

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

Amended September 12, 2023

**PART A:**

**PREAMBLE**

Sierra Crest Homeowners Association Inc., a subdivision in the City of El Paso, Texas which subdivision is more particularly described in the subdivision plat of Sierra Crest, on file in the Plat records of El Paso County, Texas, does hereby establish the following Covenants, Conditions and Restrictions on the said property as follows:

**PART B:**

**DEFINITIONS**

As used herein or elsewhere in any documents affecting the Project unless otherwise provided or unless the context requires otherwise, the following terms shall be defined as in this Part provided:

B-1 PROJECT. The Project shall mean and refer to the entire real estate described in the recorded plat of Sierra Crest Subdivision; which plat is divided into Lots, Common Open Space and easements within said real estate description as more particularly shown thereon.

B-2 LOT. Lot shall mean and refer to any plot of land including any improvements thereon, shown upon the recorded subdivision Map of the Project which is not owned in common with the other Owners of the other Lots.

B-3 OWNER. Owner shall mean and refer to the record Owner, whether one or more persons or entities, of a Lot which is a part of the Project, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

B-4 COMMON AREAS. Common Areas shall refer to and have the same meaning as that term is defined in Article 25 -21.2 of the El Paso City Code, which definition is incorporated herein for all purposes.

B-5 COMMON OPEN SPACE. Common Open Space shall refer to and have the same meaning as that term is defined in article 25 -21.2 of the El Paso City Code, which definition is incorporated herein for all purposes.

B-6 ASSOCIATION. Association shall mean and refer to Sierra Crest Homeowners Association, Inc., a non-profit corporation, its successors and assigns, of which each Owner shall be a Member.

B-7 MEMBER. Member shall mean a member of the Association.

B-8 COMMON ASSESSMENT. Common Assessment shall mean and refer to that portion of the cost of maintaining, improving, repairing and managing the Common Area and other "expenses" as provided herein which is charged to the Owner of each respective Lot.

B-9 SPECIAL ASSESSMENT. Special Assessment shall mean and refer to a charge against a particular Owner and his Lot equal to the cost incurred by the Association for corrective action performed pursuant to the provisions of this Declaration and of the By-Laws of the Association.

B-10 COMMON EXPENSES. Common Expenses shall mean (a) expenses of, or reasonable reserves for, the maintenance, management, operation, repair and replacement of the Common Areas as to which it is the responsibility of the Association to maintain, repair and replace, including the cost of unpaid Special Assessments; (b) the expenses of maintaining and managing a private security guard and/or patrol; (c) cost of capital improvements to the Common Areas which the Association may from time to time authorize; (d) the expense of management and administration of the Association, including without limitation, compensation paid or incurred by the Association to a manager, accountants, attorneys or other employees or agents; (e) any other item or items designated by or in accordance with other provisions of this Declaration or the By-Laws of the Association to be Common Expenses, and any other expenses reasonably incurred by the Association on behalf of all Owners.

B-11 SPECIAL EXPENSES. Special Expenses shall mean (a) the expenses incurred by the Association for the repair of damage or loss to the Common Areas; (b) the expense of repair or reconstruction of a building located on the Common Areas damaged or destroyed by fire or other casualty for which there shall be insufficient or no insurance coverage and the repair of which will directly benefit less than all of the owners; and (c) any other provisions of this Declaration or the By-Laws of the Association to be Special Expenses.

B-12 DECLARANT. Declarant shall mean and refer to Richard G. Miller, his heirs, successors and assigns.

### **PART C:**

#### **LOT COVENANTS**

C-1 LAND USE AND BUILDING TYPE. No Lot shall be used except for residential purposes. No structure shall be erected, altered, or placed or permitted to remain on any of the said Lots, or any part thereof, other than one single-family dwelling, together with private garage or carport (and other customary appurtenances to private dwellings). No building shall be permitted on the property except detached, single-family dwellings. No more than two detached, single-family dwellings per acre shall be permitted on the property.

