

**LAWYERS TITLE CO.**

**GF#** 541324

**DECLARATION OF COVENANTS AND RESTRICTIONS  
OF HORSE HAVEN ESTATES SUBDIVISION, PHASE SIX**

THE STATE OF TEXAS     §

COUNTY OF BRAZOS     §

WHEREAS, TDG MANAGEMENT, L.P., a Texas limited partnership ("Developer and/or Declarant") is the owner of the subdivision in the City of College Station, Brazos County, Texas, known as HORSE HAVEN ESTATES SUBDIVISION, PHASE SIX (herein sometimes called "Horse Haven Phase Six" or "Subdivision"), being more particularly described on the Plat recorded in Volume 14566, Page 97 of the Official Records of Brazos County, Texas; and

WHEREAS, Developer has previously filed Declarations of Covenants and Restrictions ("Declarations") for Phase Two, Phase Three, Phase Four, and Phase Five of the Horse Haven Estates Subdivision, which Declarations are filed of record in Volume 7872, Page 283, Official Records of Brazos County, Texas, Volume 7923, Page 90, Official Records of Brazos County, Texas, Volume 9290, Page 250, Official Records of Brazos County, Texas, and Volume 14667, Page 195, Official Records of Brazos County, Texas, respectively; and

WHEREAS, the above referenced Declarations allow additional Phases to be brought into the existing Declarations; and

WHEREAS, Developer desires the property described in Phase Six to be subject to and required members of the Horse Haven Estates Homeowners Association, Inc. (described in Section 25 of this document), and which is the same Homeowners Association that governs Phases Two, Three, Four and Five of the Horse Haven Estates Subdivision; and

WHEREAS, Developer desires to create and carry out an organized and uniform plan for the improvement, development, sale, and possession of all the numbered lots in all Phases of Horse Haven Estates Subdivision, for the benefit of present and future owners of Horse Haven Estates Subdivision; and

WHEREAS, the property located in Horse Haven Estates Subdivision Phase Six is brought within the jurisdiction of the Horse Haven Estates Home Owners Association :

NOW, THEREFORE, Developer hereby adopts and establishes the following reservations, restrictions, covenants and easements to apply: (a) in the use, maintenance, occupancy, preservation of value and conveyance of all such numbered lots in the Subdivision; and (b) to use in each contract or deed, which may be executed, delivered and accepted. By acceptance of a contract, deed, or other conveyance therefore, whether or not it shall be so expressed in the deed or other conveyance, each lot owner shall be deemed to covenant and agree to the following reservations, restrictions, covenants and easements, regardless of whether or not such reservations, restrictions, covenants and easements are set out in full or referenced in said contract or deed (the headings being employed for convenience only, and not controlling over content).

1.

### BUILDING SITE

As used in these Restrictions, the term "Building Site" means one or more contiguous lots or a lot or contiguous lots, plus a part of an adjacent lot or lots, of the numbered lots in the Subdivision. However, as long as a part of a lot is at least fifty feet (50') wide and meets city standards, it shall be a Building Site. Any Lot shown on the plat of the Subdivision shall qualify as a Building Site.

2.

### RESIDENTIAL PURPOSE ONLY

No lot or Building Site shall be used for any purpose except for one 1-4 family-type dwelling. No building shall be erected, altered, placed or permitted to remain on any Building Site other than one 1-4 family type dwelling, together with any permitted outbuilding.

A 1-4 family-type dwelling is defined as:

- a) A residence occupied by 1-4 single family units which may consist of the owner of the residence, his or her spouse, his and/or her children, and his and/or her parents; or
- b) A residence occupied by no more than four (4) unrelated individuals and the lineal descendants thereof; or
- c) A four-bedroom, or less, residence occupied by not more than four (4) unrelated persons and the lineal descendants thereof under a lease agreement with the owner of the residence; or
- d) A five-bedroom residence occupied by not more than five (5) unrelated persons and the lineal descendants thereof under a lease agreement with the owner of the residence; or
- e) A residence occupied by a single family unit consisting of no more persons than are otherwise authorized herein under a lease agreement with the owner of the residence.
- f) To maintain the health and safety of the Subdivision, there should not be more than two (2) persons per bedroom. This is not a restriction or requirement of the Subdivision, but is only included for information purposes.
- g) The above limitations on the number of occupants and their relationships are further restricted by the City of College Station's ordinances and restrictions

relating to the number of unrelated persons who may occupy a 1-4 family residence.

