

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
COLETO LAKE ESTATES**

This Declaration of Covenants, Conditions, and Restrictions for COLETO LAKE ESTATES is made by Coleto Lake Estates, Ltd., a Texas Limited Partnership ("Declarant"), on the date signed below. Declarant owns the real property described in Exhibit A of this Declaration, together with the improvements thereon.

Declarant desires to establish a general plan of development for the planned community to be known as Coleto Lake Estates. Declarant further desires to provide for the preservation, administration, and maintenance of portions of COLETO LAKE ESTATES, and to protect the value, desirability, and attractiveness of COLETO LAKE ESTATES. As an integral part of the development plan, Declarant deems it advisable to create a property owners association to perform these functions and activities more fully described in this Declaration and the other Governing Documents described below.

Declarant DECLARES that the property described in Exhibit A will be owned, held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, and easements of this Declaration, including Declarant's representations and reservations in Article 15 below, which run with the real property and bind all parties having or acquiring any right, title, or interest in any part of the property, their heirs, successors, and assigns, and inure to the benefit of each Owner of any part of the property.

ARTICLE 1- DEFINITIONS

The following words and phrases, whether or not capitalized, have specified meanings when used in the Governing Documents, 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 the Governing Documents is applied, and pertaining to the subject matter of the Governing Document provision. Statutes and ordinances specifically referenced in the Governing Documents are "Applicable Law" on the date of the Governing Document, and are not intended to apply to the Project if they cease to be applicable by operation of law, or if they are replaced or superceded by one or more other statutes or ordinances.

1.2. **"Assessment"** means any charge levied against a lot or owner by the Association, pursuant to the Governing Documents or State law.

1.3. **"Association"** means the association of owners of all lots in the Property, and serving as the "property owners' association". The initial name of the Association is COLETO LAKE ESTATES HOMEOWNERS ASSOCIATION, INC.

1.4. **"Board"** means the board of directors of the Association.

1.5. **"County"** means the County of Victoria, Texas.

1.6. **"Contiguous Lot"** means a lot which shares a common boundary with land owned by the GBRA and the owner of which is eligible to lease land bordering Coleto Lake.

1.7. **"Common Area"** means portions of real property and improvements thereon that are owned, leased and/or maintained by the Association, as described in Article 4 below.

1.8. **"Declarant"** means Coleto Lakes Estates, Ltd., a Texas limited partnership, which is developing the Property, or its successors and assigns.

- 1.9. **"Declaration"** means this document, as it may be amended from time to time
- 1.10. **"GBRA"** means the Guadalupe- Blanco River Authority or any successor agency
- 1.11. **"Governing Documents"** means, singly or collectively as the case may be, this Declaration, the Plat, the Bylaws of the Association, the Association's Articles of Incorporation, and the Rules of the Association, as any of these may be amended from time to time
- 1.12. **"Lot"** means a portion of the Property intended for independent ownership, on which there is or will be constructed a dwelling, as 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. **"Majority"** means more than half. A reference to "a majority of owners" in any Governing Document or applicable law means "owners of the lots possessing a majority of the votes to be cast," unless a different meaning is specified
- 1.14. **"Member"** means a member of the Association, each member being an owner of a lot, unless the context indicates that member means a member of the board or a member of a committee of the Association
- 1.15. **"Owner"** means a holder of recorded fee simple title to a lot. Declarant is the initial owner of all lots. 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. Every owner is a member of the Association. A reference in any Governing Document or applicable law to a percentage or share of owners or members means owners or members who have that percentage of the total votes of all owners or members. For example, "a majority of owners" means owners who possess at least a majority of the votes
- 1.16. **"Plat"** means all plats, singly and collectively, recorded in the Real Property Records of Victoria County, Texas, and pertaining to the real property described in Exhibit A of this Declaration, including all dedications, limitations, restrictions, easements, notes, and reservations shown on the plat, as it may be amended from time to time
- 1.17. **"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 COLETO LAKE ESTATES. The Property is located on land described in Exhibit A to this Declaration, and includes every lot and any common area thereon
- 1.18. **"Resident"** means an occupant of a dwelling, regardless of whether the person owns the lot
- 1.19. **"Rules"** means rules and regulations of the Association adopted in accordance with the Governing Documents or applicable law. The initial Rules may be adopted by Declarant for the benefit of the Association

ARTICLE 2-PROPERTY SUBJECT TO DOCUMENTS

- 2.1. **PROPERTY.** The real property described in Exhibit A is held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to the terms, covenants, conditions, restrictions, liens, and easements of this Declaration, including Declarant's representations, rights, and reservations in Article 15, 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
- 2.2. **ADJACENT LAND USE.** Declarant makes no representation of any kind as to current or future

uses - actual or permitted - of any land that is adjacent to or near COLETO LAKE ESTATES. Particularly, land contiguous with Coletto Lake is owned by the State of Texas acting by and through the Guadalupe-Blanco River Authority (GBRA), and the use of that land is subject to the ability of the association and/or landowners to lease the land under terms and conditions established by the GBRA. Therefore, Declarant and the Association can not and do not guaranty access to or use of the Lake or the land adjacent to it by owners

2.3. RESTRICTIONS, EASEMENTS & PLAT DEDICATIONS. In addition to the easements and restrictions contained in this Declaration, the Property is subject to all restrictions, easements, licenses, leases, and encumbrances of record, including any shown or referenced on the plat, each of which is incorporated herein by reference. 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 prior-recorded restrictions, easements, licenses, leases, and encumbrances, and further agrees to maintain any easement that crosses his lot and for which the Association does not have express responsibility

2.4. STREETS WITHIN PROPERTY. Private streets are part of the common area which is governed by the Association. Public streets are part of the common area only to the extent a governmental body, such as the county, authorizes or delegates authority to the Association

ARTICLE 3 - PROPERTY EASEMENTS AND RIGHTS

3.1. GENERAL. In addition to other easements and rights established by the Governing Documents, the Property is subject to the easements and rights contained in this Article

