

THE GREENWAYS AT HILLSIDE UNIT NO. 26 **DECLARATION OF COVENANTS,** **CONDITIONS, AND RESTRICTIONS**

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Recitals

A. Hillside & Soncy Associates, Ltd., a Texas limited partnership, is the owner of all the Property described in Section 1.17.

B. Declarant intends for the Property to be developed as a single-family residential subdivision. Declarant declares that the Property is to be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions set forth in this Declaration which:

- (1) are for the purpose of establishing a general scheme for the development of the Property and for the purpose of enhancing and protecting the value, attractiveness, and desirability of Lots within the Property;
- (2) run with title to the Property and are binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof; and,
- (3) inure to the benefit of each Owner of the Property.

C. Each Lot is subject to the Master Declaration described in Section 1.14.

Declaration

Now, therefore, Declarant adopts, establishes, and imposes the following covenants, liens, and restrictions upon the Property and declares that the Property will be held, owned, leased, transferred, sold, conveyed, used, and occupied subject to such covenants, liens, and restrictions.

Article 1

Definitions

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

1.0 "**Approved Trees**" has the meaning set forth in Section 5.1.

1.1 "**Architectural Control Committee**" means Declarant until 95.0% of the Lots are sold by Declarant, and after 95.0% of the Lots have been sold by Declarant, "Architectural Control Committee" means a committee of three elected by the Members of the Master Association.

- 1.2 **"Building Plan"** has the meaning set forth in Section 4.0.
- 1.3 **"City"** means the City of Amarillo, Texas.
- 1.4 **"Completion Deposit"** means a fee of at least \$250.00 as from time to time established by the Architectural Control Committee.
- 1.5 **"Declarant"** means Hillside & Soncy Associates, Ltd., a Texas limited partnership.
- 1.6 **"Declaration"** means this document entitled "The Greenways at Hillside Unit No. 26 Declaration of Covenants, Conditions, and Restrictions".
- 1.7 **"District"** means the Amarillo Public Improvement District No. 1 approved by the City in Resolution No. 4-25-95-1 and adopted by the City Commission on April 25, 1995.
- 1.8 **"Greenway"** means tracts of land described in the Master Declaration.
- 1.9 **"Intersecting Fence"** has the meaning set forth in Section 3.16.
- 1.10 **"Landscape Requirements"** has the meaning set forth in Section 5.0.
- 1.11 **"Lienholder"** has the meaning set forth in Section 6.15.
- 1.12 **"Lot"** means each Lot (*each a "Lot" and collectively "Lots"*) shown on the Plat as amended from time to time, including improvements located on the Lots, except for the Greenway and Streets.
- 1.13 **"Master Association"** means The Master Association for The Greenways at Hillside, Inc., a Texas corporation.
- 1.14 **"Master Declaration"** means The Greenways at Hillside Master Declaration recorded in Vol. 1841, Page 165, of the Deed Records of Randall County, Texas.
- 1.15 **"Owner"** means the record Owner of the fee simple title to a Lot on which there is or will be built a Residence but not including those having an interest merely as security for the performance of an obligation.
- 1.16 **"Plat"** means the plat recorded under Document No. 2012001188 of the Official Public Records of Randall County, Texas.
- 1.17 **"Property"** means the following described property:
- All of The Greenways at Hillside Unit No. 26, an Addition to the City of Amarillo, Randall County, Texas, according to the plat recorded under Document No. 2012001188 of the Official Public Records of Randall County, Texas;

including other tracts of land within the District that Declarant may acquire in the future and subject to this Declaration. Declarant or any other developer of land included in the District may, in its sole discretion and without the joinder of any other person, subject land included in

the District to any portion of this Declaration by recording a document imposing upon such land any of the provisions of this Declaration. The document must describe the land to be subjected to this Declaration and must be recorded in the Official Public Records of Randall County, Texas.

1.18 "Residence" means one detached single-family residence.

1.19 "Retaining Wall" has the meaning set forth in Section 3.22.

1.20 "Streets" mean any land located in an easement or a right-of-way dedicated for motor vehicle use.

1.21 "Swale" has the meaning set forth in Section 3.23.

Article 2

Restrictions on Use of Lots

2.0 Lot Classification. For the purpose of assessments under the District and other provisions hereof all Lots in The Greenways at Hillside Unit No. 26 are classified as Class B Lots.

2.1 Residential Use. All Lots are to be used for single-family residential purposes only; however, Declarant may authorize Lots to be used by builders temporarily for model homes. No building may be erected, altered, placed, or permitted to remain on any Lot other than one Residence per Lot and other buildings approved by the Architectural Control Committee.