No provisions in these restrictions shall be construed to prevent the Developer, or any real estate agent or homebuilder as approved by Developer, from erecting, permitting or placing such facilities or structures, either permanent or temporary, of whatever nature, on a lot or lots as may be necessary or convenient during the period of, and in connection with, the sale of lots, or the construction or selling of new residences in the Subdivision. Such facilities may include, but shall not be limited to, a temporary office building, storage area, signs, portable toilet facilities and sales offices. The Developer, or its designated agent, shall also have the right to use a residence, situated on a lot, as a temporary office or model home during the period of, and in connection with, construction and sales operations in Horse Haven.

3.

#### ARCHITECTURAL CONTROL COMMITTEE

No building or other improvements shall be erected, placed or altered on any building site until the construction plans and specifications, and a plan showing the location of the structure or improvements, have been approved by a majority of the Architectural Control Committee ( the "Committee") as to the quality of workmanship and type of building materials; harmony of external design with existing structures; and location with respect to topography, easements, building lines and finish grade elevation. The Architectural Control Committee shall consist of four (4) members, whose names are Alton Ofczarzak, Teresa Shivener, Mark Ofczarzak, and the President of the Horse Haven Homeowners Association (the "Association"). A majority of the Committee may designate a representative to act for it in the event of resignation or impossibility to continue serving of any member of the Committee, the remaining members shall have full authority to designate a successor. Upon completion of a total of fifty houses in all Phases of Horse Haven Estates Subdivision (It being contemplated that additional properties shall be added and phased into the Subdivision as set forth in Section 33 hereafter), the terms of Alton Ofczarzak, Mark Ofczarzak, and Teresa Shivener will automatically expire and the designation of members of the Committee will be the exclusive responsibility of said Association. Neither the members of the Committee or its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Committee's approval, or disapproval, as required herein, shall be in writing. If the Committee or its designated representative fails to give written approval or disapproval within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the conclusion of improvements, approval will not be required, and the related covenants shall be deemed to have been fully satisfied. It is stipulated; however, that to be approved all construction on any building site must comply with all the requirements of these Deed Restrictions.

4.

#### MINIMUM SIZE OF DWELLINGS

The minimum air conditioning area per dwelling, exclusive of garages, porches and attics will be one thousand six hundred (1,600) square feet, plus a garage.

5.

#### BUILDING LINES

No building shall be located on any building site nearer to the front lot line, or nearer to the side street line, than the minimum set back lines shown on the recorded plats for the Subdivision. No building shall be located nearer to a rear lot line than the rear easement line.

6.

#### FACING OF RESIDENCES

Residences on corner lots shall face the street from which the greatest building setback is shown on the recorded plat. This requirement may be waived by the Committee if, in its sole opinion, the conditions warrant the change.

7.

#### MATERIALS REQUIRED

Only new construction material (except masonry) shall be used in constructing any structures in the Subdivision. Exterior colors (for house, mailbox, fence, roof, and other residential appurtenances), stone or other masonry colors and exterior shutter or door colors must be approved in writing by the Committee. This includes initial construction and any repainting after initial construction. No structure shall be occupied or used until the exterior construction thereof is completed, the interior construction is substantially completed and a certificate of occupancy has been issued by the City of College Station, Texas (the "City").

8.

#### GARAGES, CARPORTS AND OUT BUILDINGS

Each and every residential structure shall have either a garage that can house at least one vehicle per bedroom or a concrete slab constructed in either the front of the main residence or at the back of the main residence for at least one vehicle per bedroom, said garage or slab to be completed at the time of construction of the main residence. If applicable, no garage shall ever be changed, altered, enclosed or otherwise converted for any purpose other than for the housing of automobiles, other vehicles and storage. All roof materials on a garage must be of the same nature as the materials used on the main residential dwelling and all garage walls must be constructed of the same material, or other similar material, as the exterior of the main residential dwelling. Any storage building, outbuildings or other structures must be located in the rear yard and screened with fencing from view from streets adjoining the lot containing such structures. Any such additional building structures shall only be one story and their location, height, size, building materials and colors must be approved in writing by the Committee, prior to construction.

Window unit air conditioners, seen from any street, are not allowed anywhere in the residential structure, including any enclosed area visually detectable from the street. No exterior door or window may be added to the front of house unless approved in writing by the Committee, which approval may be withheld solely at the discretion of the Committee.

9.