3.2. EASEMENT FOR SCREENING WALL. The Association is hereby granted a perpetual easement (the "Screening Wall Easement") over each lot (1) on or along a thoroughfare on the perimeter of Coletto Lake Estates, and (2) that abuts or contains a portion of the Property's entry or screening wall, fence, or berm for the purposes stated in this Section, regardless of whether or how the plat shows the easement, entry, or screening wall, fence, or berm. The purpose of the Screening Wall Easement is to provide for the existence, repair, improvement, and replacement of the Property's entry and screening wall, fence, or berm, to be maintained by the Association as a common area. In exercising this Screening Wall Easement, the Association may construct, maintain, improve, and replace improvements reasonably related to the entrance and screening of a residential subdivision, including screening walls, fences and/or berms, planter beds, landscaping, and plant material, electrical and water meters and equipment, including light fixtures and sprinkler systems, and signage relating to COLETO LAKE ESTATES. The owners of the lots burdened with the Screening Wall Easement will have the continual use and enjoyment of their lots for any purpose that does not interfere with and prevent the Association's use of the Screening Wall Easement. In addition to the easement granted herein, the Association has the temporary right, from time to time, to use as much as the surface of a burdened lot as may be reasonably necessary for the Association to perform its contemplated work on the Screening Wall Easement. This easement is perpetual. The Screening Wall Easement will terminate when the purpose of the easement ceases to exist, is abandoned by the Association, or becomes impossible to perform

3.3. OWNER'S EASEMENT OF ENJOYMENT. Every owner is granted a right and easement of enjoyment over the common areas and to use of improvements therein, subject to other rights and easements contained in the Governing Documents. An owner who does not occupy a lot delegates this right of enjoyment to the residents of his lot

3.4. OWNER'S INGRESS/EGRESS EASEMENT. Every owner is granted a perpetual easement over the Property's streets, as may be reasonably required, for vehicular ingress to and egress from his lot

3.5. ASSOCIATION'S ACCESS EASEMENT. Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement of access and entry over, across, under, and through the Property, including without limitation all common areas and

the owner's lot and yards, as well as to any areas leased from the GBRA, for the below-described purposes

3.5.1 Purposes Subject to the limitations stated below, the Association may exercise this easement of access and entry for the following express purposes

- a To inspect the property for compliance with maintenance and architectural standards
- b To perform maintenance that is permitted or required of the Association by the Governing Documents or by applicable law
- c To perform maintenance that is permitted or required of the owner by the Governing Documents or by applicable law, if the owner fails or refuses to perform such maintenance.
- d To enforce architectural standards.
- e To enforce use restrictions.
- f The exercise of self-help remedies permitted by the Governing Documents or by applicable law.
- g To enforce any other provision of the Governing Documents
- h To respond to emergencies.
- i To grant easements to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property
- j To perform any and all functions or duties of the Association as permitted or required by the Governing Documents or by applicable law
- k To insure compliance with any GBRA lease, or other rules and regulations
- l To install gates or other security measures for the protection of owners

3.5.2. No Trespass In exercising this easement on an owner's lot, the Association is not liable to the owner for trespass

3.5.3. Limitations If the exercise of this easement requires entry onto an owner's lot, including into an owner's fenced yard, the entry will be during reasonable hours and after notice to the owner. This Subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property

3.6. UTILITY EASEMENT. The Association may grant permits, licenses, and easements over common areas for utilities, roads, and other purposes necessary for the proper operation of COLETO LAKE ESTATES. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, cable television, and security

3.7. MINERAL AND WATER RIGHTS. The Property is subject to reservation, or conveyance of oil, gas, or mineral rights as well as certain water rights pursuant to one or more deeds or other instruments recorded in the Real Property Records of Victoria 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 the instruments conveying or reserving mineral interests were recorded prior to this Declaration, those interests in the Property are superior and are 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 and water rights and/or reservations and the attendant rights in favor of the owner or owners of the mineral interests.

ARTICLE 4—COMMON AREA

4.1. OWNERSHIP. The designation of real property as a common area is determined by the plat and this Declaration, and not by the ownership of the property. This Declaration contemplates that the Association will eventually hold title to every common area capable of independent ownership by the Association and that in addition, the Association will lease certain areas from the GBRA. Thereafter, all costs attributable to common areas, including maintenance, property taxes, insurance, rent and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the common areas.

4.2. ACCEPTANCE. By accepting an interest in or title to a lot, each owner is deemed (1) to accept the common area of the Property, and any improvement thereon, in its then-existing "as is" condition, (2) to acknowledge the authority of the Association, acting through its board of directors, for all decisions pertaining to the common area; (3) to acknowledge that transfer of a common area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association, and (4) to acknowledge the continuity of maintenance of the common area, regardless of changes in the Association's board of directors or management.

4.3. COMPONENTS. The common area of COLETO LAKE ESTATES consists of the following components on or adjacent to the Property, even if located on a lot or a public right-of-way:

- a. All of the Property, save and except the house Lots.
- b. Any area shown on the plat as common area, private road, or an area to be maintained by the Association.
- c. The formal entrance to COLETO LAKE ESTATES, including (if any) the signage, landscaping, electrical and water installations, planter boxes and fencing on both sides of the junction of FM 622 and West Lake Trail.
- d. Any modification, replacement, or addition to any of the above-described areas and improvements.
- e. Personal property owned by the Association, such as books and records, office equipment, and supplies.
- f. Any land which may be rented from the GBRA by the association.

ARTICLE 5—ARCHITECTURAL COVENANTS AND CONTROL

5.1. 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 common areas in order to preserve and enhance the Property's value and architectural harmony.

5.2. ARCHITECTURAL CONTROL BY ASSOCIATION. The Association, acting through the Architectural Control Committee ("ACC") will have jurisdiction over architectural control. The ACC will consist of at least 3 but not more than 7 persons appointed by the board, pursuant to the Bylaws. Members of the ACC serve at the pleasure of the board and may be removed and replaced at the board's discretion. At the board's option, the board may act as the ACC, in which case all references in the Governing Documents to the ACC are construed to mean the board.

5.3. LIMITS ON LIABILITY. The ACC has sole discretion with respect to taste, design, and all standards specified by this Article. The ACC and each of its members has no liability for decisions made in good faith by the ACC, and which are not arbitrary or capricious. The ACC is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the ACC, (2) supervising construction for the owner's compliance with approved plans and specifications, or (3) the compliance of the owner's plans and specifications with governmental codes and ordinances, state and federal laws.

5.4. PROHIBITION OF CONSTRUCTION, ALTERATION & IMPROVEMENT. Without the ACC's prior written approval from the ACC, 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, another lot, or the common area. The ACC 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 COLETO LAKE ESTATES.

