

**Denton County
Juli Luke
County Clerk**

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AMENDMENT

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STATE OF TEXAS
COUNTY OF DENTON

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 Records of Denton County, Texas.

Juli Luke
County Clerk
Denton County, TX

**After Recording, Please Return To:
Judd A. Austin, Jr., Esq.
Henry Oddo Austin & Fletcher, P.C.
1717 Main Street
Suite 4600
Dallas, Texas 75201**

**SECOND AMENDMENT TO THE DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WINDHAVEN CROSSING TOWNHOME OWNER'S ASSOCIATION, INC.
LEVISVILLE, TEXAS**

STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF DENTON §

INTRODUCTORY PROVISIONS

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Windhaven Crossing was filed on August 3, 2016, as Instrument No. 2016-93944 in the Official Public Records of Denton County, Texas ("*Windhaven Crossing Declaration*"); and

WHEREAS, the Windhaven Crossing Declaration was amended by virtue of the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Windhaven Crossing, filed on December 26, 2018, as Instrument No. 2018-148094 in the Official Public Records of Denton County, Texas ("*First Amendment*"); and

WHEREAS, the Windhaven Crossing Declaration affects certain tracts or parcels of real property located in the City of Lewisville, Denton County, Texas, more particularly described in Exhibit A of the Windhaven Crossing Declaration, including any amendments and supplements thereto, and is incorporated herein by reference for all purposes ("*Property*"); and



WHEREAS, Article 8, Section 8.6 of the Windhaven Crossing Declaration, provides that Wilbow-Windhaven Development Corporation, a Texas corporation (“*Declarant*”), may unilaterally amend the Windhaven Crossing Declaration during the Development Period without the approval or joinder of any other Person or Owner; and

WHEREAS, the Development Period has not expired Declarant desires to amend the Windhaven Crossing Declaration by virtue of this Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Windhaven Crossing (this “*Second Amendment*”); and

WHEREAS, the following amendments to the Windhaven Crossing Declaration have been approved by Declarant.

NOW, THEREFORE, the Windhaven Crossing Declaration is hereby amended by Declarant as follows:

- Article 3, Section 3.2(d) of the Windhaven Crossing Declaration is hereby added and shall read, in its entirety, as follows:

Section 3.2(d) ACC Composition. This section complies with an overriding statutory mandate pursuant to Section 309.00505 of the Texas Property Code. A person may not be appointed or elected to serve on the Architectural Control Committee if the person is:

- a. A current board member;***
- b. A current board member’s spouse; or***
- c. A person residing in a current board member’s household.***

Any member of the Board of Directors is authorized to attend a meeting of the Architectural Review Authority as a Board liaison with no voting rights.

- Article 3, Section 3.3(b) of the Windhaven Crossing Declaration is hereby amended and shall read, in its entirety, as follows:

Section 3.3(b) ACC Decision Appeal. This section is meant to outline and set forth the owner’s opportunity to request a hearing after receipt of the

architectural control committee's decision to deny an architectural application to the Board of Directors of Windhaven Crossing.

A decision by architectural review authority denying or disapproving an architectural application must –

- i. be provided to the owner in writing by certified mail, hand delivery, or electronic delivery;***
- ii. describe the basis for the denial or disapproval in reasonable detail and changes, if any, to the application or proposed improvements required as a condition to approval;***
- iii. inform the owner of the right to either:***
 - 1. submit a modified application to the architectural review authority with the changes proposed by the architectural review authority on or before the thirtieth (30th) after the date the decision notice is mailed, delivered or sent by electronic delivery to the owner; and***
 - 2. inform the owner of the right to request a hearing before the Board of Directors (the "Board") on or before the thirtieth (30th) after the date of decision notice is mailed, delivered or sent by electronic delivery to the owner.***

If the Association receives a written request for a hearing on or before the thirtieth (30th) day after the date of the notice, the Board shall hold a hearing not later than the thirtieth (30th) day after the date the Association received the written request for a hearing. The Association shall notify the owner of the date, time, and place of the hearing not later than the tenth (10th) day before the date of the hearing. The hearing notice may be provided to the owner in writing by certified mail, hand delivery, or electronic delivery. Only one (1) hearing is required after the architectural review authority denies or disapproves the initial application.

The Board or the owner may request a postponement and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may only be granted by agreement of the parties. The owner's presence is not required to hold a hearing under this paragraph. The Association or owner may make an audio recording of the hearing.

During the hearing, the Board (or designated representative) and the owner (or designated representative) will each be provided the opportunity to discuss, verify facts, and resolve the denial of the owner's architectural application, and the changes, if any, requested by the architectural review authority in the notice.