2.2 Single-Family Use. No Residence may be occupied except by one family consisting of persons related by blood, adoption, or marriage, or by no more than three unrelated persons living and cooking together as a single housekeeping unit, together with any household servants who are being paid a reasonable salary for their services.

2.3 Restrictions on Resubdivision. No Lot may be subdivided into a lesser depth than that shown on the Plat except by City condemnation for extra width of Streets. None of the Lots may be subdivided without Declarant's consent.

2.4 Composite Building Site. Any Owner of one or more adjoining Lots may, with the prior approval of Declarant, consolidate such Lots into a single building site. Owners of three adjoining Lots may, with the prior approval of Declarant, consolidate such Lots into two separate building sites. The side Lot setback for such building site will be measured from the exterior of the combined Lots. The combined building sites will remain separate Lots for all purposes such as voting and assessments.

2.5 Temporary Structures. No temporary dwelling, shop, trailer, mobile home, manufactured home, modular home, or structure of any kind of a temporary character will be permitted on any Lot except: (i) children's playhouses and dog houses which may be placed on a Lot only in places which are not visible from any Street unless otherwise approved by the Architectural Control Committee; (ii) buildings for storage of lawn maintenance equipment which may be placed on a Lot only in places which are not visible from any Street or Greenway unless

otherwise approved by the Architectural Control Committee; and (iii) a builder or contractor may have a temporary construction trailer on a Lot during construction of the Residence on that Lot.

2.6 Greenhouses and Gazebos. As required in Section 4.0, no greenhouse or gazebo may be placed or constructed on a Lot without the prior approval of the Architectural Control Committee.

2.7 New Construction. No prefabricated structure or any type of building may be moved onto a Lot. All structures on a Lot must be constructed on the building site.

2.8 Use of Garages. Except for temporary usage as part of the sales facilities contained in any model homes constructed by a homebuilder, no garage may be converted to living space or used in any manner to preclude the parking of two automobiles therein unless there remain attached garages available for parking at least two automobiles.

2.9 Vehicles. No automobile, van, pickup truck, truck, boat, trailer, marine craft, hovercraft, aircraft, recreational vehicle, pick-up camper, travel trailer, motor home, camper body, tractor, or similar vehicle or equipment may be parked for storage in the driveway or front yard of any Residence on the Property, nor may any such vehicle or equipment be parked for storage in the side or rear yard of any Residence unless completely concealed from public view. No such vehicle or equipment may be used as a Residence or office temporarily or permanently. This restriction does not apply to any vehicle, machinery, or equipment temporarily parked and used for the construction, maintenance, or repair of a Residence in the immediate vicinity. Only passenger automobiles, passenger vans, and pickup trucks that are in operating condition, have current license plates and inspection stickers, and are in regular use as motor vehicles on the Streets and highways of the State of Texas may be temporarily parked on the Street or in the driveway where visible from the Street or Greenway.

2.10 Hazardous Materials. No vehicles of any size which transport flammable, explosive, or hazardous cargo may be kept on the Property at any time.

2.11 Prohibited Animals. No animals, livestock, or poultry of any kind may be raised, bred, or kept on the Property except dogs, cats, and other household pets to provide companionship for the private family. Animals are not to be raised, bred, or kept for commercial purposes or for food. No person can keep cows, horses, bees, hogs, sheep, goats, guinea fowls, ducks, geese, chickens, turkeys, ostriches, emus, skunks, or any other similar animal or fowl on a Lot. No pet may be kept on a Lot that interferes with the quietude, health, or safety of the community.

2.12 Outdoor Pets. No more than two outdoor pets will be permitted on each Lot. Pets must be restrained or confined on the back of the Lot inside a fenced area or within the Residence. It is the pet owner's responsibility to keep the Lot clean and free of pet debris. All pets must be properly tagged for identification and vaccinated against rabies. Dog owners must keep the dogs from barking so as not to disturb other Lot Owners.

2.13 Uncontrolled Animals. If an Owner violates the provisions of Section 2.11 or 2.12—and specifically fails to control barking dogs—Declarant, the Master Association, the Owner of any Lot included in the District, or any other Owner may recover from the violating Owner reasonable attorney's fees and court costs incurred in enforcing the provisions of Sections 2.11 and 2.12. All such costs will be an assessment as a "Special Owner Assessment" pursuant to Section 3.4 of the Master Declaration without the requirement of a

Majority Vote of the Members. The Owner incurring such expense shall give notice of the expense to the Board of Directors of the Master Association who shall then issue a Special Owner Assessment against the violating Owner pursuant to Section 3.4 of the Master Declaration. The person incurring such attorney's fees and court costs may enforce the provisions of this section as provided (i) in Section 3.12 of the Master Declaration, or (ii) in Section 6.8 hereof, or (iii) by applicable law.