5.5. ARCHITECTURAL APPROVAL. To request architectural approval, an owner must make written application to the ACC and submit two identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed.

5.5.1 Declarant Approved Notwithstanding anything to the contrary in this Declaration, any improvement to COLETO LAKE ESTATES made or approved by Declarant during the Development Period is deemed to have been approved by the ACC.

5.6. MINIMUM LIVING AREA. All homes must have a minimum living area of eighteen hundred (1,800) square feet except those constructed on contiguous lots which must have a minimum living area of twenty four hundred (2,400) square feet.

5.7. MAILBOX. Each owner will use exclusively a mailbox which is a part of a cluster mailbox unit.

ARTICLE 6-CONSTRUCTION AND USE RESTRICTIONS

6.1. 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 board or the ACC, as the case may be, may grant a variance or waiver of a restriction or rule on a case-by-case basis when circumstances dictate, and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the Association'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.

6.2. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its board, is granted the right to adopt, amend, repeal, and enforce reasonable Rules, and penalties for infractions thereof, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of COLETO LAKE ESTATES. In addition to the restrictions contained in this Article, each lot is owned and occupied subject to the right of the board to establish Rules, and penalties for infractions thereof, governing:

- a. Use of common areas.

- b Hazardous, illegal, or annoying materials or activities on the Property.
- c The use of Property-wide services provided through the Association
- d The consumption of utilities billed to the Association
- e The use, maintenance, and appearance of exteriors of dwellings and lots, outbuildings, fences and exterior lighting
- f Landscaping and maintenance of yards
- g The occupancy and leasing of dwellings
- h Animals.
- i Vehicles
- j Disposition of trash, use of glass containers, and control of vermin, termites, and pests
- k Anything that interferes with maintenance of the Property, operation of the Association, administration of the Governing Documents, or the quality of life for residents
- l The use of any areas leased from the GBRA

6.3. ABOVE GROUND POOLS. Above ground swimming pools are not permitted

6.4. ACCESSORY SHEDS. Accessory structures, such as dog houses, gazebos, storage sheds, playhouses, and greenhouses, are permitted as long as they are typical for COLETO LAKE ESTATES in terms of type, number, size, location, color, material, and height, provided however, that the front and roof of the structure must be similar in construction to the main dwelling on the lot, and that the structure (except for dog houses and gazebos) is entirely enclosed. Accessory structures may not be located in front yards or in unfenced portions of side yards facing streets

6.5. ANIMAL RESTRICTIONS. No animal, bird, fish, or reptile of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose or for food. The only animals permitted on the Property are customary domesticated household pets, which may be kept for personal companionship subject to rules adopted by the board. If the rules fail to establish animal occupancy quotas, no more than four dogs or cats 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, and may be kept in a fenced yard only if they do not disturb residents of other lots.

6.6. ANNOYANCE. No lot or common area may be used in any way that (1) may reasonably be considered annoying to neighbors, (2) may be calculated to reduce the desirability of COLETO LAKE ESTATES 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. The board has the sole authority to determine what constitutes an annoyance.

6.7. APPEARANCE. Both the lot and the dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring lots. The ACC is the arbitrator of acceptable appearance standards.

6.8. BUSINESS USE. A resident may use a dwelling for business uses, such as telecommuting, personal business, and professional pursuits, provided that (1) the uses are incidental to the primary use of the dwelling as a residence, (2) the uses conform to applicable governmental ordinances; (3) the uses do not entail visits to the lot by employees or the public in quantities that materially increase the number of vehicles parked adjacent to the paved portion of the roadway easement, and (4) the uses do not interfere with the residential use and enjoyment of neighboring lots by other residents

6.9. COLETO LAKE. A resident may not use any area leased from the GBRA in violation of the Rules and Regulations of the GBRA, or which may result in the cancellation or non renewal of any lease from the GBRA to any resident. Any resident who is eligible for a lease from the GBRA is required to lease the entire area for which that resident is eligible

6.10. CONTIGUOUS LOTS. The owner of a contiguous lot is required to lease any land from the GBRA for which such owner is eligible. Any owner or resident who leases land from the GBRA which under the rules or custom of the GBRA would be offered on a prior or preferential basis to another owner, shall be required upon demand to assign, convey, sublet or surrender such leased premises to the owner of the lot entitled to the leased premises on a prior or preferential basis, provided however, that the owner required to assign, convey, sublet or surrender shall receive reimbursement for rent paid for the portion of the lease term that owner has surrendered

6.11. DECLARANT PRIVILEGES. Declarant has reserved certain rights and privileges to use the Property in ways that are not available to other owners and residents, as provided in Article 15 of this Declaration. Declarant's exercise of a right that appears to violate a rule or a use restriction of this Article does not constitute waiver or abandonment of the restriction by the Association as applied to owners other than Declarant

6.12. DRAINAGE. No person may interfere with the established drainage pattern over any part of COLETO LAKE ESTATES

6.13. DRIVEWAYS. All driveways must be paved with either asphalt or concrete. 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. Without the board's prior approval, a driveway may not be used: (1) for storage purposes, including storage of boats, trailers, recreational vehicles, and inoperable vehicles, or (2) for repair or restoration of vehicles

6.14. FENCES. This Section is subject to the ACC's right to adopt additional or different specifications for construction or reconstruction of fences. The height of fences must be less than 6 feet. Fences must be made of masonry, wood, chain link, or other ACC-approved material. Any portion of a fence that faces a street, or common area must have a "finished side" appearance. Fences may not be constructed between a dwelling's front building line and the street. Owners of lots eligible for leases from the GBRA may not block views of the lake from any other lot or common area by fencing, landscaping or otherwise

6.15. FLAGS. Each owner and resident of COLETO LAKE ESTATES has a right to fly the United States flag and/or the Texas flag in a respectful manner on each lot, subject to reasonable standards adopted by the Association for the height, size, illumination, location, and number of flagpoles. All flag displays must comply with public flag laws. No other types of flags, pennants, banners, or similar types of displays are permitted on a lot if the display is visible from a street or common area.

6.16. GARAGES. Without the board's prior written approval, the original garage area of a lot may not be enclosed or used for any purpose that prohibits the parking of two standard-size operable vehicles therein. Garage doors are to be kept closed at all times except when a vehicle is entering or leaving.

