by the courts, the Owner or Resident will fully abide by the ruling of the court, correct the issue and adhere to these rules moving forward. If the Declarant or its successors or assigns is ruled in favor of by the courts, the Owner will also be liable for paying all the Declarant's or Declarant's successor's or assigns legal fees and any other fees attributable to the case.

- 5.26 **Declarant's Right to Promulgate Rules.** Declarant and Declarant's successors are granted the right to adopt, amend, repeal, and enforce all Rules and Regulations, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property contained in this Article. Members, Builders and all parties living in or working on properties in the Palomino Run Phase 1 & 2 Residential Subdivisions are required to be aware of and comply with the Rules and Regulations adopted by the Declarant as part of the Governing Documents of the Palomino Run Phase 1 & 2 Residential Subdivisions.

- 5.27 **Animal Husbandry and Restrictions.** Dogs, cats, caged birds and aquarium fish are “Permitted Pets” may be kept for personal companionship and shall be subject to all the Restrictions and Rules and Regulations of the Association. Other than those listed here as “permitted pets,” any animals desired by the animal’s owners to be kept as “permitted pets” must receive written consent from the Subdivision’s current governing body to have such an animal kept or maintained in an Owner’s residence or on any Owner’s lot. If consent is not obtained by the Owner, the governing body Board may in its sole discretion, without liability, require the animal’s owner to immediately remove the animal from the property. No more than four (4) domesticated household pets may be maintained on each lot. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other lots. Pets must be maintained inside the dwelling or may be kept in a fenced yard only if they do not disturb residents of other lots. Any pets permitted by a resident to be outdoors outside of Owners’ fenced yards in the Palomino Run Phase 1 & 2 Residential Subdivisions must be strictly controlled by such resident, either on a leash, physically held by the resident or otherwise physically contained and controlled. Every resident is responsible for the removal of his or her pet’s wastes from the Common Area or the lot of another Owner. All dogs and cats must be properly vaccinated and tagged for health, safety and identification. Any pets permitted by a resident to be outdoors outside of Owners’ fenced yards in the Palomino Run Phase 1 & 2 Residential Subdivisions must be strictly controlled by such resident, either on a leash, physically held by the resident or otherwise physically contained and controlled.

“Permitted Livestock” shall be poultry, such as chickens (as limited in numbers below, except that no roosters shall be allowed on any lot), horses, cattle or other large animals. Large animals shall be restricted to be kept and maintained on the lot’s acreage fenced outside of at least one acre surrounding the lot’s principal dwelling or guest dwelling. Sheep or goats (as limited in numbers below), rabbits, birds or other animals, which have received written consent from the governing body to have such an animal kept or maintained in an Owner’s residence or on any Owner’s lot in an outdoor structure and on conditions approved by the Association, shall be permitted. A letter providing the required written consent for such animals other from the Board of Directors permitting the Owner to keep such an animal in an Owner’s residence or on any Owner’s lot, must be signed and acknowledged by the animal’s owner or custodian. Such Permitted Livestock having received the required Board’s written consent may be kept or maintained on the Property and shall be subject to all the Restrictions and Rules and Regulations of the Association. If the Board’s written consent is not obtained by the Owner, the Board may in its sole discretion, without liability, require the animal’s Owner to immediately remove the animal from the property; or without liability, the Association may use self-help at the animal Owner’s expense to remove the animal.

The number of animal units (AU) for each type of farm animal permitted on a lot in the Palomino Run Phase 1 & 2 Subdivisions shall be governed by the Animal Unit Equivalent Chart – Texas, which can be found online at Animal Unit Equivalent Chart – Texas ([usda.gov](http://usda.gov)). The lot Owner shall be limited to have up to twenty-five (25) sheep and goats on the owner’s lot and up to fifteen (15) chickens (excluding roosters) at any given time.

Except as otherwise permitted herein, no animals, such as hogs, pigs, swine, birds, exotic or dangerous animals, fish, snakes, reptiles, or insects of any kind may be kept or maintained on the Property, nor may they be raised, or bred anywhere on the Property for any commercial purpose or for food. Animal breeding operations will not be allowed in the Subdivisions. The governing body

may adopt, amend, and repeal these Animal Husbandry Restrictions and any Animal Husbandry Rules regulating the types, sizes, numbers, locations, and behavior of animals at the Property. If neither these restrictions or the rules fail to establish animal occupancy quotas that work for the Palomino Run Phase 1 & 2 Residential Subdivisions, the governing body may amend these Restrictions and any Rules, as necessary.