2.14 Junk/Trash. No portion of the Property or Greenway may be used as a dumping ground for junk, dead tree limbs, rubbish, or as a site for the accumulation of unsightly materials of any kind, including but not limited to broken or rusty equipment, disassembled or inoperative vehicles, and discarded appliances and furniture. Trash, garbage, and other waste may not be kept on any Lot except in the City's approved containers. If trash, garbage, waste, or debris will not fit into the City approved containers, it must be completely removed from the Property and not stored on any portion of the Property or the Greenway.

2.15 Antennas. Except with the written permission of Declarant, no antennas, discs, satellite dish, or other equipment for receiving or sending sound or video messages will be permitted on the Property which are visible from the Streets or Greenway.

2.16 Prohibited Activities. No Lot or improvement may be used for retail or manufacturing purposes of any kind. No noxious or offensive activity may be undertaken on the Property, and nothing may be done which is or may become an annoyance or nuisance to the neighborhood. Nothing in this Section 2.16 prohibits a builder's temporary use of a Residence as a sales office until the builder's last Residence on the Property is sold. Nothing in this Section 2.16 prohibits an Owner's use of a Residence for quiet, inoffensive activities such as home office, tutoring, or giving music or art lessons so long as such activities do not materially increase the number of cars parked on the Lot or Street or interfere with other Owners' use of Streets and the enjoyment of their Residences and yards.

2.17 Easement Protection. Within easements on each Lot, no structures, planting, or materials may be placed or permitted to remain which may: (i) damage or interfere with the installation and maintenance of utilities, (ii) change the direction of flow within drainage channels, or (iii) obstruct or retard the flow of water through drainage channels.

2.18 Signs. No sign of any kind may be displayed to public view on any Lot except (i) one sign advertising the Residence for rent or sale, (ii) four signs used by a builder during construction and sales periods, (iii) signs used by Declarant to advertise the Property during the development, and (iv) political signs no more than 30 days before a national, state, or local election day which must be removed within two days after such election. No sign may be more than six square feet in size. No sign may be displayed to public view on any portion of the Property except on the Lot for which the sign is applicable unless otherwise approved by the Architectural Control Committee or its agents. The Architectural Control Committee or its agents have the right to remove any sign, billboard, or other advertising structure that does not comply with this Section 2.18 and in so doing, will not be subject to any liability for trespass or any other liability in connection with such removal.

2.19 Clothes Drying/Yard Equipment. The drying of clothes in public view is prohibited. An enclosure must be constructed as required by the Architectural Control Committee to screen from public view equipment used for drying clothes, yard maintenance and equipment, and storage of other materials.

2.20 No Fires. Except within fireplaces in the Residence or other structure approved by the Architectural Control Committee and except for outdoor cooking, no burning of anything is permitted anywhere on the Property.

2.21 No Playground Equipment on Greenway. No trampolines, jungle gyms, swing sets, or any other type of playground equipment may be placed on the Greenway unless it is owned and maintained by the District or the Master Association.

2.22 No Vehicles in Greenway. No golf carts, go-peds, go-carts, motorcycles, or other motorized vehicles of any type are permitted on the Greenway or on walking trails and sidewalks in the Greenway except wheelchairs, carts, and scooters being used by the physically impaired and landscape equipment being used to maintain the Greenway.

2.23 Parties on the Greenway. Disruptive parties and disruptive congregations of people on the Greenway after dark are prohibited.

Article 3

Construction Procedures

3.0 Front Elevation of Residence. All Residences must be constructed to front on the Street on which the Lot fronts.

3.1 Height of Residence. No Residence may be more than 2-1/2 stories in height without approval by the Architectural Control Committee.

3.2 Garage Required. Each Residence must have a minimum of a two car attached garage which must conform in design and materials with the main structure of the Residence. All garages must be only rear entry from the alley. On all Lots which are corner Lots, the garages must open at a 90° angle or more away from the side Street and must enter from the alley.

3.3 Driveways. All driveways must be surfaced with concrete or a similar substance approved by the Architectural Control Committee.

3.4 New Materials. All building materials must be new; however, used brick is acceptable.

3.5 Building Materials. No building material of any kind or character may be placed or stored upon a Lot until the commencement of construction of improvements. During construction, material must be placed only within the property lines of the Lot upon which the improvements are to be erected. Construction and use of material must progress without undue delay.

3.6 Completion of Residence. All Residences and other structures must be completed within eight months from the date construction is commenced unless extended by the Architectural Control Committee.