C-2 ARCHITECTURAL CONTROL. No building shall be erected, placed or altered on any Lot until the construction Plans and Specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design of existing structures, location with respect to topography and finish grade elevation, and protection of the scenic view of other Lots. Inherent in the Committee's review is consideration of the protection of property values in the Subdivision and protection of the investments of other Owners. After such location with respect to topography and finish grade elevation has been approved and the finish grade of the Lots has been completed, such finish grade shall not be altered, changed or disturbed. Improvements constructed on each Lot must follow the natural mountain

terrain with a minimum of excavation and embankment. No retaining walls or excessive cuts and fills shall be permitted without the express written consent of the Architectural Control Committee. Building locations, set back requirements and height will be controlled to optimize the overall appearance of the development and to enhance the Common Open Space and to protect the scenic view of each Lot. Approval shall be provided as stated in Part D.

C-3 DWELLING SIZE. Actual dwelling area for each individual Lot shall be determined by the Architectural Control Committee.

C-4 FRONTAGE. Every dwelling erected on any Lot shall present a good frontage on the street and every building erected on corner Lots shall present a good frontage on both streets as determined by the Architectural Control Committee.

C-5 EASEMENTS. No building or other permanent structure shall be erected or maintained on any part of any area designated as a utility or drainage easement as shown on the recorded Plat.

C-6 TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence, either temporarily or permanently.

C-7 RECREATIONAL VEHICLES AND BOATS. No recreational vehicles, motor homes, trailers, trucks, campers, or motorcycles of any kind or character and no boats or yachts shall be stored or parked on any street and when stored on any Lot shall be shielded from view from the street by fence, garage or other enclosure. Any such enclosure shall be constructed or erected in accordance with these restrictions and approved by the Architectural Control Committee prior to the commencement of construction.

C-8 PETS AND ANIMALS. No dogs or pets of any kind shall be kept in the Project unless the same shall be adequately kept and restrained on the Lot of the Owner. Any animal or pet running without restraint on the streets or any Lot not owned by the pet owner shall be conclusive evidence of the violation of this restriction, and the Declarant, his heirs, successors and assigns, or any other Lot Owner or group of Lot Owners shall have the right to sue for and obtain an injunction to prevent a breach of this covenant.

C-9 NUISANCES. No noxious or offensive activity shall be carried on upon any Lot including but not limited to excessive noise from motor cycles, cars, stereos, radios and pets nor shall anything be done thereon which may be or may become a nuisance to the neighborhood.

C-10 SIGNS, BILL BOARDS, AND MISCELLANEOUS PROVISIONS. No drilling or excavation for oil, gas, water, sand, clay, dirt, coal, gravel, or any other mineral shall be made on the said property, whether for profit or otherwise. No signboard, bill board, poster board or advertising of any kind may be placed on any part of any Lot. No "for sale" or "for rent" or other similar sign shall be placed on any Lot; except, with prior approval of the Architectural Control Committee, one sign, not to exceed 36 inches by 24 inches may be placed on any Lot. No hog pen, stockyard or pen or chicken pen will be allowed, whether operated for profit or otherwise. No fence, wall or hedge, nor any pergola or other detached structure for ornamental purposes shall be erected, grown, or maintained on any part of any Lot unless

the prior approval of the Architectural Control Committee has been obtained. All fences and retaining walls must be suitable in design, material and structure and are to be approved in writing by the Architectural Control Committee prior to the construction of such fences and retaining walls. No clotheslines, barbed wire or chain link fences shall be permitted. No radio, television towers or aerial wire shall be maintained over any part of any Lot not occupied by a structure, and all such towers or wires must be approved in writing by the Architectural Control Committee prior to the creation or construction thereof. Landscaping shall be completed and maintained so as not to interfere with the scenic view of other Lot Owners.

**PART D:**

**ARCHITECTURAL CONTROL COMMITTEE**

D-1 **MEMBERSHIP**. The Architectural Control Committee is appointed by the Board of Directors of the Sierra Crest Homeowners Association. Qualifications and terms of the members will be determined by that body. The committee will be composed of at least three members of the SCHOA, excluding members of the Board of Directors or their immediate family. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

D-2 **PROCEDURE**. The Committee's approval or disapproval as required in these covenants shall be in writing, and in the event the Committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in the event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

**PART E:**

**HOMEOWNERS ASSOCIATION**

E-1 **MEMBERSHIP**. Every person or entity who is an Owner of a Lot which is subject, by covenants of record, to assessment by the Association, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

E-2 **TRANSFER**. The membership held by an Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon sale of encumbrance of such Lot, and then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of such Lot, the Association shall issue a new certificate to the purchaser, and thereupon, the old certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered.