Each Owner owning an animal shall assume full responsibility for personal injuries or property damage caused by said animal, and each Owner must agree to indemnify the Association for all costs incurred, including for all costs of litigation and attorney's fees, and hold the Association and its agents harmless against any loss, claim or liability of any kind or character whatsoever arising from or growing out of the privilege of having an animal in or on a Lot or in a residence in the Palomino Run Phase 1 & 2 Residential Subdivisions. All responsibility for animals of visitors shall rest with the lot Owner.

All animals shall be kept in such a manner so as not to disturb the other residents, regardless of whether the animal is inside or outside an Owner's residence. No pet will be permitted to remain on the property if its barking, whining, screeching or other noise is audible to other residents during extended or repeated periods of time. If an animal becomes obnoxious, threatening or dangerous to other Owners in the sole discretion of the Declarant or the governing body, the animal's owner or person having control of the animal shall be given a written notice from the Board to correct the problem or, if not corrected, the animal's Owner, upon three (3) days' written notice, shall be required to remove the animal.

Continual barking or dogs threatening or dangerous to people, or dogs that destroy neighboring Owners' property or permitted pets, are specific examples of animals that may be deemed by the Board, in its sole discretion, to be an "annoyance" or "nuisance" in violation of this Declaration. If in the sole judgment of the Declarant or the governing body, it is determined that the animal's owner or custodian has either (1) abandoned the animal, (2) left the animal in the residence or another structure or enclosure for an extended period of time without food or water, (3) failed to care for a sick animal; or (4) violated any other of these animal restrictions or rules, or (5) disturbed neighbors or other residents, and has been in repeated violation of these restrictions or rules, and the Owner or other custodian of the animal has failed to cause the violation to be corrected, the governing body after first leaving a written notice in a conspicuous place may seek further legal recourse.

All animals must have current rabies shots and licenses required by law. Evidence must be available to the Declarant, if requested.

- 5.28 **Declarant Privileges.** In connection with the development and marketing of the Property, Declarant has reserved a number of rights and privileges to use the Property in ways that are not available to other Owners and residents. The Declarant's exercise of privileges such as a Development Period (aka "Declarant Control Period") or others does not constitute waiver or abandonment of the restriction by the Declarant or Declarant's successors.
- 5.29 **Drainage.** No person may impair or interfere with the natural established drainage pattern over any part of the Property in a manner that would divert, increase, or impede the natural flow of water over and across any neighboring tract, unless an adequate alternative provision for proper drainage

has been approved by the Architectural Control Committee and any applicable governmental authority.

- 5.30 **Erosion Control.** Each Owner is responsible for all erosion control measures required by federal state, or local law, rules or regulations, if any, during construction on an Owner's Lot(s). In addition, all builders will be required to have their own Storm Water Pollution Prevention Plan (SWPPP) and implement the best practices the plan requires. No activity that may create erosion or siltation problems shall be undertaken on any Tract without the prior written approval of the Architectural Control Committee's Plans and Specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition of approval of such Plans and Specifications, require the use of certain means of physical devices for preventing and controlling erosion
- 5.31 **Landscaping and Yard Maintenance.** Within three (3) months after completion of home construction each lot on which a dwelling is constructed shall have completed landscaping plan. Each residence's landscaping plan must be submitted to and approved by the Architectural Control Committee prior to any work beginning. During the Development Period, all yard areas on every lot owned by Declarant and all Common Area grounds shall be cared for by Declarant at the sole discretion of the Declarant. Following the Development Period, all yard areas on every lot not occupied by an Owner or Residents (including lessees) shall be cared for by the Declarant as a Common Expense of the Owners of Lots in the Palomino Run Phase 1 & 2 Residential Subdivisions.