3.7 HVAC Systems. All heating, ventilation, and air conditioning systems ("HVAC") on the ground must be screened with the same material used on the exterior walls of the Residence so the HVAC systems are not visible from the Streets or the Greenway. The screen

must be approved by the Architectural Control Committee. HVAC systems may not be installed on the ground in front of a Residence. HVAC systems may not be installed on the roof of a Residence where they are visible from any Street or Greenway unless approved by the Architectural Control Committee. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of a Residence or at any other location where it is visible from any Street or Greenway.

3.8 Underground Utilities. All utilities must be installed underground. No gas meter may be set nearer the Street than the front or side of the dwelling unless the meter is designed for and installed underground.

3.9 Minimum Floor Area. The total air conditioned living area of the Residence, as measured to the outside of exterior walls but exclusive of open porches, garages, patios, basements and detached buildings, must be at least 2,000 square feet on Limestone and 1,400 square feet on Southbend on the ground floor. If two stories, there must be a minimum of 1,400 square feet on the ground floor on Limestone and a minimum of 1,200 square feet on the ground floor on Southbend.

3.10 Exterior Walls. Unless otherwise approved by the Architectural Control Committee, the exterior walls of each building constructed on a Lot, including but not limited to chimney flues, must be at least 75.0% brick, brick veneer, stone, stone veneer, or stucco. Other masonry material, synthetic stucco, or other siding may only be used if approved by the Architectural Control Committee.

3.11 Setback Restrictions. No Residence may be located on any Lot nearer to the front Lot line than 15 feet. The minimum side yard setback for all Lots other than the side Lot line near the Street is 5 feet. On corner Lots, no building may be erected on the side Lot line nearer to the Street than 10 feet.

3.12 Roofs. All roofs must have a minimum of 7/12 roof pitch. The Architectural Control Committee has the right to approve the color of all roofing materials. Unless otherwise approved by the Architectural Control Committee, all roofs must be either:

- (a) cedar shingles;
- (b) cedar shake shingles;
- (c) laminated shingles with at least a 30-year warranty by the manufacturer;
- (d) cement, clay, or plastic tiles; or,
- (e) metal roofing material, but galvanized corrugated roofing is not acceptable.

3.13 Outbuildings. Any outbuilding to be constructed on a Lot must be in compliance with Article 4.

3.14 Irrigation System. Before a Residence may be occupied or used, the Owner must install an automatic irrigation system so the landscaped areas of each Lot may be adequately irrigated.

3.15 Fences. The design of all fences and the materials for all fences must be approved by the Architectural Control Committee. No fence or wall will be permitted to extend nearer to a Street abutting the front Lot line than the front of the Residence. Fences or walls erected by Declarant or other builders will become the property of the Owner of the Lot on which the same are erected and—if no other party maintains the fences or walls—must be maintained and repaired by the Lot Owner. No portion of any fence may be higher than 8 feet unless approved by the Architectural Control Committee. There cannot be any chained link fence which is visible from a Street or Greenway located on any Lot.

3.16 Intersecting Fence. If any fence facing the front of a Lot intersects (**the "Intersecting Fence"**) with another fence, the Intersecting Fence built last, if higher or lower, must be decreased or increased appropriately in height at a steady rate over the last 10 feet in length before it intersects with the other fence. No two fence segments of different heights may meet without the 10-foot transition area required in this Section 3.16.

3.17 Limitation on Fencing. It is Declarant's intent to provide, as much as reasonably possible, open visibility to and from the Greenway when considering the location of the Residence, other buildings, and fences on each Lot.

3.18 Address Numbers. The address designation for each Residence must be placed on the front of the Residence.

3.19 Sidewalks. When building a Residence on a Lot, an Owner must build a sidewalk adjacent to the Street as required by City ordinances.

3.20 Portable Sanitary Systems. During construction on any Lot, each builder must provide a portable sanitary system for use by contractors, subcontractors, and their employees until the construction is completed. If a builder fails to timely provide a portable sanitation system during construction of a Residence on a Lot, Developer may cause a portable sanitation system to be delivered to the Lot and pay for it from the Completion Deposit. In such event, the builder must reimburse Developer for the cost of the portable sanitation system so that the Completion Deposit remains on deposit with Developer.

3.21 Construction Debris. During construction on a Lot, the builder must put all construction trash which is susceptible to being blown from the construction site in a container approved by the Architectural Control Committee to prevent trash from blowing off of the construction site. The container must be emptied periodically so there is always room for the trash. Builders must prevent construction trash from blowing out of the container and off of the construction site.

3.22 Retaining Wall Required. Before or simultaneous with constructions of a Residence on Lots 74 through 79, Block 38, both inclusive, and Lots 82 through 87, Block 38, both inclusive, and also Lots 90 through 99, Block 38, both inclusive, and Lots 1 through 10, Block 39, both inclusive, as shown on the Plat, and before completion of the Residence, Owner must construct a retaining wall (**the "Retaining Wall"**) along the West line of the Lot so that surface water will not drain onto the Lot lying adjacent to and West of the Lot on which the Retaining Wall is constructed. Before commencement of construction of the Retaining Wall, the Owner of the Lot must obtain the approval of the Architectural Control Committee for the design and materials used for the construction of the Retaining Wall.