E-3 COVENANTS. Declarant, his heirs, successors and assigns, by this Declaration, and upon all future Owners of the Lots, by their acceptance of their Deeds, covenant and agree as follows:

(a) That the Lots shall be occupied and used by the respective Owners only as a private dwelling for the Owner, his family, tenants and social guests and for no other person.

(b) That the administration of the Common Areas shall be in accordance with the provisions of this Declaration, the Articles of Incorporation of the Association, and the By-Laws of the Association.

E-4 VOTING CLASSES. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Homeowners and shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership except, that Owners owning two adjoining Lots and who already qualified for a single assessment under Part E-7 (b) (v) of the 1976 Declaration prior to December 31, 2022 shall be entitled to only one (1) vote. When more than one person holds such interest or interests on any Lot, all such members shall constitute one member, and the vote(s) for such Lot(s) shall be exercised as they among themselves determine, but in no event shall more than the allowable vote above defined be cast with respect to any such Lot.

Class B. Class B members shall be all Lot Owners who pay dues but have not built a home yet. They shall be entitled to one (1) vote for each Lot in which they hold the interest and pay dues required for membership.

Voting Rights. The voting rights provided in this Part E-4, shall be subject to the restrictions and limitations provided hereinafter and in the Articles and By-Laws of the Association.

E-5 COMMON AREAS.

(a) Members Easements of Enjoyment. Every Member shall have a right to a non-exclusive easement of enjoyment in and to the Common Areas as shown on the recorded Sierra Crest Subdivision Plat, and such easement shall be appurtenant to and shall pass to every assessed Lot, subject to the following provisions:

(i) the right of the Association to limit or exclude the number of guests of Members.

(ii) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas and the recreational facilities thereon.

(iii) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas.

(iv) the right of the Association to suspend the voting rights and the right to use facilities of the Common Areas by a Member for any period during/which any assessment against his Lot remains unpaid and delinquent; and for a period not to

exceed thirty (30) days for, any single infraction of the rules and regulations of the Association, provided that any suspensions of such voting rights or right to use said facilities of the Common Areas shall be made after ten (10) days written notice and hearing given and held in accordance with the By-Laws of the Association.

(b) Members' Easements of Ingress, Egress and Support. Every Member shall have a right and non-exclusive easement for ingress, egress and support through Common Areas and such easement shall be appurtenant to and shall pass with title to every Assessed Lot.

(c) Delegation of Use. Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Areas to the members of his family who reside with him on his Lot, to his tenants or contract purchasers who reside on his Lot.

(d) Waiver of Use. No member may exempt himself from liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon or by abandonment of his Lot.

(e) Additional Provisions Relating to Common Areas and Lots. DECLARANT, his heirs, successors and assigns, and all future owners of the Lots, by their acceptance of their respective Deeds, covenant and agree as follows:

(i) that the Association shall have the responsibility to manage and maintain all the Common Areas and such maintenance shall be of a high quality so as to keep the entire Project in a first class condition and in a good state of repairs.

(ii) that the Association may employ a professional manager to perform such duties and services as the Board of Directors shall direct, including, but not limited to, the performance of all obligations of the Association with respect to the Common Areas and the receipt, discharge and accounting for all assessment payments made to the Association hereunder.

E-6 OTHER DEVELOPMENT: RECIPROCAL EASEMENTS. Declarant owns or intends to acquire additional area adjoining or in the immediate vicinity of the Project. It is intended that all the Project and such additional Project(s) will be operated, once developed and improved, as a single, common operation insofar as the maintenance and care of Common Areas are concerned; and as of the close of the first sale of a Lot in such additional Project(s), Owners of the Lots (including Declarant) located in said additional Project(s) shall share the cost of all Common Areas located in any other such Project theretofore or thereafter included by Declarant, his heirs, successors or assigns, in said single common operation scheme. All Owners of Lots located in any such Project theretofore or thereafter included in said single, common operation scheme, shall automatically have reciprocal, nonexclusive rights and privileges of using said Common Areas by said maintenance scheme.

(a) Common Operation. Pursuant to the intention expressed above, Declarant may designate such additional Project(s) by recordation in the County Clerk's Records, El Paso County, Texas

of a document evidencing his intent to include said Project(s) as a single, common operation, such that cost and expenses of maintenance, management, operations, repair and replacements will be allocated to each of said Project(s), including this one, on a basis that the Owner's percentage of ownership of the lots in each of the said Project(s) bears to the owner's percentage of ownership of the whole of all of said Lots, rather than having the Owner or Owners of each Lot pay only with reference to the Common Areas located within his or their respective Project.