The Board may affirm, modify, or reverse, in whole or in part, any decision of the architectural review authority as consistent with the Declaration.

- Article 6, Section 6.3(b) of the Windhaven Crossing Declaration is hereby deleted in its entirety.

- Article 6, Section 6.4(vi) of the Windhaven Crossing Declaration is hereby added and shall read, in its entirety, as follows:

Section 6.4(vi) Insurance Assessments. When deemed necessary by the Board, the Board will vote by majority rule on whether the Association shall levy an Insurance Assessment to cover the costs of insurance premiums for the upcoming fiscal year. All Insurance Assessments shall be levied uniformly between all Owners. Any excess Insurance Assessment proceeds shall be returned to the Owners uniformly. In cases of deficit, the Association shall be authorized to levy an additional Insurance Assessment (maximum two per year) to cover any unexpected or increased costs in insurance premiums that were not previously allocated for in the prior (first) Insurance Assessment.

- Article 9, Section 9.2 of the Windhaven Crossing Declaration is hereby amended and shall read, in its entirety, as follows:

Section 9.2 Enforcement.

(a) The terms, provisions and conditions of this Declaration and the Design Guidelines shall be enforceable by the Declarant, the ACC, the Association, and each Owner. If any occupant, guest, or invitee of a Lot violates the Declaration, the Design Guidelines or a rule or regulation of the Association and a fine is imposed, the fine shall be assessed against such Owner, who shall pay the fine upon notice from the Association. No delay or failure on the part of Declarant, the Association, or any Owner to invoke any available right, power, or remedy with respect to a breach of this Declaration shall be held to be a waiver by that party (or estop that party from asserting) any right, power, or remedy available to such party upon the recurrence or continuance of said breach or the occurrence of a different breach. Declarant, the Association, and the Owners, shall not be under any obligation to take any action to enforce the terms of this Declaration. The failure by Declarant, the Association, or any Owner to enforce any provision of this Declaration shall in no event subject Declarant, the Association, or any Owner to any claims, liability, cost or expense; it being the express intent of this Declaration to provide Declarant, the Association, or any Owner with the right (such right to be exercised at its sole and absolute discretion), but not the

obligation to enforce the terms of this Declaration for the benefit of any Owner(s) of any Lot(s) in the Subdivision. The Association and Declarant have the full and express authority to create and enforce a fining and enforcement policy, should they choose. Such fining and enforcement policy shall be amended or introduced by a majority vote of the Board.

*(b) **Self-Help to Correct Violation(s).** The Association may exercise self-help to cure violations to the Governing Documents. Any work performed in violation of the Governing Documents shall be deemed nonconforming. Upon written notice from the Board or from the Association manager pursuant to the Enforcement Policy, the Owner shall, at the Owner's sole cost and expense, cure such nonconforming work or remove such structure or Improvement and restore the Lot to substantially the same condition as existed before the nonconforming work. Should an Owner fail to cure, remove, or restore as required hereunder, the Declarant, the Association, or the designees of either the Declarant or the Board, shall have the right to enter the Lot and remove or cure the violation, and such entry and abatement shall not be considered a trespass. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the nonconforming Lot and collected as a Specific Assessment pursuant to Section 6.4 of this Declaration.*

In the event that any Person fails to commence and diligently pursue to completion all approved work, any Declarant or the Association shall be authorized, after providing notice and an opportunity to cure to the Owner, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Special Assessment pursuant to Section 6.4, to include any interest on said Specific Assessment as may be authorized by the Governing Documents.

In addition to the foregoing, the Association, acting by and through the Board of Directors, and any Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ACC, to include enforcement options as provided by the Governing Documents.

- Article 9, Section 9.11 of the Windhaven Crossing Declaration is hereby amended

and shall read, in its entirety, as follows:

***Section 9.11 Notice and Hearing.** If the owner challenges the proposed action by timely requesting a hearing, the hearing may be held in executive session of the Board affording the alleged violator a reasonable opportunity to be heard.*

Notice will be delivered by certified and regular U.S. mail. The notice must describe the violation or property damage that is the basis for the fine for such violation, and state any amount due to the Association from the Owner. The notice must inform the Owner that the Owner is entitled to a reasonable time to cure the violation (no longer than 21 days) and avoid the Violation Fine and that the Owner may request a hearing under this Section 9.11 and Section 209.007 of the Property Code on or before the 30th day after the Owner receives the notice.

Such hearing shall be held no later than the 30th day after the date the Board receives the owner's request for a hearing. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting.

The notice of the hearing shall be sent no later than the 10th day before the date of the hearing.