3.23 Swale Required. Before or simultaneous with construction of a Residence on Lot 80, Block 38, as shown on the Plat, and before completion of the Residence, Owner must construct a swale (**the "Swale"**) along the West line of Lot 80 so that surface water drainage from Lot 80 will not drain onto Lot 79, Block 38. Before commencement of construction of the Swale, the Owner of the Lot must obtain the approval of the Architectural Control Committee for the design and materials used for the construction of the Swale.

Article 4

Architectural Control

4.0 Authority. No Residence, building, greenhouse, gazebo, fence, wall, driveway, or other structure may be commenced, erected, placed, maintained, altered, reroofed, or replaced, or the exterior stained, painted, or repainted until all colors, plans and specifications, and a plot plan (**collectively the "Building Plan"**) have been submitted to and approved in writing by the Architectural Control Committee. The Architectural Control Committee may refuse to approve a Building Plan which may, in the reasonable opinion of the Architectural Control Committee, adversely affect the living enjoyment of Owners or the general value of Lots. In considering the harmony of external design between existing structures and the Building Plan, Declarant will consider only the general appearance of the proposed building as can be determined from exterior elevations on submitted plans.

4.1 Plan Submittal. A complete copy of the Building Plan must be submitted in duplicate to the Architectural Control Committee or its designee either by (i) certified mail, return receipt requested or (ii) personal delivery to the Architectural Control Committee, but personal delivery will not be valid unless receipt of the Building Plan is acknowledged in writing by the Architectural Control Committee or its designee. The Building Plan must be submitted at least 15 days before commencement of staining or painting or commencement of construction of the improvements or reroofing. The Building Plan must—if at all possible—show the nature, kind, shape, height, materials, exterior color scheme, and location of all improvements, including but not limited to elevations and floor plans on each structure to be built, square footage, roof pitch, and percentage of brick or other material to be used as exterior siding. The Building Plan must specify building location on the Lot. Samples of proposed construction materials must be delivered promptly to the Architectural Control Committee upon request.

4.2 Completion Deposit. When the Building Plan is delivered to the Architectural Control Committee, the person submitting the Building Plan must pay the Architectural Control Committee the Completion Deposit. The Completion Deposit will not bear interest. The Building Plan will not be approved until the Completion Deposit has been paid. When the construction, painting, or other action to be taken according to the Building Plan and landscaping have been completed, the contractor or Owner may notify the Architectural Control Committee that the Building Plan and landscaping have been completed. A member of the Architectural Control Committee and the contractor or Owner shall make an inspection of the Lot, structures, and landscaping to confirm whether or not the construction, painting, or other action under the Building Plan and landscaping have been completed according to the Building Plan and this Declaration. If the Building Plan has been completed and all provisions of this Declaration have been satisfied, the Architectural Control Committee shall refund the Completion Deposit to the person who paid it. If all of the provisions of the Building Plan and this Declaration have not been satisfied, the Architectural Control Committee will notify the contractor or Owner of the deficiency. When all deficiencies have been fully satisfied, the Architectural Control Committee shall refund the Completion Deposit to the person who paid it.

4.3 Multiple Submissions of Building Plan. If the Building Plan submitted to the Architectural Control Committee does not include all the information required in Section 4.1 at the first submittal, the remaining information must be submitted to the Architectural Control Committee within 45 days after the date of the first submittal. If all the information required in Section 4.1 is not included in the Building Plan submitted to the Architectural Control Committee the second time, no future submittal of the Building Plan will be considered or approved unless the person submitting the Building Plan pays the Architectural Control Committee a non-refundable submission fee of \$250.00.

4.4 Approval Procedure. When the Building Plan meets the approval of the Architectural Control Committee and the Architectural Control Committee has received the Completion Deposit, the Architectural Control Committee will sign and mark "APPROVED" on one Building Plan and return it to the person furnishing the Building Plan and will sign and retain the duplicate Building Plan. If not approved by the Architectural Control Committee, the Building Plan will be returned marked "NOT APPROVED" and will be accompanied by a statement of the reasons for disapproval signed by a representative of the Architectural Control Committee. Any exterior modification of an approved Building Plan must again be submitted to the Architectural Control Committee for approval. The Architectural Control Committee's approval or disapproval, as required herein, must be in writing. Verbal statements about the Building Plan will not be binding upon the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove the Building Plan within 15 days after the date of submission of all information required, written approval of the proposal will not be required and compliance with this Article 4 will be deemed to have been completed. In case of a dispute about whether the Architectural Control Committee responded within the required time period, the person submitting the Building Plan will have the burden of establishing the date the Architectural Control Committee received it.