Notwithstanding anything to the contrary contained herein, Declarant reserves the right and privilege to determine and designate which of said additional Project(s) shall be included, once developed and improved, in the unit operation for the purpose of this Paragraph. In the event that Declarant should fail to designate any of said additional Project(s) to be so included on or before December 31, 1989, then the right and privilege so reserved by Declarant shall cease and terminate; provided however, that if during said period prior to December 31, 1989, Declarant shall so designate any additional Project to be included, then Declarant shall have until December 31, 1991, to further designate additional Project(s) not previously so designated to be so included. This right and privilege reserved in Declarant shall cease and terminate in its entirety on the latter date.

(b) Inclusion of Project(s). In the event Declarant, within the above time limitation, in his sole discretion, shall determine that any one or more additional Project(s) shall be included in the single, common operation contemplated by Paragraph H-6 hereof, Declarant shall, at the time of such determination and from time to time as additional such determinations are made, record a notice of intention to operate as a single, common operation in the County Clerk's Office, El Paso County, Texas designating the one or more of said Project(s) being included, and shall send a copy of said recorded notice to the Association. Thereafter, such included Project(s) will be operated as a single, common operation along with this Project.

For any such additional Project(s) to be so included, Declarant shall, as soon as reasonably practical after it shall determine to include one or more of said Project(s), file in the County Clerk's Office, El Paso County, Texas with respect to each of said Project(s) included, a supplementary Declaration of Covenants, Conditions and Restrictions which contains provisions in all material respects substantially similar to those contained herein.

(c) Reciprocal Easements. By virtue of Declarant's inclusion of an additional Project(s) in the single, common operations scheme set forth herein, the Owner of a Lot located in this Project shall have a non-exclusive easement for the benefit of and appurtenant to his Lot to use the Common Areas on such other Project(s) which, within the time limitation specified herein, are subsequently included in the common operation scheme, and the Owner of a Lot located in such other Project(s) which, within the time limitations specified herein, are subsequently included in the common operation scheme shall have a reciprocal non-exclusive easement for the benefit of, and appurtenant to his Lot to use the Common Area of this Project. Said reciprocal, non-exclusive easements of use shall include reciprocal non-exclusive rights of ingress and egress to and from the Common Areas and shall be subject to the same

limitations, rules, regulations and admission or other fees imposed upon Owners of Lots located on the Project(s) in which the Common Areas are located. Any Owner of a Lot located on any such Project which shall be included within the common operation scheme described herein, and who, therefore shall enjoy non-exclusive easements of the use described herein, may delegate his right of enjoyment to members of his family who reside with him on his Lot and to his tenants or contract purchasers who reside on his Lot.

(d) Additional property development as provided in this Part E-6 shall be annexed in accordance with Article 25 -21.2 of the El Paso City Code.

#### E-7 ASSESSMENTS.

(a) Purpose of Assessments. Assessments levied by the Association as hereinafter provided, shall be used exclusively for the purpose of promoting the health, safety, welfare and recreation of the Members of the Association and, in particular, for the improvements and maintenance in a first class condition and a good state of repairs of the Project, services and facilities devoted to this purpose, and related to the use and enjoyment of the Common Areas and to the extent provided for herein, of the Lots in the Project or of additional Project(s) designated pursuant to E-6 hereof.

#### (b) Common Assessments.

(i) Common assessments or common expenses shall be made by the Board of Directors of the Association for each calendar year no more than thirty (30) days prior nor more than thirty (30) days subsequent, to the beginning of each such calendar year.

(ii) The total of each annual common assessment shall be in the amount of the estimated common expense for the year, including a reasonable allowance (no more than 10%) for contingencies and reserves.

(iii) If the annual common assessment is not made as required, payment in the amount required by the last prior annual common assessment shall be due upon each assessment payment date until changed by a new assessment.

(iv) The annual common assessment payable by each Owner shall be payable in either one lump sum before January 31 of each year or in twelve (12) equal monthly installments on the first day of each calendar month, or at such other date or times and in such other installments as the Association may determine. Installments more than thirty (30) days past due bear interest at the rate of ten (10%) percent per annum or at the maximum rate allowed on debts in the State of Texas.