The Board or the owner may request a single postponement, and, if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements are allowed but only by agreement between the Board and the owner requesting the hearing.

Not later than 10 days before the Board holds a hearing, the Association shall provide to the owner a packet containing all documents, photographs, and communications relating to the matter which the Association intends to introduce at the hearing (the "Evidence Packet"), if any.

If the Board intends to produce any documents, photographs, and communications during the hearing, and does not send an Evidence Packet to the owner in a timely manner, the owner is entitled to an automatic 15-day postponement of the hearing.

At the commencement of the hearing, a member of the Board or the Association's designated representative shall present the Association's case against the owner.

Following the presentation by the Board, the owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.

The owner or the Board may make an audio recording of the hearing.

The minutes of the hearing shall contain a written statement of the results of the hearing and the sanction, if any, imposed by the Board. The Board shall notify the owner in writing of its action within ten (10) days after the hearing. The Board may, but shall not be obligated to, suspend any proposed sanction if

the Violation is cured within the ten-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any owner.

• Article 9, Section 9.14 of the Windhaven Crossing Declaration is hereby added and shall read, in its entirety, as follows:

Section 9.14 Security Measures. *This section is promulgated pursuant to Section 202.023 of the Texas Property Code and outline the restrictions applicable to the construction or installation of security measures, including but not limited to a security camera, motion detector, or perimeter fence by Owners.*

Owners may install or build security measures on their lot for the purpose of deterring criminal acts or to increase personal security while adhering to and promoting the design, harmony, and aesthetics of the subdivision. The Association shall have the sole and absolute discretion in determining whether an item or improvement is a reasonable security measure subject to the allowances provided by this Section.

Cameras/Motion Detectors. *Owners may place cameras and motion detectors on their lot for security measures, not on the Lot of any other Owner, and not on any Association property. Cameras shall be used for the primary purpose of capturing images of the lot on which the camera is installed and shall not unreasonably interfere with the use and enjoyment of any neighbor's Lot or Association property. Camera use will be limited to situations that do not violate the reasonable expectation of privacy as defined by law.*

Perimeter Fencing. *Plans and specifications, including an application for the installation of a perimeter fence, will not be reviewed, or approved by the architectural review body unless accompanied by: (i) the drawing showing materials, dimensions and location submitted in order to obtain a permit; and (ii) a permit issued by the City or other applicable municipal authority allowing the installation. Perimeter fencing is permitted by the Association as a security measure and must be ground-mounted on the boundary line of the Owner's Lot and installed in a contiguous manner around the entirety of the Lot boundaries. No gaps in perimeter fencing are permitted, i.e., the perimeter fencing must fully enclose the Lot. Perimeter fencing shall not exceed eight feet (8') in height or be lower than four feet (4') in height. A gate in a perimeter fence is for all purposes considered part of the fence. Any gate shall open towards the interior of the Lot. The Association may prohibit fencing other than perimeter fencing. All fencing, including perimeter fencing, must receive prior written approval from the Association's architectural review body. Perimeter fencing shall not consist of*

any barbed wire, razor wire, wire mesh, chain link, or vinyl. Electrically charged fencing is prohibited.

***Plans and Specifications.** Prior to installation of any security measure, the Owner must submit plans and specifications including dimensions, colors, materials, and proposed location on the Owner's Lot, scaled in relation to all boundary lines and other improvements on the lot. Plans must be submitted to the Association's architectural review body, and the Owner must receive prior written approval prior to installation of any security measures. All proposed installations must be of a type, including materials, color, design, and location, approved by the architectural reviewing body. The architectural reviewing body may require the use of, or prohibit, specific materials, colors, and designs and may require a specific location(s) for the security measure. An Owner who builds or installs a security measure must ensure that compliance with all laws, ordinances and codes. An approval of an application for a security measure by the Association's architectural review body is not a guaranty or representation of compliance with any laws, ordinances, codes or drainage requirements, and the owner assumes all risks, expenses and liabilities associated with safety measures built or installed, including, but not limited to, the city or county requiring the removal of perimeter fencing for any reason.*

AN APPROVAL OF AN APPLICATION FOR A SECURITY MEASURE BY THE ASSOCIATION'S ARCHITECTURAL REVIEW BODY SHALL IN NO WAY BE CONSIDERED OR CONSTRUED THAT THE ASSOCIATION OR ITS ARCHITECTURAL REVIEW BODY ARE INSURERS OR GUARANTORS OF SECURITY OR SAFETY OF PERSONS, PROPERTY OR POTENTIAL CRIMINAL ACTIVITY. FURTHER, NEITHER THE ASSOCIATION NOR ITS ARCHITECTURAL REVIEW BODY SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE OR INEFFECTIVENESS OF THE OWNER'S SECURITY MEASURE(S).