4.5 Standards. The Architectural Control Committee will use its best efforts to promote and insure a high level of architectural design, quality, harmony, taste, and conformity throughout the Property consistent with this Declaration. The Architectural Control Committee will have sole discretion with respect to taste, design, exterior color, and all standards specified herein. One objective of the Architectural Control Committee is to prevent the building of unusual, radical, curious, odd, bizarre, peculiar, or irregular structures on the Property. The Architectural Control Committee, from time to time, may publish and promulgate bulletins regarding architectural standards which will be fair, reasonable, and uniformly applied and will carry forward the spirit and intention of this Declaration.

4.6 Rules and Regulations. The Architectural Control Committee may promulgate and enforce reasonable rules and regulations to carry out its architectural control duties or conduct its proceedings, including the formulation of guidelines to govern construction and maintenance of improvements and for the establishment and collection of a reasonable fee for performance of its architectural control duties and functions. The Architectural Control Committee may, in its sole discretion, change the guidelines in any manner to supplement, amend, delete, modify, or abandon the guidelines as it deems reasonable.

4.7 Arbitration. An Owner aggrieved by a decision of the Architectural Control Committee regarding the Owner's Lot will have the right to submit the Architectural Control Committee's decision to arbitration. To do so, within 15 days following the date of the Architectural Control Committee's decision, the Owner must give the Architectural Control Committee written notification of the Owner's intention to submit the decision to arbitration; otherwise, the right to arbitration is waived. Within 10 days of the notice to the Architectural

Control Committee, the Owner must appoint an architect, the Architectural Control Committee must appoint an architect, and the two appointed architects must, within 10 days of their appointment, select a third architect. The three architects must (i) have been licensed as an architect under the laws of the State of Texas for more than 10 years, (ii) have practiced architectural drafting of residential house plans for at least three years, and (iii) not have prepared the Building Plan. The architects will serve as an arbitration board to review the decision of the Architectural Control Committee. The decision of two of the arbitration board will be final and binding upon the Owner and the Architectural Control Committee. The prevailing party must pay the fee of the architect appointed by that party and the losing party must pay the fees of the other two architects.

4.8 Deviation. The Architectural Control Committee may, at its sole discretion, permit reasonable modifications of and deviations from any of the requirements of this Declaration or its rules and regulations relating to the type, kind, quantity, or quality of the building materials to be used in the construction of any building or improvement on any Lot and of the size and location of any such building or improvement when, in the Architectural Control Committee's sole judgment, such modifications and deviations will be in harmony with existing structures and will not materially detract from the aesthetic appearance of the Property and its improvements as a whole. The Architectural Control Committee may require the submission to it of such documents and items as it deems appropriate in connection with its consideration of a request for a variance. The Architectural Control Committee may require an Owner to pay the Master Association a fee in an amount solely determined by the Architectural Control Committee for granting a request for a variance.

4.9 Liability of the Architectural Control Committee. The members of the Architectural Control Committee and the partners, officers, directors, agents, employees, shareholders, and attorneys of any member of the Architectural Control Committee have no liability for decisions made by the Architectural Control Committee so long as such decisions are made in good faith and are not arbitrary or capricious. Any errors in or omissions from the Building Plan will be the responsibility of the Owner of the Lot. The Architectural Control Committee has no obligation to check for errors in or omissions from the Building Plan or to check the Building Plan for compliance with the general provisions of this Declaration, State or Federal statutes or the common law, setback for Lot lines, building lines, easements, or any other matters.

Article 5

Landscaping

5.0 Landscape Requirements. Unless otherwise approved by the Architectural Control Committee or the Master Association, each Owner must comply with the landscape requirements set forth in this Article 5 (**the "Landscape Requirements"**).

5.1 Trees. For the purposes of this Article 5, the approved trees (**the "Approved Trees"**) are:

- (a) Cedar Elm (*Ulmus crassifolia*);
- (b) Red Oak (*Quercus texana* or *shumardi*);
- (c) Lace Bark Elm (*Ulmus parvifolia*);

- (d) Burr Oak (*Quercus macrocarp*);
- (e) Green Glory or Shademaster Locust (*Gleditsia triacanthos inermis [sterile only]*); and,
- (f) Chinese Pistache (*Pistache chinensis*).

5.2 Tree Measurements. The Approved Trees must be only single trunk of at least 3-inch caliper as measured at a point six inches above the root ball. All trees must comply with criteria as set forth in the latest edition of the American Standards for Nursery Stock as published by the American Association of Nurserymen.