#### POOL AND OTHER PUBLIC AREAS

On any swimming pool, park, community center, common area or any other public area constructed on the Property, the Board may establish rules and regulations for use or prohibitions against use from time to time. Swimming and other risk based activities shall not be allowed, except by and in accordance with regulations established by the Board in its sole and absolute discretion.

The park, community center, common area or any other public area constructed on the Property, SAVE AND EXCEPT the swimming pool and surrounding pool area, shall be accessible and available to the entire Horse Haven Estates Subdivision, including Phases Two, Three, Four, Five, Six and any and all Phases thereof created in the future, if any, subject to those rules and regulations for use or prohibitions against use established by the Board from time to time.

10.

#### EASEMENTS

Easements for installation or maintenance of utilities, access and drainage are reserved as shown and provided for on the recorded plats. No building or other permanent structures are allowed on these easements, except for driveways, sidewalks, culverts, foot bridges, porches and fences. Future use of these easements as improved bicycle or walking paths is permissible. Any construction over and across a drainage easement must be approved by the City and the Committee. All easements are to be maintained by the owner of the lots where the easements exist. The repair and maintenance of fences built by the owner of a lot, and damaged by others having legal access to the easement, will be at the expense of the owner.

11.

#### NUISANCES PROHIBITED

No noxious, loud or offensive activity shall be permitted upon any portion of the Subdivision, nor shall anything be done on any lot which may be or become an annoyance or nuisance to the neighborhood or other portions of the Subdivision.

12.

#### TEMPORARY STRUCTURES PROHIBITED AS RESIDENCES

A structure of temporary character, including but not limited to, mobile homes, motor homes, recreation vehicles, tents, shacks, garages, barns, basements or other outbuilding, shall not be used or located on any lot at any time as a residence, either temporarily or permanently.

13.

#### SIGNS AND WINDOW SCREENS

No signs of any kind shall be displayed to the public view on any building site or lot, except such signs as shall have been approved by the Committee. However, a professional looking "For Sale" sign (when a lot or home is for sale) shall not be rejected by the Committee. No foil paper, cardboard, plywood, newspaper, sheets or other bed linen, or other unsuitable materials will be allowed to screen or cover windows, either internally or externally, except for an emergency of three (3) weeks or less. The Committee's decision about the suitability of window coverings shall be final.

14.

#### NO MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon any lot, nor shall any mineral wells, pumps, compressors, tanks, tunnels, mineral excavations or shafts be permitted upon any building site. No derrick or other structure designed for use in boring for oil, natural gas, or any mineral or substance, shall be erected, maintained or permitted on any lot

15.

#### LIVESTOCK

No animals, livestock, poultry or insects of any kind shall be raised, bred or kept on any lot, except that dogs, cats, fowl or other household pets may be kept if they are not used, maintained or bred for any commercial purposes, and provided such pets do not become a nuisance to the neighborhood or a danger to neighbors.

16.

#### MAINTENANCE OF BUILDING SITES AND LOTS

All building sites and lots, whether improved or unimproved, shall be kept in a sanitary, clean and attractive condition and shall in no event be used for storage of material and equipment except for normal residential requirements incidental to construction of improvements thereon as herein permitted. No owner of any lot shall permit the accumulation or burning of garbage, trash or rubbish of any kind thereon.

Those portions of each improved lot that are visible from the street, primarily the front yard, shall be maintained with domestic grass and/or suitable ground cover, integrated with any natural trees and bushes that may be incorporated into the landscaping. In any case, whether a yard is primarily covered with grass and/or ground cover or largely covered with natural growth, the yard shall be kept in a manner consistent with a well-maintained attractive neighborhood.

If the owner of a lot fails to keep the grass and vegetation cut as often as may be necessary to maintain the lot in a neat and attractive condition, the Association may have the grass or vegetation cut, and the lot owner shall be obligated to pay, or otherwise reimburse the Association, for the cost of such work. By acceptance of its grant deed, each lot owner in the Subdivision grants to the Association authority to enter upon such owner's property without threat of trespass or other liability against the Association excepting willful misconduct by the Association, its officers, employees and agents.

All clothes lines, yard equipment (including lawn chairs, benches, tables, swings, and the like), outdoor cooking equipment (barbeque pits, hibachis and the like), play equipment (swing sets, slides, pool, etc.), wood piles or storage piles shall be kept screened by a solid wood or masonry fence, service

yard, drying yard or other similar facility as herein otherwise provided, so as to conceal them from view of streets. Tool sheds, fences and any other construction or improvements shall be subject to approval by the Committee. No fences may be built on the front of any lot unless approved in writing by the Committee. The Committee shall have the right to enforce action to remove violations by injunctive relief if necessary to assure aesthetic quality of the Subdivision.