(v) Each Owner's proportionate share of the annual common assessment shall be computed as follows:



(i) The total annual common assessment shall be multiplied by a fraction, the denominator of which shall be the total number of Lots in the Subdivision and the numerator of which shall be the number of Lots owned by the Owner.

For the purpose of this section, where an Owner buys two (2) adjoining Lots for the purpose of constructing one single-family dwelling, said ownership shall be deemed to be ownership of one Lot for assessment purposes; provided, however, that where two lots are purchased for the purpose of constructing one single-family dwelling, said Lots shall be assessed individually until construction of the dwelling has been completed.

(ii) Commencing January 1, 1978, the total common assessment shall be allocated to Lot Owners without regard to the unsold Lots then owned by Declarant. In computing an Owner's proportionate share of the annual common assessment, the denominator of the fraction in (1) shall be reduced by the number of unsold Lots, owned by Declarant. Upon the sale of a Lot by Declarant, said denominator shall be increased accordingly.

(iii) For purposes of inducing construction of dwellings upon said Lots, no assessment shall be assessed against a Lot for a period of six (6) months after closing of the initial sale of that Lot by Declarant to an Owner.

(c) Special Assessments. Special Assessments against particular owners and their respective Lots shall be made by the Board of Directors of the Association for the repair of damage or loss caused by the act or neglect of an Owner causing damage or loss to the Common Areas or to the property of other Owners, upon the date when the cost has been incurred by the Association for the corrective work or corrective action and written demand for payment thereof has been sent by mail to the particular Owner. The amount of the Special Assessment shall be due and payable by the Owner to the Association on the said date of demand, and shall bear interest from the expiration of the ten (10) days following demand at the rate of ten (10%) percent per annum or at the maximum rate allowable on debts in the State of Texas, whichever is lower.

(d) Taxes and Governmental Assessments. The assessment of taxes or special assessments by governmental bodies on the Common Areas which are or would become a lien on the Common Area or any part thereof, shall be paid by the Association as another item of the common expenses. The Association shall assess each Owner on the basis and as part of the common assessment.

(e) Commingling of Assets. Except where otherwise expressly provided herein, all sums collected by the Association from assessments may be commingled in a single fund, and without the necessity of a specific accounting for each element of common expense for which assessment has been made.

(f) Late Charges. The Association shall also be entitled to collect a late charge on such amounts and upon such conditions as the Board of Directors may from time to time determine.

(g) Vendor's Lien. In each Deed of a Lot, by Declarant to an Owner, there shall be expressly reserved a Vendor's Lien ("Vendor's Lien") to secure the payment of all assessments due and to become due pursuant to this Declaration, which Vendor's Lien shall be transferred and assigned therein to the Association. By acceptance of a Deed from Declarant, each Owner (and the subsequent successors and grantees) assumes and agrees to pay all such assessments, including interest and reasonable collection costs (including attorney's fees), in accordance with the terms and provisions of this Declaration. The lien so provided shall constitute a lien on such Lot prior to all other liens except only (i) a valid tax lien on the Lot in favor of any assessing agency in special districts, and (ii) all sums unpaid on the first purchase money lien of record.

The liens so provided may be enforced by sale of the Lot by the Association, its attorneys or other person authorized to make the sale after failure of the Owner to pay such assessments in accordance with its terms. The Association shall have the power to bid in the Lot at foreclosure sale and to hold, lease, mortgage and convey the same. Suit to recover a money judgments for or waiving the liens securing the same.

(h) Subordination of Vendor's Liens. If any Lot subject to a lien created by any provision in this Declaration shall be subject to the lien of a first purchaser money Mortgage of record:

(i) The foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and

(ii) The foreclosure of the lien of such mortgage or the acceptance of the Deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien hereof, except that the lien hereof for the assessments that shall have come due up to the time of foreclosure or the acceptance of the Deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom or deed-in-lieu Grantee and purchasers therefrom taking title free of the lien hereof for all the common assessments that have come due up to the time of the foreclosure or deed given in lieu of foreclosure, but subject to the lien hereof for the assessments that shall have come due subsequent to the foreclosure and not have been paid shall be deemed to be common expenses collectible from all of the Lots, including the Lot acquired on a foreclosure sale or as a result of the acceptance of the deed in lieu of foreclosure in the manner provided herein.