6.17. GUNS. Hunting (including bow hunting) and shooting are not permitted anywhere on or from COLETO LAKE ESTATES.

6.18. LEASING OF HOMES. An owner may lease the dwelling on his lot, provided that the lease is for a term of at least one month, and is primarily for residential purposes. Leasing of the home for use as a bed and breakfast lodging, hotel or motel, or other transitory or temporary lodging is prohibited. 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. Failure by the tenant or his invitees to comply with the Governing Documents, federal or state law, or local ordinance is deemed to be a default under the lease. When the Association notifies an owner of his tenant's violation, the owner will promptly obtain his tenant's compliance or exercise his rights as a landlord for tenant's breach of lease. 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 Association has the power and right to pursue the remedies of a landlord under the lease or state law for the default, including eviction of the tenant. The owner of a leased lot is liable to the Association for any expenses incurred by the Association in connection with enforcement of the Governing Documents against his tenant. The Association is not liable to the owner for any damages, including lost rents, suffered by the owner in relation to the Association's enforcement of Governing Documents against the owner's tenant.

6.19. LIGHTS. Exterior light sources on a lot must be unobtrusive, fully shielded to prevent glare, directed away from neighboring homes and yards, with little if any spillover light on neighboring property, and limited to a maximum lamp wattage of 100 watts incandescent or 26 watts compact fluorescent. All visible exterior light fixtures on a lot should be consistent in style and finish with the architecture of the home, and mounted at or below the eave. Street lights are prohibited. Between midnight and dawn, continuously operated lights are prohibited.

6.20. NOISE & ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring lots. The Rules may prohibit the use of noise-producing security devices.

6.21. OCCUPANCY. Other than the completed principal dwelling, no 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, mobile homes, recreational vehicles, tents, campers, and storage sheds.

6.22. RESIDENTIAL USE. The use of a house lot is limited exclusively to single family residential purposes or any other use permitted by this Declaration, including limited business uses described above.

6.23. SCREENING. 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) clotheslines, drying racks, and hanging clothes, linens, rugs, or textiles of any kind, (2) yard maintenance equipment; (3) wood piles and compost piles, (4) garbage cans and refuse containers, (5) anything determined by the board to be unsightly or inappropriate for a residential subdivision.

6.24. SIGNS. An owner who is actively marketing his lot for sale or lease may place in the front yard one professionally-made traditional yard sign of not more than 5 square feet advertising the lot for sale or for rent. No other sign or unsightly object may be erected, placed, or permitted to remain on the Property, be attached to the house, or be visible from windows in the dwelling without the board's prior written approval.

6.25. TEMPORARY STRUCTURES. Except for "accessory sheds" as described above, improvements or structures of a temporary or mobile nature, such as tents, portable sheds, recreational vehicles, and mobile homes, may not be placed on a lot if visible from a street or another lot.

6.26. VEHICLES. 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 the board. The board may adopt, amend, and repeal rules regulating the types, sizes, numbers, conditions, uses, appearances, and locations of vehicles on the Property. The board may remove any vehicle in violation of this Section or the Rules without incurring liability to

the owner or operator
of the vehicle

6.26.1. Parking in Street. Vehicles that are not prohibited below may park in the right of way of any roadway easement (but not on the paved portion) of any streets on a temporary or occasional basis subject to the continuing right of the Association to adopt reasonable rules if circumstances warrant

6.26.2. Prohibited Vehicles Without prior written board approval, the following types of vehicles and vehicular equipment - mobile or otherwise - may not be kept, parked, or stored anywhere on the Property including overnight parking on streets and driveways - if the vehicle is visible from a street or from another lot: mobile homes, motor homes, buses, trailers, boats, inoperable vehicles, commercial truck cabs, trucks with tonnage over one ton, vehicles which are not customary personal passenger vehicles, and any vehicle which the board deems to be a nuisance, unsightly, or inappropriate. This restriction does not apply to vehicles and equipment temporarily on the Property in connection with the construction or maintenance of a dwelling

6.26.3. Operation of Vehicles. No vehicle whatsoever (including but not limited to any all terrain vehicle (three or four wheeler), motorcycle, golf cart or similar vehicle) may be operated on any lot, common area or area leased from the GBRA except by an individual holding a driver's license recognized as valid by the State of Texas to operate a private automobile on public roadways

6.27. TRASH. Residents may not burn trash on their properties.

ARTICLE 7-ASSOCIATION OPERATIONS

7.1. THE ASSOCIATION. The Association is a Texas non profit corporation subject to the Texas Business Organizations Code ("TBOC") Because provisions of this Declaration address issues covered by the TBOC, this Declaration is a "Governing Document" as defined by TBOC, and any such provision herein is a "Bylaw" as defined by TBOC

7.1.1. Name. The name of the Association is COLETO LAKE ESTATES HOMEOWNERS ASSOCIATION, Inc

7.1.2. Duties The duties and powers of the Association are those set forth in the Governing Documents, together with the general and implied powers of a property owners association and a nonprofit corporation organized under the laws of the State of Texas Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Governing Documents. Specifically, and without in any way limiting the generality of the foregoing, the Association shall lease from the GBRA any area available to it for lease which is contiguous to any common area.

7.2. BOARD. The Association is governed by a board of directors Unless the Association's Bylaws or Articles of Association provide otherwise, the board will consist of at least three persons elected by the members at the annual meeting of the Association, or at a special meeting called for that purpose Unless the Governing Documents expressly reserve a right, action, or decision to the owners, Declarant, or another party, the board acts in all instances on behalf of the Association

7.3. MEMBERSHIP. Each owner is a member of the Association, ownership of a lot being the sole

qualification for membership. Membership may not be separated from ownership of the lot. The board may require satisfactory evidence of transfer of ownership before a purported owner is entitled to vote at meetings of the Association. If a lot is owned by more than one person or entity, each co-owner is a member of the Association and may exercise the membership rights appurtenant to the lot. A member who sells his lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the board. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred.

7.4. DECISION-MAKING. Any decision or act of the Association may be made by or at the direction of the board, unless the Governing Documents reserve the decision or act to the members, the Declarant, or any other person or group. Unless the Governing Documents or applicable law provide otherwise, any action requiring approval of the members may be approved by majority vote of those present at a meeting of the members, provided however, that a quorum for action at the meeting shall be the presence of owners whose total votes represent at least one half of all votes of all members of the Association.