17.

#### VEHICLES

No vehicle or trailer, which is inoperative, wrecked, dismantled, discarded or which does not have (i) a lawful license affixed thereto, (ii) an unexpired license plate or plates, and (iii) a valid unexpired motor vehicle safety inspection certificate, shall be permitted upon any lot. If visible from the street for a period longer than 72 hours such vehicles shall be subject to being towed away by the Association at the owner's expense.

No truck or van with more than two axles, service vehicles (including but not limited to, those containing multiple tool boxes, ladder racks, welding equipment, construction equipment or other similar equipment or accessories), trailer, motor home, mobile home, house trailer, or recreational vehicle, may be kept on the street in front of any lot, or upon any lot, unless it is kept inside the garage or yard areas, behind fences or walls, and concealed from public view and adjoining Property. No vehicle of any kind may be parked on lawn areas for any reason. These restrictions shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and used for the construction, repair and maintenance of the Subdivision or of any properties in the Subdivision. Passenger vehicles may be parked on the street in front of lots for periods of time not to exceed twelve (12) hours in any twenty-four (24) hour period. Any vehicle parked for a longer time may be towed away by the Association at the owner's expense. This restriction is not to be construed to prohibit periodic overnight guests from parking on the street, but is to specifically prohibit residents from using the street as the usual overnight parking for vehicles. No major repair work, dismantling, or disassembling of motor vehicles or other machinery or equipment shall be permitted in or on any driveway, street, garage, carport or any part of any lot. Notwithstanding the above language, no cars, trucks, motorcycles, motor homes or other vehicles of any type may be parked on Appomattox Street.

No motorcycles, motorbikes, dirt bikes, motor scooters, go-carts, or three- and four-wheel "off-road" vehicles, nor any similar vehicles, whether licensed or unlicensed may be operated on any lot in the Subdivision. Furthermore, no motor vehicle may be operated in such a manner that may be or become a danger, nuisance or annoyance to the neighborhood.

18.

#### STORAGE OF MATERIALS

No building material of any kind or character shall be placed or stored upon any residential lot until the owner is ready to commence construction of improvements, and then, only if such material shall be placed within the property lines of the lot being improved. No building materials, material scraps, stumps, trees, underbrush, or any refuse of any kind, shall be placed on any other lot, streets or easements in the Subdivision, other than the lot being improved. All such material, if not disposed of immediately, must remain on the lot upon which the construction work is in progress, and after the completion of such improvements, such material shall be removed from the lot within three (3) days of said completion.

19.

GARBAGE AND REFUSE

All lots shall at all times be kept in a clean, sanitary and attractive condition except during approved construction. No lot shall be used or maintained for storage of materials, nor as a dumping ground for rubbish, trash, garbage, or other waste. All household waste shall be kept only in sanitary containers provided or approved, by the City. No garbage cans or refuse containers shall be placed or permitted to remain at the front of a residence either within the street or on the lot or right-of-way, except upon those days scheduled for garbage and refuse collection by the City or a privately contracted collector.

20.

FENCES, WALLS, AND MAILBOXES

No fence, wall, or any other structure shall be erected, added or placed on any lot nearer to any front lot line than the nearest front corner of the residential dwelling, unless approved in writing by the Committee. All fences, walls and mailboxes shall be of a nature and quality so as to be harmonious with, and enhance, and not detract from the general appearance of the Subdivision and must be approved in writing by the Committee prior to construction. Each individual lot owner is responsible for keeping, repairing, replacing and maintaining any existing fence or wall that is on the owner's lot or adjacent right-of-way. All fences will be made of cedar, spruce, fir, pine, redwood or ornamental metal unless otherwise approved by the Committee. Cyclone fences are allowed only if fully screened from public view (i.e., "dog runs"); however, any and all such cyclone fences and the use thereof must first be approved in writing by the Committee. Fences may be reasonably stained to enhance natural appearance but are not to be painted unless approved by the Committee. The "good side" of the fence (that is, the side that shows fence slats or pickets only) shall always face the public street closest to such fence. Final approval of fencing and its facing shall be at full discretion of the Committee.

21.