(i) Assessment Roll. The assessments against all Owners shall be set forth upon a roll of the Lots which shall be available in the office of the Association for inspection at all reasonable times by Owners or their duly authorized representatives. Such rolls shall indicate for each Lot the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid or unpaid. A certificate made by the professional manager or the Board of Directors of the Association as to the status of an Owner's assessment account

shall limit the liability of any person for whom made other than the Owner. The Association shall issue such certificates to such persons as an Owner may request in writing.

(j) Liability for Assessments. The Owner of a Lot shall be personally liable for any and all assessments made by the Board of Directors of the Association/ in accordance with the provisions hereof. In voluntary conveyance of a Lot, the Grantee of the Lot shall be jointly and severally liable with the Grantor for, all unpaid assessments by the Association against the latter up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the professional manager or the Board of Directors of the Association, setting forth the amount of the unpaid assessments against the Grantor due the Association and such Grantee shall not be liable for nor shall the Lot conveyed be subject to a lien for, any unpaid Assessments made by the Association against the Grantor in excess of the amount therein set forth. Notwithstanding the foregoing, a purchaser of a Lot in any judicial or trustee sale shall be liable only for assessments that come due after such sale and for that portion of assessments already due pro-rated to the periods after the date of such sale.

Amendments to this Part E shall only be effective upon written consent of the Owners and their first mortgagees, if any, of 67% of the Lots, whether such amendment is attempted by way of modification of the Association Articles of Incorporation or By-Laws.

(k) No Exemptions. No owner may exempt himself from liability for assessments duly levied by the Association, nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon or on additional Project(s) as provided in Part E. or by abandonment of his Lot.

E-8 INSURANCE. The insurance, other than title insurance, which shall be carried upon the common areas shall be governed by the following provisions:

(a) Authority to Purchase. All insurance provided for in this Section (except where otherwise specifically provided) or otherwise deemed prudent by the Association shall be purchased by the Association and the premiums thereon shall be a common expense to be paid by common assessments.

To assist in the purchase and administration of such policies of insurance as may be required hereunder or deemed prudent by the Association in the conduct of its business, the association may employ the services of an independent insurance analyst, consultant or broker, the expense of which shall be Common Expenses.

(b) Property Insurance. The common Areas and all improvements thereon and all personal property included within the Common Areas, except such personal property as may be owned separately by one or more of the Owners, shall be insured (to the extent deemed practical and

prudent) so as to provide for and assure full replacement thereof in the event of damage or destruction from said perils.

Such policy shall provide that losses thereunder shall be adjusted with and payable to the Association for the exclusive account of the Association.

Such coverage as is required under this subsection shall afford protection against:

- (i) Loss or damage by fire and other hazards covered by the standard and extended coverage and vandalism and malicious mischief endorsements;
- (ii) Such other additional hazards covered by standard extended coverage endorsement as may from time to time become available;
- (iii) Additional perils shall be at the option of the Association.

The Association may comply with the above requirements by the purchase of blanket coverage and may elect such deductible provisions which in the opinion of the Association are consistent with good business practice.

Insurance proceeds shall not be comingled with other Association funds and shall be used forthwith exclusively for the restoration of the damaged or destroyed portions of the Common Areas and the improvements and/or personal property thereon.

(c) Public Liability and Property Damage. The Association shall purchase broad form Comprehensive Liability Coverage in such amounts and in such forms deemed appropriate by it. This coverage shall be issued in the name of the Association and shall include Owners in their capacity as members of the Association as additional insureds. Coverage under this policy shall include but not limited to, legal liability of the Association for bodily and personal injuries, property damages, operations of the Association in connection with the operation, maintenance or use of the Common Areas.

(d) Workman's Compensation. The Association shall purchase workman's compensation insurance in such forms to meet the requirements of law for injuries to Association employees.

(e) Crime. The Association may purchase coverage for dishonesty of employees, destruction or disappearance of money or securities and against forgery in amounts and in such forms as shall be required by the Association.

(f) Other Insurance. The Association may purchase such other forms of insurance as may benefit the Owners or the Project, in such amounts as the Board of Directors may deem proper; and such additional coverage may include Director's liability coverage for the Board of Directors of the Association.