7.5. MANAGER. The board may delegate the performance of certain functions to one or more managers or managing agents of the Association.

7.6. VOTING. One indivisible vote is appurtenant to each lot owned by any resident other than the Declarant. Declarant reserves ten votes for each lot owned by Declarant and any other rights specific in Article 15. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

7.7. BOOKS & RECORDS. The Association will maintain copies of the Governing Documents and the Association's books, records, and financial statements. The Association will make its books and records available to members, on request, for inspection and copying.

7.8. INDEMNIFICATION. The Association indemnifies every officer and director (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.9. OBLIGATIONS OF OWNERS. Without limiting the obligations of owners under the Governing Documents, each owner has the following obligations:

7.9.1 Pay Assessments. Each owner (except Declarant) will pay assessments properly levied by the Association against the owner or his lot, and will pay regular assessments without demand by the Association.

7.9.2 Comply. Each owner will comply with the Governing Documents as amended from time to time.

7.9.3 Reimburse. Each owner will pay for damage to the Property caused by the negligence or willful misconduct of the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.

7.9.4 Liability Each owner is liable to the Association for violations of the Governing Documents, or any GBRA lease by a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed

7.9.5. HOA Lease Each owner is liable to the Association for his or her prorata share of any lease of land from the GBRA to the Association

7.9.6. Contiguous Lots Owners of lots which share a common boundary line with land owned by the GBRA contiguous to Coletto Lake are required to enter into and continuously maintain a lease from the GBRA, and comply with all of the terms and conditions of the lease and applicable rules and regulations of the GBRA To the extent permitted by the GBRA, the Association may enforce the lease, and any lease violation is also a violation of the owner's obligations to the Association

7.10. HOME RESALES For purposes of this Declaration, a "resale" is every sale or conveyance of a lot (or of an interest in a lot) that is improved with a house, other than the initial sale by Declarant of the lot with the newly constructed house to the initial homeowner This Section applies to every resale of a house lot except as provided below in Section 7.10.4

7.10.1 Notice of Resale An owner intending to sell his home will notify the Association and Declarant within ten days of signing a binding contract to sell and will provide a copy of that contract to the Association and Declarant

7.10.2 Right of First Refusal The Association shall have a right of first refusal to purchase the home on the terms and conditions set forth in the contract of sale, except as to time limits which shall be increased as necessary in order to accommodate the notice periods set forth in this section 7.10 If the Association intends to exercise its right, the Association will give notice of intent to purchase to the owner and Declarant within twenty days of receipt of the binding contract of sale from the owner, and thereupon will succeed to all the rights and obligations of the purchaser in that contract If the time for notice by the Association passes without notice to the owner, the right of refusal by the Association shall terminate

7.10.3 Declarant's Right If the Association does not exercise its right of first refusal, Declarant shall have a right of refusal for an additional five days following the date that the Association notifies Declarant that the Association declines to exercise its right, or the time for such exercise expires.

7.10.4 Exclusions This requirements of this Section, do not apply to the following transfers (1) the initial conveyance from Declarant, (2) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien, (3) conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure, (4) transfer to, from, or by the Association, (5) voluntary transfer by an owner to one or more coowners, or to the owner's spouse, child, or parent, (6) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust, (7) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee, or (8) a disposition by a government or governmental agency

7.10.5 Notices All notices hereunder shall be given by certified mail, return receipt requested Notice is given when a properly addressed envelope bearing prepaid postage is deposited with the US Post Office Notice is sufficient to owner if mail is sent to the last known address of an owner as reflected on the records of the Association Notice to the Association is

given if addressed to the business office of the Association, or if none, to the residence of any officer of the Association. Notice to Declarant shall be made c/o D. A. and Merle West, at their address on the records of the Association.

ARTICLE 8—COVENANT FOR ASSESSMENTS

8.1. PURPOSE OF ASSESSMENTS. The Association will use assessments for the general purposes of preserving and enhancing COLETO LAKE ESTATES, and for the common benefit of owners and residents, including but not limited to maintenance of real and personal property, management and operation of the Association, and any expense reasonably related to the purposes for which COLETO LAKE ESTATES was developed. If made in good faith, the board's decision with respect to the use of assessments is final.

8.2. PERSONAL OBLIGATION. An owner is obligated to pay assessments levied by the board against the owner or his lot. An owner makes payment to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the Association, another owner, or any other person or entity regarding any matter to which this Declaration pertains. No owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the common area or by abandonment of his lot. An owner's obligation is not subject to offset by the owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the lot.

8.3. CONTROL FOR ASSESSMENT INCREASES. This Section of the Declaration may not be amended without two-thirds vote of all votes of the members of the Association. In addition to other rights granted to owners by this Declaration, owners have the following powers and controls over the Association's budget:

8.3.1. Veto Increased Dues. At least 30 days prior to the effective date of an increase in regular assessments, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless owners by at least a majority vote disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

8.3.2. Veto Special Assessment. At least 30 days prior to the effective date of a special assessment, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless owners by at least a majority vote disapprove the special assessment by petition or at a meeting of the Association.

8.4. TYPES OF ASSESSMENTS. There are four types of assessments: Regular, Special, Individual, and Deficiency.

8.4.1. Regular Assessments. Regular assessments are based on the annual budget. Each lot is liable for its equal share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, owners will continue to pay the regular assessment as last determined. If during the course of a year the board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. Maintenance, rent, repair, and replacement, as necessary, of

the common area

- b Utilities billed to the Association.
- c Services billed to the Association and serving all lots
- d Taxes on property owned by the Association and the Association's income taxes
- e Management, legal, accounting, auditing, and professional fees for services to the Association
- f Costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association
- g Premiums and deductibles on insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including fidelity bonds and directors and officers liability insurance
- h. Contributions to the reserve funds
- i Any other expense which the Association is required by law or the Governing Documents to pay, or which in the opinion of the board is necessary or proper for the operation and maintenance of COLETO LAKE ESTATES HOMEOWNERS ASSOCIATION or for enforcement of the Governing Documents

8.4.2 Special Assessments In addition to regular assessments, and subject to the owners' control for assessment increases, the board may levy one or more special assessments against all lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the owners, except that special assessments for the following purposes must be approved by owners of least a majority of the lots