Any security measure built or installed must be properly maintained, kept in good repair, and not permitted to go into a state of disrepair or become an eyesore, as determined in the sole and absolute discretion of the Board of Directors.

- Article 9, Section 9.15 of the Windhaven Crossing Declaration is hereby added and shall read, in its entirety, as follows:

***Section 9.15 Soliciting Bids.** The following section shall apply to service contracts in excess of \$50,000 ("Qualifying Contracts"). Contracts entered into by the Association which are not Qualifying Contracts are exempt from the criteria set forth below except as otherwise provided by law. This section shall*

not apply during the Development Period. The scope of any request for proposal shall be determined by the Board. The following shall constitute the criteria ("Criteria") for soliciting bids or proposals for Qualifying Contracts:

- *The Association may enter into an enforceable Qualifying Contract with a current Board member, a person related to a current Board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, a company in which a current Board member has a financial interest in at least 51 percent of profits, or a company in which a person related to a current Board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a financial interest in at least 51 percent of profits (collectively, an "Interested Director") only if the following conditions are satisfied:*

(1) the Interested Director bids on the proposed contract and the Association has received at least two other bids for the contract from persons not associated with the Board member, relative, or company, if reasonably available in the community;

(2) the Interested Director:

(a) is not given access to the other bids;

(b) does not participate in any Board discussion regarding the contract; and

(c) does not vote on the award of the contract;

(3) the material facts regarding the relationship or interest of the Interested Director with respect to the proposed contract are disclosed to or known by the Board and the Board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of the majority of the Board members other than the Interested Director; and

(4) the Board certifies that the other requirements contained herein have been satisfied by a resolution approved by an affirmative vote of the majority of the Board members who do not have an interest in the Qualifying Contract.

- *Qualifying Contracts, regardless of whether an Interested Director is involved, shall be solicited, if required herein, as follows:*

(1) The Board may determine, in its reasonable discretion, to seek

two or more bids or proposals for Qualifying Contracts to the extent bids or proposals are reasonably available in the community.

(2) The Board, when seeking bids or proposals for Qualifying Contracts, shall determine the extent and scope of any corresponding request for proposal and may engage a third-party to assist in preparing the request for proposal.

(3) Qualifying Contracts in effect for six years or less from the date this Criteria is approved by the Board may be renewed automatically as determined by the Board, in its reasonable discretion, without seeking bids or proposals.

(4) Any Qualifying Contract which has been in effect for a period of at least six years following the date this Criteria is approved by the Board must be put out for bid as provided herein.

(5) Notwithstanding the foregoing, the Board reserves the right to seek and obtain bids for Qualifying Contracts at any time it deems is in the best interest of the Association.

- Article 9, Section 9.16 of the Windhaven Crossing Declaration is hereby added and shall read, in its entirety, as follows:

Section 9.16 Religious Items. This section is promulgated pursuant to Section 202.018 of the Texas Property Code to permit religious displays with certain restrictions geared toward maintaining an aesthetically harmonious and peaceful neighborhood for all neighbors to enjoy.

An Owner may display or affix on Owner's or resident's Property or dwelling one or more religious items the display of which is motivated by the Owner's or resident's sincere religious belief. For purposes of this section, a sincere religious belief relates to the faithful devotion to a god or gods, the supernatural or belief that addresses fundamental and ultimate questions having to do with deep and imponderable matters. A religion is comprehensive in nature; it consists of a belief-system as opposed to an isolated teaching. Religious displays are different than signs or other figures related to a cause.

If displaying or affixing of a religious item on the Owner's or resident's Property or dwelling violates any of the following covenants, then the Association may remove or require the removal of the item(s) displayed that –

- (a) threaten the public health or safety;*
- (b) violate a law other than a law prohibiting the display of religious speech;*

- (c) *contain language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content;*
- (d) *is in a location other than the owner's or resident's property or dwelling, i.e., installed on property owned or maintained by the Association, or owned in common by two or more members of the Association;*
- (e) *is located in violation of any applicable building line, right-of-way, setback, or easement; or*
- (f) *is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.*

Display Parameters:

- b. *All religious displays must be located within 5' of the front facade of the dwelling.*
- c. *Displays may not be located within building setbacks.*
- d. *No portion of the display may extend above the lowest point of the dwelling's front roof line.*
- e. *All displays must be kept in good repair.*
- f. *Displays may not exceed 3' in height x 3' in width x 3' in depth.*
- g. *The number of displays is limited to three (3).*
- h. *This paragraph 4 shall not apply to seasonal religious holiday decorations as described in paragraph 5.*
- i. *All religious item displays other than seasonal religious displays must receive prior approval from the Association's architectural reviewing body prior to installation, except for displays on any exterior door or door frame of the home that are 25 square inches or smaller. For example, and without limitation, no prior permission is required from the Association to place a cross, mezuzah, or other similar religious symbol smaller than 25 square inches on the dwelling's front door or door frame. If the dedicatory instruments do not designate an architectural reviewing body (such as an architectural control committee), then the approval must be received from the Board of Directors.*

Seasonal Religious Holiday Decorations. *Seasonal religious holiday decorations are temporary decorations commonly associated with a seasonal holiday, such as Christmas or Diwali lighting, Christmas wreaths, and Hanukkah or Kwanzaa seasonal decorations. The Board of Directors has the sole discretion to determine what items qualify as seasonal religious holiday decorations. Unless otherwise provided by the Declaration, seasonal religious holiday decorations may be displayed no more than 30 days before and no more than 21 days after the holiday in question.*

- Article 9, Section 9.17 of the Windhaven Crossing Declaration is hereby added and

shall read, in its entirety, as follows:

Section 9.17 Animal Waste DNA Testing. *In order to promote a clean and sanitary environment and avoid, to the extent possible, the transfer of any*

animal-borne diseases and bacteria, all Owners shall abide by the following rules regarding waste of their animals and DNA testing:

(a) Each Owner shall immediately, without hesitation, pick up and discard all animal waste of their canine immediately after such animal waste is deposited on any portion of the subdivision, whether common area, private Lot, or their own Lot. Failure to pick up animal waste shall prompt the Association to pursue formal enforcement measures.

(b) The Association shall contract an outside vendor(s) that shall be responsible for the collection of animal waste left within the community, the storage of each canine DNA profile, and testing of animal waste DNA for the purposes of determining which Owner is responsible for the leaving of unwanted animal waste in the community.

(c) The Association shall host a "collection day" on a day decided by the Board of Directors for the purpose of collecting a mouth swab from each canine in the community. The Association shall be responsible for the collection of each swab, i.e., the Association or its agent shall be the individual to swab each canine and send this swab, along with any and all other identifying information, to the vendor(s) responsible for storing and testing animal DNA. The Association shall not accept a swab completed solely by the Owner or by the Owner without the presence of the Association or its agent. If an Owner is not available or does not attend "collection day" with all canines owned or living with the Owner at that time, the Owner shall receive written notice that he or she did not attend the "collection day" and is required to either (a) certify in writing that he or she does not have a canine either owned or living within their home or (b) schedule a meeting with the Association to collect DNA from all of the canines owned or living within their home within 30-days of the date of the letter stating the Owner failed to attend "collection day." If Owner does not certify, in writing, that he or she does not have a canine either owned or living within their home or does not schedule a meeting within 30-days of the date of the letter stating the Owner failed to attend "collection day," the Owner will be subject to enforcement proceedings outlined in the Enforcement Policy.

(d) The Association shall be responsible for the costs of the initial registration of each canine owned or living in the home of each Owner.

(e) If an Owner cleans up after their canine and discards animal waste in the garbage, the Owner will not be subject to enforcement proceedings or any costs for DNA testing. However, if the Association is notified or observes animal waste within the community, the Association shall contact their vendor(s) to collect the animal waste, send the waste to their vendor(s) for DNA testing, and shall receive the results of such DNA testing. If the DNA testing matches a canine either owned or living with an Owner as determined on the "collection day" or subsequent meeting thereafter, such Owner will be charged a \$500.00

fine to their account, along with any additional charges and fees imposed by any vendor(s) for the collection and testing of the animal waste.

(f) If an Owner purchases a new canine or if a new canine begins living with the Owner in their home, the Owner shall notify the Association within 30 days of the canine living in the home and shall include multiple dates and times within their notice to schedule an individual collection day. If the Association is notified that a new canine is living or frequenting the Property, the Association shall give the Owner a 30-day notice, in writing, to schedule a date for collection of each canine's DNA. If Owner fails to notify the Association, in writing, within that 30-day period, the Association shall have the authority to begin enforcement measures as outlined in the Enforcement Policy.

(g) If an Owner begins renting their home under Article 10 of this Declaration, the Owner shall submit, on their tenant information sheet, the number of canines the renters have and shall schedule a day to collect each canines' DNA. If the renters fail to attend the collection meeting or are in possession of a canine under subsection (e) of this section 9.17, the Association shall begin enforcement proceedings against the Owner of the Property. The Owner of the Property shall be responsible for all fines assessed against the renters of the Property.