CONSTRUCTION STANDARDS

All construction must meet the requirement and specifications set forth by the City's building codes and ordinances. Where not otherwise specified by such codes and ordinances, the requirements set forth by these Restrictions shall prevail.

22.

FIREARMS

The use or discharge of pistols, rifles, shot guns, or other firearms or firecrackers/fireworks is expressly prohibited in or on any part of the Subdivision. Except for construction tools such as nail guns, any kind of unit that propels dangerous objects by air or spring-action, etc. shall not be used or discharged in or on any part of the Subdivision. No hunting or trapping of any kind is allowed in the Subdivision.

23.

ANTENNAE



No external antennas of any kind shall be permitted or allowed on any lot within the Subdivision without prior written approval of the Committee as to antenna size, height, placement, and visibility. No satellite antenna nor any antenna dish may be parked, erected, or installed either permanently or temporarily, on any lot except in backyard areas where it is substantially concealed from public view.

24.

#### OBLIGATION OF LOT OWNER

It is the obligation of each individual lot owner to familiarize himself or herself with these restrictions and to comply with them. The Committee, the Association or any lot owner in the Subdivision is authorized to initiate any legal action necessary to enforce these restrictions.

25.

#### HORSE HAVEN ESTATES HOMEOWNERS ASSOCIATION

There has been formed a mutual non-profit corporation ("Corporation") under the laws of the State of Texas, in which the owner of each lot in Horse Haven Estates Subdivision, have agreed to become, and shall be, a member. All lots in Phase Six of Horse Haven Estates Subdivision must also be members of such homeowners association. The name of said Corporation is Horse Haven Homeowners Association ("Association"). The Articles of Incorporation of said Corporation specify, among the purpose and duties of said Corporation, the enforcement of all said restrictions, covenants and conditions and payment of any and all legal and other expenses in connection therewith; the maintenance, preservation and improvement of property in the Subdivision; the keeping and maintaining said property, and every lot therein, in a clean and sanitary condition, including the removal of weeds and rubbish from vacant property and streets; providing for security guards and/or security aids, if approved by a vote of the majority of the Members of the Association; appointing members to the Committee and keeping it accountable to members, so far as it may lawfully act; maintaining communication among neighbors; engaging in common interest issues; and transacting other business as may be permitted by law. Each member of said Association agrees to pay to said Corporation, dues or assessments ("Assessment") for such purpose which may be fixed by law or by lawful acts of the Association's Board of Directors ("Board"). The initial assessment payable to said Corporation/Association is \$100.00 per year. Such sum shall be payable annually in advance. In any calendar year Assessments shall never increase by more than ten percent (10%) of the amount payable in the prior year except upon written approval, to the contrary, of owners of not less than ninety percent (90%) of the lots in all existing Phases of Horse Haven Estates Subdivision. The Association may contract with third Parties for the Performance of the agreements herein stated and the Association has an automatic right to post a lien on any property on which the assessments are in arrears.

In addition to the Assessment described above, each individual Lot Owner in Phase Six shall be obligated to pay an additional \$250.00 assessment per year to the Association for the maintenance of and for the right to use the pool ("Pool Assessment"). The Pool Assessment shall be payable each year in advance to the Association. The Pool Assessment shall be used for the sole purpose of the operation, maintenance and repair of the swimming pool and surrounding pool area. The payment of the Pool Assessment shall authorize the Lot Owner and family to use the pool without any additional fees charged.

The Association shall retain the Pool Assessment in a separate account from the other Assessment collected from the Lot Owners in Horse Haven Estates. The Assessment may be increased annually, but

never in excess of ten percent (10%) annually. The Association shall have the right to create and establish rules and requirements for the use of the pool and the pool amenities.

In addition the Association shall have the right and authority to allow other residents and their guests to use the pool area for a usage fee.

It is understood and agreed that the Articles of Incorporation and By-Laws of said Corporation shall provide for substantially the following definitions:

Membership: Every person or entity who is a record owner of any lot in Horse Haven Estates Subdivision, including existing Phases, future Phases, or this Phase (which by covenants of record is subject to Assessment by the Association), shall be a member of the Association, provided that any such person or entity does not hold such interest merely as a security for the performance of an obligation.

Voting Rights: The Association shall have two classes of voting memberships:

Class A: Class A members shall be all those Lot owners other than the Developer or a contracted or speculative Builder as defined by the Developer. When more than one person holds such interest or interest in any lot, all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such lot.