- a Acquisition of real property, other than the purchase of a lot at the sale foreclosing the Association's lien against the lot
- b Construction of additional improvements within COLETO LAKE ESTATES, but not replacement of original improvements
- c Any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

8.4.3 Individual Assessments In addition to regular and special assessments, the board may levy an individual assessment against a lot and its owner. Individual assessments may include, but are not limited to interest, late charges, and collection costs on delinquent

assessments, reimbursement for costs incurred in bringing an owner or his lot into compliance with the Governing Documents, fines for violations of the Governing Documents; reimbursement for damage or waste caused by willful or negligent acts, and common expenses that benefit fewer than all of the lots, which may be assessed according to benefit received. Individual Assessments may also be made against lots required to lease from the GBRA for violations of the lease or for costs incurred by the Association related to lease violations, or against individuals for violations of the lease of common areas from the GBRA or costs related to those lease violations.

8.4.4. Deficiency Assessments The board may levy a deficiency assessment against all lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

8.5. BASIS & RATE OF ASSESSMENTS The share of liability for common expenses allocated to each lot is uniform for all lots, regardless of a lot's location or the value and size of the lot or dwelling.

8.6. ANNUAL BUDGET The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The board will make the budget or its summary available to an owner of each lot, although failure to receive a budget or summary does not affect an owner's liability for assessments. The board will provide copies of the detailed budget to owners who make written request and pay a reasonable copy charge.

8.7. DUE DATE The board may levy regular assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

8.8. RESERVE FUNDS The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair of common area improvements. The Association must budget for reserves and may fund reserves out of regular assessments.

8.9. ASSOCIATION'S RIGHT TO BORROW MONEY The Association is granted the right to borrow money, subject to the consent of owners representing a majority of all votes in the Association and the ability of the Association to repay the borrowed funds from assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, pledge, or deed in trust any of its real or personal property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the owners hereunder.

8.10. LIMITATIONS OF INTEREST If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid special and regular assessments, or reimbursed to the owner if those assessments are paid in full.

8.11. EFFECT OF NONPAYMENT OF ASSESSMENTS An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association, acting through the board, is responsible for taking action to collect delinquent assessments, although neither the board nor the Association, however, is liable to an owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

8.11.1 Interest Delinquent assessments are subject to interest from the due date.

until paid, at a rate to be determined by the board from time to time, not to exceed the lesser of 16 percent or the maximum permitted by law. If the board fails to establish a rate, the rate is 10 percent per annum.

8.11.2 Late Fees Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time.

8.11.3 Costs of Collection The owner of a lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys fees and processing fees charged by the manager.

8.11.4 Acceleration If an owner defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

8.11.5 Suspension of Vote If an owner's account has been delinquent for at least 30 days, the Association may suspend the right to vote appurtenant to the lot. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.

8.11.6 Money Judgment The Association may file suit seeking a money judgment against an owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

8.11.7 Notice to Mortgagee The Association may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessments.

8.11.8 Foreclosure of Assessment Lien As provided by this Declaration, the Association may foreclose its lien against the lot by judicial or nonjudicial means.

ARTICLE 9-ASSESSMENT LIEN

9.1. ASSESSMENT LIEN 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 pay assessments to the Association. Each assessment is a charge on the lot and is secured by a continuing lien on the lot. Each owner, and each prospective owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his lot.

9.2. SUPERIORITY OF ASSESSMENT LIEN The assessment lien on a lot is subordinate and inferior to (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original dwelling, (4) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due, (5) a home equity or reverse mortgage lien which is a renewal, extension, or refinance of a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due, (6) an FHA-insured or VA-guaranteed mortgage. Except for the foregoing, the assessment lien is superior to all other liens and encumbrances on a lot.

9.3. EFFECT OF MORTGAGEE'S FORECLOSURE Foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former owner. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the

pre-foreclosure deficiency as an Association expense

9.4. NOTICE AND RELEASE OF NOTICE. The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the Real Property Records of Victoria County, Texas. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing owner.

9.5. POWER OF SALE. By accepting an interest in or title to a lot, each owner grants to the Association a private power of nonjudicial sale in connection with the Association's assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

9.6. FORECLOSURE OF LIEN. The assessment lien may be enforced by judicial or nonjudicial foreclosure. A nonjudicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale, as set forth in the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the Bylaws and applicable law. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same. The Association may not foreclose the assessment lien if the debt consists solely of fines and/or a claim for reimbursement of attorney's fees incurred by the Association.

ARTICLE 10-ENFORCING THE DOCUMENTS

10.1. NOTICE AND HEARING. Before the Association may exercise certain of its remedies for a violation of the Governing Documents or damage to the Property, the Association must give an owner written notice and an opportunity for a hearing, according to the requirements and procedures in the Bylaws and in applicable law. Notices are also required before an owner is liable to the Association for certain charges, including reimbursement of attorneys' fees incurred by the Association.

10.2. REMEDIES. The remedies provided in this Article for breach of the Governing Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Governing Documents and by law, the Association has the following right to enforce the Governing Documents, subject to applicable notice and hearing requirements:

10.2.1 Nuisance. The result of every act or omission that violates any provision of the Governing Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

10.2.2 Fine. The Association may levy reasonable charges, as an individual assessment, against an owner and his lot if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Governing Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligations under the Governing Documents.

10.2.3 Suspension. The Association may suspend the right of owners and residents to use common areas for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Governing Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Governing Documents.

10.2.4. **Self-Help.** The Association has the right to enter the lots, and land leased from the GBRA to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates the Governing Documents, or the GBRA lease. In exercising this right, the board is not trespassing and is not liable for damages related to the abatement. The board may levy its costs of abatement against the lot and owner as an individual assessment. The board will make reasonable efforts to give the violating owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the owner. Prior notice is not required (1) in the case of emergencies, (2) to remove violative signs, (3) to remove violative debris, or (4) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the neighborhood.

10.2.5. **Suit.** Failure to comply with the Governing Documents or GBRA lease will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.

10.3. **BOARD DISCRETION.** The board may use its sole discretion in determining whether to pursue a violation of the Governing Documents, provided the board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action, (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources, or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

10.4. **NO WAIVER.** The Association and every owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Governing Documents. Failure by the Association or by any owner to enforce a provision of the Governing Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Governing Documents at any future time. No officer, director, or member of the Association is liable to any owner for the failure to enforce any of the Governing Documents at any time.