5.3 Tree Location. The Owner of each Lot must plant the number of Approved Trees on the front property line of each Lot and on corner Lots along the side Lot line adjacent to the Street as required by Declarant. The Approved Trees must be placed on each Lot to comply with line of site requirements of the City. It is intended that the Approved Trees planted adjacent to the Streets will be approximately 30 feet apart as determined by Declarant after considering the location of driveways and other improvements.

5.4 Landscaping. Except for sidewalks and driveways, the front yard of all Lots must be covered with shrubbery, live ground cover, or sod as required by the Architectural Control Committee.

5.5 Completion of Landscaping. Landscape Requirements must be completed before the first to occur of the following: (i) substantial completion of the Residence, (ii) issuance of the final certificate of occupancy by the City, or (iii) occupancy of the Residence. An Owner will have no right to change the location of Approved Trees along the Streets as originally designated by the Architectural Control Committee.

5.6 Maintenance of Landscaping. Each Owner must comply with the Landscape Requirements at the Owner's own cost and expense. The Owner's maintenance obligation will include, but will not be limited to responsibility for:

- (a) replacing dead or damaged trees with live Approved Trees along Streets in the same locations as originally designated by Declarant;
- (b) watering and fertilizing all landscaping;
- (c) pruning trees;
- (d) mowing grass;
- (e) edging grass along sidewalks along the Lot line;
- (f) insect control for all landscaping;
- (g) maintaining the yards in a sanitary and attractive manner; and,
- (h) maintaining the irrigation system in good operating condition.

Grass, weeds, and vegetation on each Lot must be kept mowed at regular intervals to maintain the Lot in a neat and attractive manner. The Owners of all Lots with completed homes must not permit weeds or grass to grow more than four inches high. Upon failure of any Owner to maintain any Lot or replant trees as required, the Master Association, Declarant, or its assigns may, at its option, replant trees and have the grass, weeds, and vegetation cut as often as necessary in its judgment, and the Owner of the affected Lot will be obligated, when presented with an itemized statement, to reimburse the Master Association or Declarant for the cost of the work. This provision may be enforced as a Special Owner Assessment as provided in Section 3.4 of the Master Declaration without the necessity of a vote by the Members.

Article 6

General Provisions

6.0 Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Easements are also reserved across all Lots as necessary for the installation, operation, maintenance, and ownership of utility service lines from the property lines to the Residences. Each Owner of a Lot must mow weeds and grass and keep and maintain in a neat and clean condition any easement which may traverse any portion of the Lot.

6.1 Recorded Plat. All dedications, limitations, restrictions, and reservations shown on the Plat are incorporated herein and will be construed as being adopted in each contract, deed, or conveyance executed or to be executed by Declarant, whether specifically referred to therein or not.

6.2 Maintenance of Improvements. Each Lot Owner must:

- (a) maintain the exterior of the Residence, buildings, fences, walls, and other improvements on the Owner's Lot in good condition and repair;
- (b) replace worn and rotten parts;
- (c) regularly repaint or restain all painted and stained surfaces; and,
- (d) not permit the roofs, rain gutters, downspouts, exterior walls, windows, doors, sidewalks, driveways, parking areas, or other exterior portions of the improvements to deteriorate.

6.3 Greenway. The Greenway may be used by the Owners of the Lots as a park for recreational purposes. The Declarant or the Master Association may from time to time promulgate and enforce reasonable rules and regulations for the use of the Greenway. The Greenway is to be used for the quiet enjoyment of the Owners of the Property.

6.4 Mortgages. The breach of any provision hereof will not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any Lot or any part thereof encumbered by such mortgage or deed of trust, but the provisions will be binding as to Lots acquired by foreclosure, trustee's sale, or otherwise, only as to any breach occurring after such acquisition of title.

6.5 Term. This Declaration will run with and bind title to the Property and will remain in full force and effect for 30 years after this Declaration is recorded in the Official Public Records of Randall County, Texas. This Declaration will thereafter extend automatically for successive periods of 10 years unless amended as provided in Section 6.13.

6.6 Severability. If any condition, covenant, or restriction herein contained is invalid—which invalidity will not be presumed until it is determined by the final non-appealable judgment or final non-appealable order of a court of competent jurisdiction—such invalidity will not affect any other condition, covenant, or restriction, each of which will remain in full force and effect.

6.7 Binding Effect. Each of the conditions, covenants, restrictions, and agreements herein contained is made for the mutual benefit of, and is binding upon, each person acquiring any part of the Property and each person owning any land included in the District. This instrument, when executed, will be filed for record in the Official Public Records of Randall County, Texas, so that each Owner or purchaser of any portion of the Property is on notice of the conditions, covenants, restrictions, and agreements herein contained.