Class B: Class B members shall be the Developer and any Builder, as defined by the Developer. The Class B member shall be entitled to four votes for each lot in which it holds the interest required for membership, provided that the Class B membership shall cease and become converted to Class A membership on the occurrence of any of the following events, whichever is first:

- (a) When the lot is sold to a third person other than a Developer or a Builder; or
- (b) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member and entitled to one vote for each lot in which it holds the interest required for membership.

It is further understood and agreed that the Articles of Incorporation shall provide that the Corporation's existence shall be perpetual and that the Developer or its agent shall have the right and duty to appoint the initial Board of Directors of the Association and take all other steps necessary to assure the creation, existence and organization of the Corporation/Association. A copy of the Articles of Incorporation and By-Laws have been recorded in the Official Records of Brazos County, Texas.

26.

#### ASSESSMENTS

Any assessments or other charges and assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of: (i) the rate of eighteen percent (18%) per annum or (ii) the maximum rate permitted by law. The Association may bring an action at law against the Owner

personally obligated, as applicable, to pay the same or foreclose the above described lien against the Owner's Lot, as provided below.

In order to secure the payment of the Assessment, and other charges and assessments hereby levied, a vendor's (purchase money) lien for the benefit of the Association, shall be and is hereby reserved in the Deed from the Declarant to the purchaser of each Lot, or portion thereof, which lien shall be enforceable through appropriate judicial and/or non-judicial proceedings by the Association. As additional security for the payment of the Assessment, and other charges and assessments hereby levied, each owner of a Lot, in the subdivision by such party's acceptance of a deed thereto, hereby grants the Association a contractual lien on such Lot, which may be foreclosed on by non-judicial foreclosure and pursuant to the provisions of Section 51.002 of the Texas Property code (and any successor statute), and each such Owner hereby expressly grants the Association a power of sale in connection therewith. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of said Section 51.002 of the Texas Property Code and said power of sale designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice President of the Association and filed for record in the Real Property Records of Brazos County, Texas. In the event that the Association has determined to non-judicially foreclose the lien provided herein pursuant to the provisions of said Section 51.002 of the Texas Property Code and to exercise the power of sale hereby granted, the Association shall mail to the defaulting Owner a copy of the Notice of Trustee's Sale not less than twenty-one (21) days prior to the date on which said sale is scheduled by posting such notice through the U. S. Postal Service, postage prepaid, certified, return receipt requested, properly addressed to such Owner at the last known address of such Owner according to the records of the Association. If required by law, the Association or Trustee shall send any curative period notice to the Owner and also cause a copy of the Notice to Trustee's Sale to be recorded in the Real Property Records of Brazos County, Texas. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and, third, the remaining balance shall be paid to such Owner. Following any such foreclosure, each occupant of any such Lot, foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder.

In the event of non-payment by any Owner of any Assessment, or other charge or assessment levied hereunder, the Association may, in addition to foreclosing the lien hereby retained, and exercising the remedies provided herein, upon thirty (30) days prior written notice thereof to such nonpaying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 26 to comply with the provisions of said Section 51.002 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of said Section 51.002 of the Texas Property Code hereafter, the President or any Vice President of the Association, acting without joinder or any other Owner of mortgagee or other person may, by amendment to this Declaration filed in the Real Property Records of Brazos County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51.002 of the Texas Property Code.

In addition to the right of the Association to enforce the Assessment, or other charge or assessment levied hereunder, the Association may file a claim or lien against the Lot, of the delinquent

Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest and costs of collection which have accrued thereon, (c) the legal description and street address of the Lot, against which the Lien is claimed and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Trustees to cover the preparation and recordation of such release of lien instrument

Any Vice-President, the Treasurer or the Manager of the Association shall, within ten (10) days of written request and upon payment to the Association of such fee as is from time to time determined by the Board, furnish to any Owner or such Owner's mortgagee which request the same, a certificate in writing signed by such officer or manager setting forth whether the Assessment for which such Owner is responsible has been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessment stated therein to have been paid.

Declarant Voluntary Contributions. Notwithstanding anything contained herein to the contrary, the Declarant shall not be required to pay the Assessment on any Lots owned by the Declarant; but in the event that a deficit may exist between the Assessments and the annual budget of the Association, the Declarant may elect (but shall not be obligated) to fund such deficit with a non-refundable contribution to the Association.