10.5. **RECOVERY OF COSTS.** The costs of curing or abating a violation are at the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Governing Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Governing Documents or the restraint of violations of the Governing Documents, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

ARTICLE 11—MAINTENANCE AND REPAIR OBLIGATIONS

11.1 **ASSOCIATION MAINTAINS.** The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on lots or common areas:

- a. The common areas
- b. Any property adjacent to Coletto Lake Estates if such maintenance is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property

- c Any area, item, easement, or service - the maintenance of which is assigned to the Association by this Declaration or by the plat

11.2. OWNER RESPONSIBILITY. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements of Article 5 and the use restrictions of Article 6

11.2.1. House Maintenance Each owner, at the owner's expense, must maintain all improvements on the lot, including but not limited to the dwelling, fences, sidewalks, and driveways. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

11.2.2. Yard Maintenance Each owner, at the owner's expense, must maintain the yards on his lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. "Yards" means all parts of the lot other than the dwelling, including fenced and unfenced portions of the lot. Specifically, each owner must

- a Maintain an attractive ground cover or lawn on all yards visible from a street
- b Edge the street curbs at regular intervals
- c Mow the lawns and grounds at regular intervals
- d Prevent lawn weeds or grass from exceeding 6 inches in height
- e Not plant vegetable gardens that are visible from a street.
- f Maintain an attractive appearance for shrubs and trees visible from a street.

11.2.3. Avoid Damage An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property

11.2.4. Responsible for Damage An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the common areas or the property of another owner.

11.3. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the owner is responsible, the board may give the owner written notice of the Association's intent to provide the necessary maintenance at owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the owner fails or refuses to timely perform the maintenance, the Association may do so at owner's expense, which is an individual assessment against the owner and his lot. In case of an emergency, however, the board's responsibility to give the owner written notice

may be waived and the board may take any action it deems necessary to protect persons or property, the cost of the action being the owner's expense

ARTICLE 12-INSURANCE

12.1. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Each owner irrevocably appoints the Association, acting through its board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association. Additionally

12.2. PROPERTY. To the extent it is reasonably available, the Association will obtain property insurance for insurable common area improvements. Also, the Association will insure the improvements on any house lot owned by the Association.

12.3. GENERAL LIABILITY. If reasonably available, the Association may maintain a commercial general liability insurance policy over the common areas - expressly excluding the liability of each owner and resident within his lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the common areas.

12.4. DIRECTORS & OFFICERS LIABILITY. To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

12.5. OWNER'S RESPONSIBILITY FOR INSURANCE. Each owner will obtain and maintain property insurance on all insurable improvements on his lot, in an amount sufficient to cover 100 percent of the replacement cost of any repair or reconstruction in event of damage or destruction from any insured hazard. Further, each owner will obtain and maintain general liability insurance on his lot. Each owner will provide the Association with proof or a certificate of insurance on request by the Association from time to time. If an owner fails to maintain required insurance, or to provide the Association with proof of same, the board may obtain insurance on behalf of the owner who will be obligated for the cost as an individual assessment. This provision will not apply to Declarant.

ARTICLE 13-AMENDMENTS

13.1. CONSENTS REQUIRED. Amendments to this Declaration must be approved by a majority vote of all owners.

13.2. METHOD OF AMENDMENT. For an amendment that requires the approval of owners, this Declaration may be amended by any method selected by the board from time to time, pursuant to the Bylaws, provided the method gives an owner of each lot the substance if not 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.

13.3. EFFECTIVE. To be effective, an amendment approved by the owners or by the board must be in the form of a written instrument (1) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto, (2) signed and acknowledged by an officer of the Association, certifying the requisite approval of owners or directors, and (3) recorded in the Real Property Records of Victoria County, Texas, except as modified by the following section.

13.4. DECLARANT PROVISIONS. Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Article 15. An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association. 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. This Section may not be amended without Declarant's written and acknowledged consent.

13.5. MERGER. Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by a majority vote of all owners unless otherwise provided by Article 15. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving association pursuant to the merger. The surviving or consolidated association may administer the provisions of the Governing Documents as the COLETO LAKE ESTATES HOMEOWNERS ASSOCIATION, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

ARTICLE 14-DISPUTE RESOLUTION

14.1. INTRODUCTION & DEFINITIONS. The Association, the owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

14.1.1. **"Claim"** means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:

- a. Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents.
- b. Claims relating to the rights and/or duties of Declarant as Declarant under the Governing Documents.
- c. Claims relating to the design, construction, or maintenance of the Property.

14.1.2. **"Claimant"** means any Party having a Claim against any other Party.

14.1.3. **"Exempt Claims"** means the following claims or actions, which are exempt from this Article:

- a. The Association's claim for assessments, and any action by the Association to collect assessments.
- b. An action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.

- c Enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration
- d A suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

14.1.4 "Respondent" means the Party against whom the Claimant has a Claim.

14.2. **MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article

14.3. **NOTICE.** Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim, (2) the basis of the Claim (i.e., the provision of the Governing Documents or other authority out of which the Claim arises), (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

14.4. **NEGOTIATION.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually agreeable place and time to discuss the Claim. At such meeting or at some other mutually agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action

14.5. **MEDIATION.** If the parties negotiate but do not resolve the Claim through negotiation within 120 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least 5 years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the 30-day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

14.6. **TERMINATION OF MEDIATION.** If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate

14.7. **ALLOCATION OF COSTS.** Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator

14.8. **ENFORCEMENT OF RESOLUTION.** Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement

without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorneys fees and court costs.

14.9. GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim. A Party having an Exempt Claim may submit it to the procedures of this Article.

14.10. LITIGATION APPROVAL & SETTLEMENT. To encourage the use of alternate dispute resolution and discourage the use of costly and uncertain litigation, the initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to and notwithstanding the above alternate dispute resolution procedures. 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 Section. This Section may not be amended without a seventy-five percent vote of all of the owners.

14.10.1 Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval by majority vote of all the owners, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of assessments, (2) to challenge condemnation proceedings, (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association, (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association, or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of owners in order to preserve the status quo.