6.8 Enforcement. Declarant, the Master Association, the Owner of any Lot included in the District, and the Owner of each Lot have an easement and the right to have this Declaration faithfully carried out and performed with reference to each Lot, together with the right to bring any suit or undertake any legal process that may be proper to enforce the performance thereof and to recover damages. The Owner of each Lot has the right and easement to have this Declaration strictly construed and applied to all Lots whether owned by Declarant, its successors and assigns, or others regardless as to whether or not reference to this Declaration is made in the document conveying the Lot to the Owner. Failure to enforce this Declaration will not be deemed a waiver of the right to do so thereafter.

6.9 Other Authorities. If other authorities, such as the City, impose more demanding, expensive, or restrictive requirements than those set forth herein, the requirements of such authorities must be met. Other authorities' imposition of lesser requirements than those set forth herein do not supersede or diminish the requirements herein.

6.10 Address for Plan Submission. Any plan submission, notice, or correspondence to the Architectural Control Committee must be made at the following address:

Hillside & Soncy Associates, Ltd.
6003 Tuscany Village
Amarillo, TX 79119

6.11 Address for Notices or Correspondence. Any notices or correspondence to an Owner of a Lot must be addressed to the Street address of the Lot. Any notice or correspondence to Declarant must be made at the following address:

Hillside & Soncy Associates, Ltd.
6003 Tuscany Village
Amarillo, TX 79119

6.12 Change of Address. Declarant or the Architectural Control Committee may change its address for notice and plan submission by recording a notice of change of address in the Official Public Records of Randall County, Texas.

6.13 Amendment. At any time, the Owners of legal title to at least 51.0% of the Lots and the lots included in all additional property subjected to this Declaration by (i) Declarant or (ii) any Owner of any Lot included in the District *(as shown by the Randall County Official Public Records)* may amend the covenants, conditions, and restrictions set forth herein by recording an instrument containing such amendments, except that for 30 years following the recording of this Declaration, no such amendment will be valid or effective without the joinder of Declarant. Declarant will be under no obligation to consent to any amendment of this Declaration.

6.14 Assignability. Declarant and its successors and assigns may assign their rights, privileges, duties, and obligations hereunder by documents signed by Declarant or its successors or assigns specifically assigning its rights, privileges, duties, and obligations hereunder, which documents must be recorded in the Official Public Records of Randall County, Texas.

6.15 Joinder of Lienholder. Satana, LP, a Texas limited partnership, successor in interest by conversion of Satana Corporation, a Texas corporation, is the lienholder on the Property **(the "Lienholder")**. The Lienholder joins in the execution of this Declaration to subordinate its lien to this Declaration.

6.16 Approvals. All consents and other evidences of approval by Declarant or the Architectural Control Committee must be in writing and signed by Declarant or the Architectural Control Committee before they are binding.

6.17 Attorney's Fees. If attorney's fees are incurred for the enforcement of this Declaration, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs. Attorney's fees assessed against an Owner may be collected as a Special Owner Assessment as provided in Section 3.4 of the Master Declaration without the necessity of a vote by the Members.

6.18 Time. Time is of the essence.

6.19 Gender. When the context requires, singular nouns and pronouns include the plural.

Dated the 7th day of March, 2012 .

DECLARANT:

HILLSIDE & SONCY ASSOCIATES, LTD.,
a Texas limited partnership

By: **Hillside & Sency Development, L.L.C.,**
a Texas limited liability company,
General Partner

by: 
Edward R. Scott, Jr., Manager

APPROVED BY LIENHOLDER:

SATANA , LP,
a Texas limited partnership,

By: **Satana Management, LLC,**
a Texas limited liability company,
General Partner

by: *Joe K. Howell*
Joe K. Howell, Vice President

THE STATE OF TEXAS

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COUNTY OF RANDALL

This instrument was acknowledged before me on this the 16th day of March, 2012, by **Edward R. Scott, Jr.**, Manager of **Hillside & Soncy Development, L.L.C.**, a Texas limited liability company, General Partner on behalf of **HILLSIDE & SONCY ASSOCIATES, LTD.**, a Texas limited partnership.

[SEAL]

Millie Harber
Notary Public

THE STATE OF TEXAS

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COUNTY OF POTTER

This instrument was acknowledged to me on the 16th day of March, 2012, by **Joe K. Howell**, Vice President of **Satana Management, LLC**, a Texas limited liability company, on behalf of said company, as General Partner on behalf of **SATANA, LP**, a Texas limited partnership.

[SEAL]

Millie Harber
Notary Public

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Renee Calhoun

2012004712
03/19/2012 11:32 AM
Fee: 76.00
Renee Calhoun, County Clerk
Randall County, Texas
REST