Subordination of the Lien. The liens granted herein and the superior title herein reserved to secure any Assessment, Reimbursement Assessment or any other charge or assessment provided for herein shall be deemed subordinated to any vendor's lien or the lien of any purchase money, construction mortgage and/or second mortgage on the assessed Lot, and any renewal, extension, rearrangement or refinancing thereof.

Each such mortgagee of a mortgage encumbering a Lot, who obtains title to such Lot, pursuant to the remedies provided in the Deed of Trust or Mortgage, by judicial foreclosure or by deed in lieu of foreclosure shall take title to such property free and clear of any claims for unpaid Assessments, or any other charge or assessment provided for herein which accrued prior to the time such holder acquires title to such property. No such sale or transfer shall release such holder acquiring title to such property from liability for any Assessment, or any other charge or assessment provided for herein thereafter becoming due or from the liens hereof. Any other sale or transfer of a Lot, shall not affect the Association's liens created herein for assessments and charges.

Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments and all other charges and assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority;
- (b) Any Common Area; and
- (c) All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Texas; however, no land or Improvements devoted to dwelling

use shall be exempt from said Maintenance Assessments or other charges and assessments.

- (d) Any lots or property that is held in the name of the Developer; once a lot has been sold or conveyed by the Developer to a third person or party, this exemption no longer applies.

27.

#### PERIOD OF RESTRICTIONS

These reservations, restrictions, covenants and easements are to run with the land and shall be binding on all parties and all persons for a period of twenty (20) years from the date this instrument is first recorded. Thereafter, said reservations, restrictions, covenants, and easements shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by the majority of the owners of the lots within the Subdivision, has been recorded, agreeing to change, amend or cancel said reservations, restrictions, covenants and easements in whole or in part.

28.

#### ENFORCEABILITY

The covenants, reservations, easements and restrictions set out herein are for the benefit of any owner of a lot or lots in the Subdivision, said owner's heirs, executors, administrators, or assigns, and the Association. Accordingly, all of the covenants, reservations, easements, and restrictions contained herein shall be construed to be covenants running with the land, enforceable at law or in equity, by any one or more of said parties.

29.

#### SEVERABILITY

Invalidation of any one or more of these reservations, restrictions, covenants and easements by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

30.

#### RIGHTS OF MORTGAGES

Any violation of any of the easements, restrictions, reservations or covenants contained herein shall not have the effect of impairing or affecting the rights of any mortgagee or trustee under any mortgage or deed of trust outstanding against any lot at the time the easements, restrictions, reservations or covenants may be violated.

31.

#### ASSESSMENT ON PROPERTY REALES

In addition to the Annual Assessments, Special Assessments and Individual Assessments as provided herein, each Owner of a Lot or Home upon resale of such Lot or Home, at closing, shall pay to the Association an amount (the "Resale Assessment") equal to one-fourth (1/4) of one percent (1%) of the gross sales price of such Home or one-half (1/2) of one percent (1%) of the gross sales price of such Lot. For purposes of this Section 31, "Resale" is defined as any transfer of legal or equitable title to all of any portion of the Property for valuable consideration, other than by gift, inheritance, or mortgage foreclosure, where said transfer occurs subsequent to the initial sale by Declarant, its successors or assigns, to a bona fide purchaser for value. A Resale transfer of legal or equitable title shall also include, but is not limited to, the execution of (i) a contract of sale which provides for a closing more than one (1) year beyond the date of execution of said contract; (ii) a lease for a term, including renewal terms, in excess of one (1) year with a purchase option which applies rental payments towards the purchase price; or (iii) an option for a term, including renewal terms, in excess of one (1) year which applies option payments towards the purchase price. The Association shall utilize Resale Assessments for the general beautification of the Community and public relations and marketing of the Community. Notwithstanding anything in this Section 31 to the contrary, no Resale Assessment shall be payable by any "Preferred Builder" (as designated on the Preferred Builder list maintained by Declarant) on the initial sale of a "spec home" built by that Preferred Builder within Phase Six of the Subdivision provided that the Preferred Builder is in good standing at the time of the sale. For purposes of this section, a "spec home" shall have the meaning ordinarily ascribed such term within the home building industry in Brazos County, Texas.

32.