If in the opinion of the Declarant or the Association's Board an Owner or Resident either violates the landscaping or other maintenance rules of this Declaration or other rules promulgated by Declarant or Declarant's successors, the Declarant or assigns will notify the Owner in writing of this violation. If the violation is not corrected within 30 days of receipt of the letter, other remedy means including legal action may be used. Should any such Owner or Resident (Including lessees) fail to fulfill this duty and responsibility within such a period, then the Declarant or Declarant's successor, or their designated Agent(s), may seek other legal avenues for remedy including through the courts. If this action is taken and the Declarant or its assigns are ruled in favor of by the courts, the Owner or Resident will fully abide by the ruling of the court, correct the issue and adhere to these rules moving forward. If the Declarant or its successors or assigns is ruled in favor of by the courts, the Owner will also be liable for paying all the Declarant's or Declarant's successor's or assigns legal fees and any other fees attributable to the case.

No person may perform landscaping, planting, or gardening on any Common Area without the Architectural Control Committee's prior written authorization.

- 5.32 **Leasing of Dwellings or Lots.** Leasing of Dwellings or Lots in the Palomino Run Phase 1 & 2 Residential Subdivisions is discouraged. Guest dwellings shall not be leased separately from the principal dwelling. Declarant and any Builders approved to lease dwellings during the Development Period, prior to the sale of the lot to a third party, shall be exempt from this restriction. Whether or not it is so stated in a lease, every lease is subject to the Governing Documents. An Owner is responsible for providing his tenant with copies of the Governing

Documents and notifying him of changes thereto. If the Declarant or Declarant's designated representative had to notify an Owner of his tenant's violation, the Owner will be responsible to obtain his tenant's compliance. If the tenant's violation continues or is repeated, and if the Owner is unable, unwilling, or unavailable to obtain his tenant's compliance, then the Declarant or Declarant's successors has the power and right to pursue the remedies included in this document. The Owner of a leased lot is liable to the Property-wide Owners for any expenses incurred by the Declarant in connection with enforcement of the Documents against his tenant. Neither Declarant nor Declarant's successors shall be liable to the Owner for any damages, including lost rents, suffered by the Owner in relation to the Declaration's enforcement of this Declaration against the Owner's tenant.

- 5.33 **Use Restrictions against Home Business, Profession or Hobby.** The use of a Residential Lot in the Palomino Run Phase 1 & 2 Residential Subdivisions is limited exclusively to residential purposes or any other use permitted by this Declaration. No activity whether for profit or not, shall be conducted on any lot which is not related to single family residential purposes, unless said activity meets the following criteria: No Owner, Resident or Member shall conduct, transmit, permit or allow any type or kind of home business or home profession or hobby on any lot or within any residence which would:

- A. attract automobile, vehicular or pedestrian traffic to the Lot;
- B. involve lights, sounds, smells, visual effects, pollution and the like which would adversely affect the peace and tranquility of any one or more of the Residents within the Palomino Run Phase 1 & 2 Residential Subdivisions. The use of outdoor mercury lighting is expressly prohibited, and a lot's outdoor lighting must not allow a beam or bright light to be directed into the windows of another residence, nor may an outdoor lighting beam or bright light be allowed to be directed into any street in the Palomino Run Phase 1 & 2 Residential Subdivisions. All residents must exercise reasonable care to avoid making or permitting noises to be loud, disturbing, or objectionable, and to avoid making or permitting noxious odors, which are likely to disturb or annoy residents of neighboring lots. The Palomino Run Phase 1 & 2 Residential Subdivision's Rules may prohibit the use of loud, disturbing, or objectionable, noise-producing, security devices and wind chimes; or
- C. require any signage. Any such advertising signs are prohibited. This restriction is waived regarding the customary sales activities required to sell townhomes in the Palomino Run Phase 1 & 2 Residential Subdivisions.

This residential restriction does not, however, prohibit a resident from using a dwelling for personal business or professional pursuits provided that: (1) the uses are incidental to the use of the dwelling as a residence; (2) the uses conform to applicable governmental ordinances; (3) there is no external evidence of the uses; (4) the uses do not entail visits to the lot by employees or the public in quantities that materially increase the number of vehicles parked on the Street; and (5) the uses do not interfere with residents' use and enjoyment of neighboring Lots.

- 5.34 **Screening.** The Architectural Control Committee may require that the following items must be screened from the view of the public and neighboring Lots and dwellings, if any of these items exists on the lot: (1) satellite reception equipment; (2) clotheslines, drying racks, and hanging

clothes, linens, rugs, or textiles of any kind; (3) yard maintenance equipment; (4) wood piles and compost piles; (5) accessory structures that do not have prior approval of the Architectural Control Committee; (6) garbage cans and refuse containers; (7) above ground propane tanks; and (8) anything determined by the Board to be unsightly or inappropriate for a residential Subdivisions. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period is permitted for the plants to reach maturity as an effective screen. As used in this Section, “screened from view” refers to the view of a person in a passenger vehicle driving on a street or alley, or the view of a person of average height standing in the middle of a yard of an adjoining lot.