(h) The vendor(s) contracted by the Association shall store DNA of each canine swabbed indefinitely, so long as the vendor(s) are employed by the Association. If an Owner is selling their Property, the Owner may request, in writing, to have their canines' DNA removed from the vendor(s) database. The Owner shall have thirty-days from the closing of their home to request the removal. If the Owner is renting the Property, the Owner shall not have their canines' DNA removed from the vendor(s) database nor shall any renters who no longer rent with the Owner shall have their canines' DNA removed from the vendor(s) database.

- Article 10 of the Windhaven Crossing Declaration is hereby added and shall read,

in its entirety, as follows:

Section 10.1. Leasing and Occupancy Restrictions. In order to preserve the quality of life of Owners and to promote the Leasing of a Lot by responsible individuals, a Lot may only be Leased in accordance with the following restrictions:

- (a) Residential Purposes. Each Lot shall be used and occupied for single-family, private residential purposes only and no trade or business may be conducted in or from any Lot, except as permitted by this Section 10.1. For purposes of this Declaration, the phrases "single-family private residential use" and "residential purposes"***

are intended to prohibit rentals for any term less than twelve (12) months. Single-family private residential use shall not include either of the following: (i) operating a rooming or boarding house within a Lot, for any period of time; (ii) Leasing by the Owner of less than the entire Lot to others as a separate house-keeping unit, for any period of time.

Upon acquiring an ownership interest in a Lot, the Owner may not Lease the Lot until the expiration of twelve (12) months from the date of recording the deed to the Lot. After the expiration of the twelve (12) month period, the Owner may lease the Residence subject to the other terms contained in this Section 10.1. From the date of the adoption of this Second Amendment, no more than ten percent (10%) of the total Residences located in the community may be leased at any point in time, except in cases of hardship as approved by the Board. The goal is to preserve the community as one of predominantly owner-occupied Residences. An Owner seeking to lease his or her Residence must notify the Board in writing of his or her desire to lease the Residence, and Owners may lease on a first come, first serve basis. Upon the expiration of a lease term, the Owner of the Residence must again notify the Board of his or her desire to renew the lease on the Residence. Existing leases will be given first priority to renew ahead of new leases.

Additional Definitions:

(i) **Dedicator Instruments** - “Dedicator Instruments” means each governing instrument covering the establishment, maintenance, and operation of the Association. This term includes the Declaration, Bylaws, policies, and rules and regulations of the Association, and all amendments thereto.

(ii) **Effective Date** - “Effective Date” shall mean the date an instrument containing this Article 10, Section 10.1 is recorded in the Official Public Records of Denton County, Texas.

(iii) **Landlord** - “Landlord” means the Owner Leasing a Lot to a third-party, even if that Owner has a management company that is in charge of Leasing and/or managing the Lot.

(iv) **Lease** - “Lease” includes any written or oral agreement between a Landlord and a Tenant that establishes or modifies the terms, conditions or other provisions regarding the use and occupancy of the Lot and the Residence thereon.

(v) **Leasing** - "Leasing" is defined as the regular, exclusive occupancy of a Lot by any person other than the Owner for which the Owner, or any designee of the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. If the Lot is owned by a trust and the beneficiary of the trust is living in the residence, that Lot shall be considered Owner-occupied rather than Leased.

(vi) **Lessee** - "Lessee" shall be considered the same as Tenant for purposes of the Declaration.

(vii) **Lease to Purchase Agreements & Contracts for Deeds** - Shall be considered the same as Leasing for purposes of the Declaration.

(viii) **Renting** - "Renting" shall be considered the same as Leasing for purposes of the Declaration.

(ix) **Tenant** - "Tenant" means the person(s) authorized by the Lease to occupy the Lot, which would include the named Lessee(s). There may be more tenants than Lessees for a Lot unless the context indicates otherwise.

(b) **Registration, Compliance, and Notice of Intent to Lease.** Whenever the Owner of a Lot has received a bona fide offer to Lease the Lot and desires to accept such offer, the Owner shall give the current management company written notice of the desire to accept such offer and submit to the Board, at the Owner's sole cost and expense, a Tenant Information Form which will include, but is not limited to, the following information:

- (i) The commencement date and term of the Lease;
- (ii) The make, model, and license plate number of each vehicle to be kept on the Property;
- (iii) The name, telephone number, email address, and current address of the prospective Lessee(s) and each prospective adult occupant (over age 18);
- (iv) The number of persons that will occupy the Lot; and
- (v) A written statement certifying that: (1) a criminal background report has been obtained by the Owner on each prospective adult occupant of the Lot and (2) that each prospective adult occupant of the Lot has not violated

paragraph (e)(ii) and (iii) below; and

- (vi) The number canines and name of each canine on the Property, whether owned or currently living within the Property, for the purposes of identifying each canine that will be subjected to a DNA swab to comply with Section 9.17 of this Declaration.*

The Association may charge a reasonable administration fee concerning the above as established by the Board and the Board is authorized to establish other such policies and procedures to register Lease arrangements as the Board so determines.