#### E-9 USE OF THE PROJECT BY DECLARANT.

(a) Right to Enter. Notwithstanding anything herein to the contrary, Declarant, his agents, employees, contractors, subcontractors and other authorized personnel reserves unto, himself the right to enter in and upon the Project and to perform work, and all related activities and other acts required, thereon, in order to complete (i) construction of the Project and

construction upon such additional Project(s) or adjacent properties of Declarant, (ii) to perform work required by governmental agencies having jurisdiction over the Project or other adjacent properties of Declarant, and (iii) during construction, direct and maintain and store upon the Project, shacks, storage buildings, temporary toilets, storage yards and areas, materials tools and machines, fabrication areas and other temporary installations for the requirements and convenience of construction. It is expressly provided that no Owner shall in any manner interfere with any of the foregoing activities of the Declarant. No action may be maintained by any Owner for damage or inconvenience resulting from the exercise of the foregoing rights of Declarant.

(b) Use of Common Areas. Notwithstanding anything contained herein to the contrary, as a part of the overall program of development of the Project together with the contemplated development of adjacent properties and to encourage the marketing thereof, Declarant shall have the right to use of the common areas including any of the facilities thereon, without charge, during the sales and construction period upon the Project and adjacent properties to aid in its marketing activities until December 31, 1996.

#### E-10. FINANCIAL MATTERS

(a) Balanced Budget.

A balanced budget is essential for the financial health of the association and to prevent unexpected cost overruns which cut into the reserves of the Association. For this reason, the Association will endeavor to abide by a Balanced Budget each year. This means the Association cannot spend in regular operating expenses more than it collects in dues each year.

When the Association starts to run a deficit for more than 3 months in a row of more than 10% of its projected revenues, the Board of Directors shall convene a Special Members' meeting to restore the budget to balance.

(b) Budget Requires Member Approval.

The Board of Directors will prepare and propose a balanced budget for approval at the Annual Members Meeting. This consists of two parts:

- (i) Assessments
- (ii) Expenses

The budget must be approved by two thirds of the members attending or voting by proxy.

In proposing the balanced budget, the Board of Directors shall prepare a detailed explanation of the budget and provide such explanation to the Members at least 30 days ahead of the Annual or Special Members. The explanation will address:

- (i) Significant changes in expenses.
- (ii) Any proposed increase or decrease in assessments with justification.

(iii) Alternative ways to bring the budget into balance.

(c) Board Must Adhere to the Approved Budget.

The Board can only spend money that is specifically allocated and approved by the Members at the Annual General Members Meeting on the line items identified in the budget. The Board will use their judgment and discretion on the timing or specifics required to carry out the operations of the Association. The Board is not allowed to spend money on categories or in amounts not approved at the Annual Members Meeting without the express consent of the Members, unless it is an unforeseen expense or an emergency expense as defined below.

(i) **Unforeseen Expenses** - The Annual budget will include a Miscellaneous line item for unforeseen expenses not to exceed more than \$5,000 or 2% of the budget per year, whichever is greater. The Board will have the discretion to spend this money as it sees fit to address items not expected at the annual meeting. This money will be taken from the reserves of the association. If more than this amount is required to be spent, the Board must wait until the next Annual meeting or a Special Member meeting is called to get member approval.

(ii) **Emergency Expenses** – In the event of an “emergency” that cannot wait, the President of the Board, or another Officer(s) if he/she is absent, may incur expenses to mitigate the situation. The nature of the expense, rationale, and decision-making process must be documented and sent to all members within 72 hours of approving this expense.

(d) One-Time or Special Purpose Capital Expenditures Require Member Approval.

From time to time the Board may determine that certain Capital Expenditures of a “one-time” or special purpose are necessary and recommended for the general maintenance and improvement of the Association. The main goal is to create a lasting benefit with a clear cost vs. benefit analysis. These are generally items that cost \$10,000 or more and/or that affect the nature or character of the Association such as the Common Areas, Streets, Gate, Landscaping, Maintenance, or Security in a significant way.

The Board shall present justification for one-time or special-purpose capital expenditures to the Owners at a special meeting of the membership. This shall require approval of 67% of the members present or represented by proxy at the special meeting.

**PART F:**

**INTERPRETATION**

F-1 The provisions of this Declaration shall be subject to and interpreted in accordance with Article 2 5 -21.2 of the El Paso City Code.

F-2 In addition to the provisions of Article 25 -21.2 of the El Paso City Code, the provisions of this Declaration shall be liberally construed to effectuate its purposes of creating a uniform plan for the

development and operation of the Project. Failure to enforce any provisions hereof shall not constitute a waiver of the right to enforce said provisions or any other provision hereof.