- 5.35 **Signs.** No sign of any kind shall be displayed to the public view on any lot except one (1) professional security system sign of not more than one (1) square foot, one political election sign per any contested political election displayed during an election of up to four (4) square feet in size and no more than three (3) feet in height above the ground. As set forth in the Texas Election Code Section 259.002, political election signs may only be displayed ninety (90) days before the date of the election of a candidate and must be removed within eleven (11) days after the date of the election. Additionally, one (1) professionally made sign conforming to the rules of the Palomino Run Phase 1 & 2 Residential Subdivisions of not more than six (6) square feet advertising the Lot for sale or for rent, or signs used by a Builder or supplier to advertise the Lot during the construction and sales period may with the approval of the Architectural Control Committee be permitted. No other sign or unsightly object may be erected, placed, or permitted to remain on the Property or to be visible from windows in the dwelling without the Architectural Control Committee’s prior written approval. The Architectural Control Committee’s approval may specify the location, nature, appearance, dimensions, number, and time period of a sign or object. The Declarant or Declarant’s designated representative may cause the removal of any sign or object that violates this Article or which the Architectural Control Committee deems inconsistent with neighborhood standards without liability for trespass or any other liability connected with the removal.
- 5.36 **Television, Electronic Equipment, Etc.** Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street are prohibited within the Property, except that (1) reception-only antennas or satellite dishes designed to receive television broadcast signals, (2) antennas or satellite dishes that are twenty-four inches (24”) or less in diameter and designed to receive direct broadcast satellite service (DBS), or (3) antennas or satellite dishes that are twenty-four inches (24”) or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS) (collectively, the “Antenna”) are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on or near the roof where an acceptable quality signal can be obtained. The Declarant or the Declarant’s successors may adopt reasonable rules modifying the size restrictions

herein and for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

- 5.37 **Vehicles & Parking.** All vehicles on the Property, whether owned or operated by the residents or their families and guests, are subject to this Section and Rules adopted by Declarant or Declarant's successors. The Declarant or the Declarant's successors may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. Vehicles must be parked in the garage, driveway or carport of the vehicle owner's lot. Vehicles shall not be parked on any non-paved portion of any lot. The Board may cause the removal of any vehicle in violation of this Declaration or the Rules without liability to the Owner or operator of the vehicle.
- 5.38 **Solar / Wind Energy Devices.** Per Section 202.010 of the Texas Property Code, solar / wind energy devices may be installed on common property or Owner's lots only if approved by the Architectural Control Committee, but not if the device threatens the public health or safety, violates a law, is located in an area on a lot other than on the roof of the home or another approved structure or in a fenced yard or patio owned and maintained by the lot Owner out of public view; otherwise, no solar power panels / stations or residential wind generators may be erected on any property in the Palomino Run Phase 1 & 2 Residential Subdivisions, save and except landscaping or security lights powered by solar power with solar panels less than one (1) square foot in size.
- 5.39 **Firearms and Hunting.** Shooting ranges are prohibited in the Subdivisions. No deer hunting will be permitted. Lot Owners and their guests, who accept full responsibility and liability for their actions which may cause personal injury or damage to property, are permitted to hunt, shoot, or discharge and use firearms, crossbows, or bows and arrows for hunting purposes on the Owner's property. Owners are allowed to hunt invasive varmints and critters such as snakes, feral hogs, rabbits, squirrels, racoons, opossums, skunks and any rabid or dangerous animals on their own property. Any such activity shall be conducted at Owners' sole risk and liability. No hunting will be allowed on another Owner's property. Owners must always comply with the Texas state hunting laws while hunting, and otherwise comply with current City, County, State and Federal laws regulating the use of firearms and other lethal weapons.
- 5.40 **Prohibited Explosives and Fireworks.** Explosives are prohibited in the entire Palomino Run Phase 1 & 2 Residential Subdivisions. Fireworks shall only be permitted the week before and the week after the July 4th Independence Day holiday and on New Year's Day on Owners' Lots, and for special events requested in writing by Owners and approved in writing by the Declarant, subject to conditions. Any such activity shall be conducted at Owners' sole risk and liability. No discharge or display of fireworks shall be permitted in the community between the hours of 1:00 a.m. and 10:00 a.m. No Owner shall permit any condition upon its portion of the Property, which creates a fire hazard or is in violation of fire prevention regulations. The discharge or display of fireworks shall be permitted on Owner's property for special events with the Declarant's written consent of each individually approved fireworks activity, subject to adult supervision and all other safety requirements imposed by the Declarant and Erath County. Violations of these restrictions shall be subject to enforcement as a nuisance subject to a fine established by the Board of Directors.