14.10.2 Funding Litigation. Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a special assessment, the Association must levy a special assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

14.10.3 Settlement. The board, on behalf of the Association and without the consent of owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

ARTICLE 15-DECLARANT RIGHTS & RESERVATIONS

15.1. GENERAL PROVISIONS.

15.1.1 Declaration Perpetual. Declarant intends that this Declaration shall be perpetual.

15.1.2 General Reservation & Construction. Notwithstanding other provisions of the Governing Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other owner, or the Association, prevent or interfere with the rights contained in this Article which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Article and any other Governing Document, this Article controls. This Article may not be amended without the prior written consent of Declarant. The terms and provisions of this Article must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

15.1.3 Intent to Build. Declarant, in its own name or through its affiliates, intends to construct dwellings on the lots in connection with the sale of the lots. However, Declarant may, without notice, sell some or all of the lots to one or more other builders or individuals to improve the lots with dwellings to be sold and occupied. In that event, Declarant may amend this Declaration to add provisions addressing the role of a builder in the Property, provided however, that any purchaser of a lot must complete construction within one and one half years of the date of purchase.

15.2. DECLARANT RESERVATIONS. Declarant reserves the following powers, rights, and duties

15.2.1 Declarant Assessments & Reserves. Real property owned by Declarant is not subject to assessment by the Association, nor is Declarant required to make contributions to the Association's reserve funds for the lots owned by Declarant.

15.2.2 Annexation of Other Property. Declarant owns or may acquire additional real property which Declarant may place subject to this Declaration at any time without the joinder or consent of any other persons. To be effective, the annexation must be evidenced by a filing in the Official Records of Victoria County, Texas.

15.2.3 Withdrawal. During the Development Period, Declarant may withdraw real property from the Property and the effect of this Declaration (1) if the owner of the withdrawn property consents to the withdrawal, and (2) if the withdrawal does not significantly and detrimentally change the appearance, character, operation, or use of the Property.

15.2.4 Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Subject to approval by (1) a governmental entity, if applicable, and (2) the owner of the land or lots to which the change would directly apply (if other than Declarant), Declarant may (a) change the sizes, dimensions, and configurations of lots and streets, (b) change the building setback requirements, and (c) eliminate or modify any other feature of the Property.

15.2.5 Completion. Declarant has (1) the right to complete or make improvements indicated on the plat, (2) the right to sell or lease any lot owned by Declarant, and (3) an easement and right to erect, construct, and maintain on and in the common area and lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of COLETO LAKE ESTATES, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

15.2.6 Easement to Inspect & Right to Correct. Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Property, including the lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. This Section may not be construed to create a duty for Declarant or the Association.

15.2.7 Promotion. Declarant reserves for itself an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other owners and residents, for purposes of promoting, identifying, and marketing COLETO LAKE ESTATES and/or Declarant's houses, lots, developments, or other products located outside the Property. Declarant reserves an easement and

right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events - such as open houses, MLS tours, and brokers parties at the Property to promote the sale of lots.

15.2.8. Offices. Declarant reserves for itself the right to use dwellings owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the easement and right to make structural changes and alterations on and to lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

15.2.9. Access. Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing COLETO LAKE ESTATES, or otherwise, and for discharging Declarant's obligations under this Declaration.

15.2.10. Utility Easements. Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the easements on any lot, as shown on the plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a common area of the Property or not owned by Declarant, Declarant must have the prior written consent of the land owner.

15.3. COMMON AREAS. Any initial common area improvement will be installed, constructed, or authorized by Declarant, the cost of which is not a common expense of the Association. For every common area capable of being conveyed to the Association, Declarant will convey title to the common area to the Association by one or more deeds with or without warranty. At the time of conveyance to the Association, the common areas will be free of encumbrance except for the property taxes accruing for the year of conveyance. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association or the owners. The transfer of control of the Association is not a transfer requiring inspection, evaluation, acceptance, or approval of common area improvements by the owners.

15.4. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Victoria County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

ARTICLE 16-GENERAL PROVISIONS

16.1. COMPLIANCE. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Governing Documents and applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi-governmental entity having jurisdiction over the Association or Property.

16.2. NOTICE. All demands or other notices required to be sent to an owner or resident by the terms of this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, to the party's last known

address as it appears on the records of the Association on the date the notice is issued. If an owner fails to give the Association an address for sending notices, all notices may be sent to the owner's lot, and the owner is deemed to have been given notice whether or not he actually receives it.

16.3. LIBERAL CONSTRUCTION. The terms and provision of each Governing Document are to be liberally construed to give effect to the purposes and intent of the Governing Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved first to give effect to Declarant's intent to protect Declarant's interests in the Property, and second in favor of the operation of the Association and its enforcement of the Governing Documents, regardless which party seeks enforcement.

16.4. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

16.5. CAPTIONS. In all Governing Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer.

16.6. INTERPRETATION. Whenever used in the Governing Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

16.7. DURATION. Unless terminated or amended by owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

SIGNED on this 9 day of June, 2009

COLETO LAKE ESTATES, Ltd., a Texas limited partnership

By West Developers, LLC, a Texas corporation, its general partner

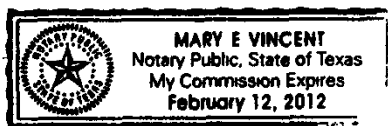
By D. A. WEST
D. A. West, Manager

By MERLE WEST
Merle West, Manager

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF VICTORIA

This instrument was acknowledged before me, the undersigned notary, on this 9 day of June, 2009, by D. A. West, and Merle West, Managers of West Developers, LLC, General Partner of Coleto Lake Estates, Ltd., on behalf of said corporation and partnership.



Mary E Vincent
NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT A

Coletto Lake Estates – Phase 1 consists of an 8.63 acre tract of land situated in the original Francis M. White Survey, Abstract No. 343, and as shown on the amended final plat of Coletto Lake Estates – Phase 1, filed and recorded on February 2, 2009, as File No. 200901115, Volume 8, Pages 186-A, and 186-B, of the Official Public Records of Victoria County, Texas

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Val D. Huvar

2009 JUN 22 01:21 PM 200906548

PAVLICEK \$115.00

VAL D. HUVAR, COUNTY CLERK
VICTORIA COUNTY, TEXAS

✓
FILED BY AND RETURNED TO
STEPHEN RIGSBY
PO BOX 3683
VICTORIA TX 77903-3683