(c) Qualifications of Prospective Occupants and Lessees.

- (i) Occupancy. The total number of occupants allowed to reside in or occupy a Lot shall not exceed the maximum number of occupants allowed in the Lot pursuant to any ordinance, code or regulation of the City of Lewisville or State of Texas.*
- (ii) Certain Criminals Prohibited. Owner may not Lease to or allow any person to reside in or occupy a Lot who has been convicted of any felony crimes involving violence, crimes against persons; use of firearms; sex crimes; illegal drugs; robbery; aggravated robbery; murder; criminal gang activity; discharge of firearms; gambling; manufacture, sale or use of drugs; manufacture or sale of alcoholic beverages; prostitution; theft; burglary; or larceny; or any crime involving a minor.*
- (iii) Sex Offenders Prohibited. Owners may not lease to or allow any person to reside in or occupy a residence who is a registered sex offender. For purposes of this Section 10.1, a "sex offender" is a person who is required to register as either a Level 3 (High) or Level 2 (Moderate) sex offender pursuant to Chapter 62 of the Texas Code of Criminal Procedure or pursuant to any other law of the State of Texas, or any municipal or county ordinance, or any other state or federal law or regulation.*

THESE REQUIREMENTS DO NOT CONSTITUTE A GUARANTEE OR REPRESENTATION THAT LESSEES OR OCCUPANTS RESIDING WITHIN WINDHAVEN CROSSING SUBDIVISION HAVE NOT BEEN CONVICTED OF A CRIME

**OR ARE NOT SUBJECT TO DEFERRED ADJUDICATION
FOR A CRIME.**

- (d) **Rejection of Lease by Board of Directors.** *If the terms of the Lease and/or the Lessee(s) or occupants do not meet the standards and criteria described in this Section 10.1, then the Lease is rejected and the Board shall notify the Owner, within ten (10) business days after the decision is rendered, in writing of the rejection of the Lease. Owners shall not Lease to or allow anyone to reside in the residence who does not meet the standards and criteria set out above.*
- (e) **Hardship.** *Notwithstanding any provision to the contrary, the Board shall be empowered to allow Leasing of one or more Lots, as determined solely by the Board, upon written application by an Owner to avoid undue hardship. By way of illustration and not by limitation, circumstances which would constitute undue hardship are those in which (i) an Owner must relocate and cannot, within ninety (90) days from the date the Lot was placed on the market, sell the Lot while offering it for sale at a reasonable price no greater than its current appraised market value; (ii) the Owner dies and the Lot is being administered by his or her estate; (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot; (iv) the Lot is to be Leased to a member of the Owner's immediate family, which shall be deemed to encompass children, grandchildren, grandparents, brothers, sisters, parents and spouses; (v) deployment or activity military duty status in any branch of the United States of America military; or (vi) the Owner sells the Lot and enters into a rent or leaseback agreement for a period not to exceed ninety (90) days from the date of sale. Those Owners who have demonstrated that the inability to Lease their Lot would result in undue hardship and have obtained the requisite approval of the Board may Lease their Lot for such duration as the Board reasonably determines is necessary to prevent undue hardship. Requests for hardship exemptions shall be reviewed by the Board on a case-by-case basis.*
- (f) **Contents of Lease.** *Each Owner acknowledges and agrees that any Lease of his or her Lot shall be deemed to contain the following language and that if such language is not expressly contained in the Lease, then such language shall be incorporated into the Lease by existence of this Section. In addition, the terms and requirements contained herein automatically become a part of any Lease and/or an addendum to the Lease. These provisions shall also be attached to any Lease as an addendum and again, are a part of the Lease regardless of whether or not physically attached to the Lease. Any Lessee, by occupancy of a Lot, agrees to the applicability of this Section and incorporation of the following language into the Lease:*

The Lessee shall comply with all provisions of the Dedicatory Instruments and shall control the conduct of all other occupants and guests of the Leased Lot in order to ensure their compliance. Any violation of the Dedicatory Instruments by the Lessee, any occupant, or any person living with the Lessee, is deemed to be a default under the terms of the Lease and authorizes the Owner to terminate the Lease without liability and to evict the Lessee in accordance with Texas law. The Owner hereby expressly delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the Lessee for breaches resulting from the violation of the Dedicatory Instruments, including the authority to pursue eviction proceedings on behalf of the Owner.