- 5.41 **Fires.** No Owner shall permit any condition upon the Owner's Property which creates a fire hazard or is in violation of fire prevention regulations. There shall be no exterior fires, except for barbeques grills, outside fireplaces, braziers, fire pits, and other incinerator fires contained within facilities or receptacles, and except in areas designed and approved by the Declarant. The occasional burning of brush and debris is permitted. Any such activity shall be conducted at Owners' sole risk and liability.

## **ARTICLE VII** **AMENDMENTS**

- 6.1 **Consents Required and Method of Amendment.** This Declaration may be amended by any method selected by the Declarant with the consent of the Owners of at least a majority of the lots. Or in the event Declarant has transferred control of the operation and management of the Palomino Run Phase 1 & 2 Residential Subdivisions to the Owners, or in the event a Property Owners' Association is formed hereafter, this Declaration may be amended by the Property Owners or by the Board of such Property Owners' Association from time to time with the consent of the Owners of at least eighty percent (80%) of the Lots, provided the method gives an Owner of each lot the substance, if not the exact wording, of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument.
- 6.2 **Effective.** To be effective, any amendment must be in the form of a written instrument (1) referencing the name of the Property, the name of the Declarant or any successor Declarant or Homeowners' Association, and the recording data of this Declaration and any amendments hereto; (2) signed and acknowledged by either the Declarant or an officer of the successor Homeowners' Association, certifying the requisite approval of Owners or directors and, if required, Eligible Mortgagees; and (3) recorded in the Deed Records of Erath County, except as modified by the following Section. This Section may not be amended without Declarant's written and acknowledged consent.
- 6.3 **Ordinance Compliance.** When amending the Documents, Declarant or any successor Homeowners' Association must consider the validity and enforceability of the amendment considering current public law, including without limitation any governing Erath County Subdivisions ordinance promulgated and in effect.
- 6.4 **Merger.** Merger or consolidation of the Palomino Run Phase 1 & 2 Residential Subdivisions Property with another Declarant-deed-restricted property or property restricted and governed by a Homeowners' Association must be evidenced by an amendment to this Declaration. The amendment must be approved by at least eighty percent (80%) of the Owners of the lots. Upon a merger or consolidation of the Palomino Run Phase 1 & 2 Residential Subdivisions Property Association with another Declarant restricted property or property restricted and governed by a

Homeowners' Association, the property, rights, and obligations of such other Declarant-deed-restricted property or property restricted and governed by a Homeowners' Association may, by operation of law, be added to the properties, rights, and obligations of a Homeowners' Association formed to govern and manage the Palomino Run Phase 1 & 2 Residential Subdivisions Property as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants, conditions and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will affect a revocation, change, or addition to the covenants, conditions and restrictions established by this Declaration within the Property without amending this Declaration as hereby provided.

- 6.5 **Termination.** Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of extensive damage, destruction, or public condemnation of the Property, an amendment to terminate must be approved by Owners of at least eighty percent (80%) of the lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed either by the Declarant or by the Board of any then-existing Homeowners' Association without a vote of Owners. In all other circumstances, an amendment to terminate must be approved by Owners of at least eighty percent (80%) of the lots.

**SIGNED AND ACKNOWLEDGED**

SIGNED on this \_\_\_\_ day of \_\_\_\_\_, 2023.

DECLARANT:

Hertiage Land Stewards, LLC. a Texas limited liability company

Acknowledged By: \_\_\_\_\_, Managing Member

STATE OF TEXAS                   §

§

COUNTY OF ERATH               §

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, Managing Member of Hertiage Land Stewards, LLC, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_

Notary Signature

After recording, please return to:

Brian Williams

Hertiage Land Stewards, LLC.