#### AMENDMENT

The restrictions, reservations and covenants may be amended in whole or in part by the Developer at any time prior to the sale of any Subdivision lot hereinabove contained to a third party exclusive of home builders. Thereafter, these restrictions and covenants may be amended by an instrument signed by the majority in interest of all lot owners in the entire Horse Haven Estates Subdivision, based upon the votes per lot as set forth and determined in Article 25 of this document unless the Amendment only effects the Lots in a particular Phase of Horse Haven Estates Subdivision (such as the pool assessment for Phase Six, in which event such Amendment only requires the majority of Owners in that particular Phase to agree). Such instrument shall be filed of record in the Official Records of Brazos County, Texas.

33.

#### ADDITIONAL PHASES

Developer reserves the right to incorporate additional property or phases within this Declaration by supplement declarations hereafter, provided that the property so included shall be thereafter charged with all obligations, responsibilities, dues, assessments and charges applicable to other lots in other phases of the Subdivision from the effective date of each such supplemental declaration. Each lot owner in future Phases shall also be a member of the Association and have voting rights.

34.

In the event the terms, provisions, and restrictions contained herein conflict with terms, provisions, and restrictions on other phases of Horse Haven Estates Subdivision, the terms, provisions, and restrictions contained herein control with regards to property located within Horse Haven Estates Subdivision Phase Six.

TDG MANAGEMENT, L.P.,  
a Texas limited partnership

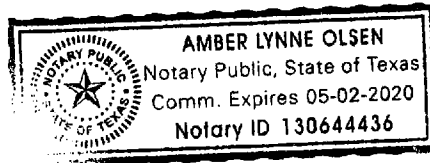
By: TDG MANAGER, L.L.C.,  
A Texas limited liability company,  
General Partner

By: *Alton E. Ofczarzak II*  
Alton E. Ofczarzak, II  
Managing Member

THE STATE OF TEXAS           §  
  §  
COUNTY OF BRAZOS           §

This instrument was acknowledged before me on this the 2 day of march, 2020, by Alton E. Ofczarzak, II, Managing Member of TDG Manager, L.L.C., a Texas limited liability company, acting in its capacity as General Partner of TDG Management, L.P., a Texas limited partnership, on behalf of said partnership.

*Amber Lynne Olsen*  
Notary Public, State of Texas

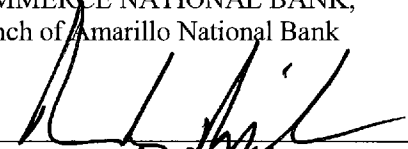


**CONSENT AND SUBORDINATION**

COMMERCE NATIONAL BANK, branch of Amarillo National Bank , the lienholder on Horse Haven Estates Subdivision, Phase Six, located in Brazos County, Texas, does hereby agree that in the event of foreclosure on any of the property in Horse Haven Estates Subdivision, Phase Six, the attached Declaration of Covenants and Restrictions of Horse Haven Estates Subdivision, Phase Six, shall remain in effect and not be vacated by such foreclosure action.

WITNESS OUR HAND, this the 2 day of March, 2020.

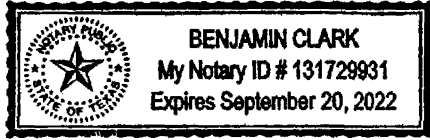
COMMERCE NATIONAL BANK,  
Branch of Amarillo National Bank

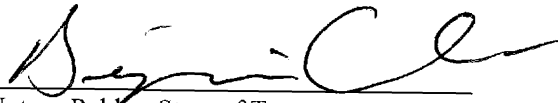
By:   
Name: Randy Ripple  
Title: Senior Vice President

THE STATE OF TEXAS           §  
  §  
COUNTY OF Brazos           §

This instrument was acknowledged before me on this the 2 day of March, 2020, by Randy Ripple, SVP of Commerce National Bank, branch of Amarillo National Bank, on behalf of said bank.





  
Notary Public, State of Texas

**Brazos County  
Karen McQueen  
County Clerk**

---

**Instrument Number:** 1386568  
Volume : 15883

ERecordings - Real Property

Recorded On: March 02, 2020 01:40 PM

Number of Pages: 18

---

**" Examined and Charged as Follows: "**

Total Recording: \$94.00

---

\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 1386568  
Receipt Number: 20200302000103  
Recorded Date/Time: March 02, 2020 01:40 PM  
User: Cathy B  
Station: CCLERK05

**Record and Return To:**

eRx  
8600 Harry Hines Blvd. Ste 300  
Dallas TX



STATE OF TEXAS  
COUNTY OF BRAZOS

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Public Records of Brazos County, Texas.

Karen McQueen  
County Clerk  
Brazos County, TX