- (g) Compliance with Dedicatory Instruments. *Each Owner shall cause all occupants of his or her Lot to comply with the Dedicatory Instruments and shall be responsible for all violations and all losses or damage resulting from violations by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be personally sanctioned for any violation. The Owner shall provide the Lessee a copy of the Dedicatory Instruments. In the event that the Lessee, or a person living with the Lessee, violates the Dedicatory Instruments for which a violation fine is imposed, such fine shall be assessed against the Owner. The Owner shall pay the violation fine(s) upon notice from the Association.*
- (h) Grandfathering. *With respect to a Residence which is subject to a Lease as of the Effective Date, the Owner's only obligation is to complete the Tenant Information Form. Notwithstanding this exemption for Residences already subject to a Lease, upon termination, extension, or renewal of that Lease, the Owner must comply with this Article 10.*
- (i) Noncompliance. *For any Lease of a Lot entered into or renewed after*

the Effective Date, the Association shall have the power and authority to enforce this Article 10 by any means available at law or in equity, including, but without limitation, levying violation fines and filing suit for necessary damages, including injunctive relief. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS OR OTHERWISE REMOVE THE OCCUPANTS FROM HIS OR HER RESIDENCE AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS ARTICLE 10. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Lot which, in the sound business judgment of the Board, are reasonably necessary to monitor compliance with this this Article 10.

Notwithstanding any proposed fine stated in the Association's enforcement or fine policy, violations of this Article 10 shall be levied as follows:

- *Initial fine of two hundred and fifty dollars (\$250.00)*
- *Subsequent daily fines of one hundred dollars (\$100.00) levied no earlier than ten (10) days after the initial fine.*

ALL OWNERS MUST PROVIDE A TENANT INFORMATION FORM TO THE ASSOCIATION. FAILURE TO PROVIDE A TENANT INFORMATION FORM MAY SUBJECT THE OWNER TO A VIOLATION FINE FOR NONCOMPLIANCE WITH THIS SECTION 10.1.

- (j) Authority of Management To Act. The Board hereby authorizes and empowers the management company to do all such things and perform all such acts as are necessary to implement and effectuate the purposes of this Article 10 without further action by the Board.*
- (k) Binding Effect. The terms and conditions of this Article 10 shall bind all Owners including their heirs, successors, transferees or assigns, and all Lots as defined in the Declaration, and the Properties shall hereafter be held, occupied, transferred, and conveyed subject to the terms and conditions of this Article 10.*

The terms and provisions of the Windhaven Crossing Declaration, except as modified herein, are hereby declared to be in full force and effect with respect to the Property. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings set forth in the

Windhaven Crossing Declaration. The Property shall continue to be held, occupied, sold, and conveyed subject to the terms and conditions of the Windhaven Crossing Declaration and now this Second Amendment, which shall run with title to the Property and are binding on all parties having any right, title or interest in and to the Property or any part thereof, including their heirs, representatives, successors, transferees and assigns, and shall inure to the benefit of each Owner thereof.

IN WITNESS WHEREOF, the Declarant has caused this Second Amendment to the Windhaven Crossing Declaration to be filed with the office of Denton County, Texas.

DECLARANT:

**WILBOW-WINDHAVEN
DEVELOPMENT CORPORATION,
a Texas Corporation**

By: *Mehrdad Moayedi*

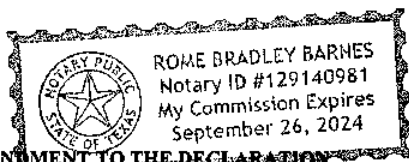
Name: Mehrdad Moayedi

Its: *President*

STATE OF TEXAS §
 §
COUNTY OF DENTON §

BEFORE ME, the undersigned Notary Public, on this day personally appeared Mehrdad Moayedi, the President of Windhaven Crossing Townhome Owner’s Association, Inc., a Texas nonprofit corporation known to me to be the person whose name is subscribed on the foregoing instrument and acknowledged to me that he/she executed the same for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND AFFIRMED SEAL OF OFFICE on this the 29 day of June 2023.



[Signature]
Notary Public, State of Texas

CERTIFICATION OF AMENDMENT

I, Brock Babb, the Board President of Wilbow-Windhaven Development Corporation, a Texas corporation, have read the foregoing Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Windhaven Crossing, do certify that it is true and correct and do hereby approve same for recording in the Official Public Records of Denton County, Texas.

By:  _____

Name: Brock Babb _____

Its: President _____