F-3 Any owner, not at the time in default hereunder, or any member of the Association who shall be deemed to be acting on behalf of any of the Owners, shall be entitled to bring an action for damages against any defaulting Owner and, in addition, may enjoin any violation of this Declaration or a rule or regulation duly adopted by the Association hereunder or to prosecute any other appropriate legal or equitable action that may be necessary under the existing facts. Any judgment rendered in such action or proceeding shall include a sum for attorney's fees in such amount as the Court may adjudge reasonable, in favor of the prevailing party.

F-4 It is expressly agreed that a breach of any of the provisions, covenants, restrictions or limitations or the recordation of any lien or assessment hereunder or the pursuit of any remedy hereunder shall not defeat or render invalid the first lien of any purchase money mortgage made by an Owner in good faith and for value upon the interest of any Owner of a Lot, but all such liens and assessments are hereby declared to be subject and subordinate to each such mortgage. However, each and all of said provisions, conditions, covenants and restrictions except assessment liens theretofore recorded shall be binding upon and effective against any Owner whose title to a Lot is thereafter acquired through foreclosure or trustee sale or continues under such mortgage.

F-5 All agreements and determinations lawfully made by the Association in accordance with the voting percentage established in this Declaration or in the By-Laws, shall be deemed to be binding on all Owners of Lots, their heirs, successors and assigns.

F-6 The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provisions hereof.

#### **PART G:**

#### **CONDEMNATION**

G-1 COMMON AREAS. In the event of a taking from condemnation or by eminent domain, of part or all of the Common Areas, the award made for such taking shall be payable to the Association which shall represent the Owners' named in any condemnation proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement and/or improvement of the remaining Common Areas. Any funds not so utilized shall be applied in payment of common expenses otherwise assessable to the members of the Association.

G-2 LOT. In the event of the taking in condemnation, or by eminent domain of all or part of a Lot, the award made for such taking shall be payable to the Owner and mortgagee, if any, of the Lot, as their interests may appear.

**PART H:**

**DURATION OF DECLARATION**

H-1 The covenants, conditions and restrictions contained herein shall run with the land and be binding upon all parties and persons claiming under them for so long as the Sierra Crest Subdivision exists as a planned unit development under Article 25 -21.2 of the El Paso City Code.

H-2 Except as otherwise provided by law or as specifically provided in this Declaration, this Declaration shall not be revoked, nor any other provisions herein amended, unless the Owners of 67% of the Lots agree to such revocation or amendment by an instrument or instruments duly recorded in the office of the County Clerk of El Paso County, State of Texas. It is provided, however, that no such instrument shall be recorded nor shall any such revocation or amendment become effective until (i) the Association gives written notice to contain an exact description of any proposed action; and (ii) the lapse of thirty (30) days following the giving of such notice. If during said 30 days period, 50% or more of said registered mortgage holders file written objections with the Association, at its address to be specified in said notice, to such action, it shall not be affected.

H-3 The City of El Paso's interests in these covenants may be sooner released, without the consent of any third person benefitted thereby, by the City of El Paso, after recommendation of its City Plan Commission, upon recording of an instrument of record to that effect in the Deed Records of El Paso County, Texas.

**PART I:**

**ENFORCEMENT ---BY CITY OF EL PASO**

I-1 For the purpose of obtaining compliance with the general intent or the specific requirements of Article 25-21.2 of the City Code of the City of El Paso, Texas or as same may be hereafter amended, the City of El Paso, Texas may enforce these covenants for the benefit of any such Owner or Association, or under its general zoning authority.



IN WITNESS WHEREOF, Declarant has executed this instrument on the day and year first above written.

DECLARANT:



Armando A. Barron

President, Sierra Crest Homeowners Association

STATE OR TEXAS

COUNTY OF EL PASO

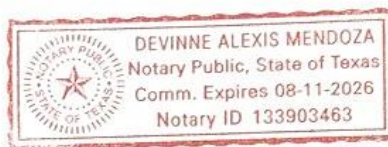
Before me, the undersigned authority, on this day personally appeared Armando A. Barron, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

Given under my hand and seal of the office this 18 day of October, 2023.



Notary Public, El Paso County,

Texas



Filed with the Clerk of El Paso County, \_\_\_\_\_, 2023, File number \_\_\_\_\_