

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
EMERALD FALLS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration"), is made and entered into as of the 1st day of February, 2006, by EMERALD FALLS, LLC an Oklahoma limited liability company (herein called the "Developer").

WITNESSETH:

WHEREAS, Developer is, in the aggregate, the record owner of that certain real property situated in Broken Arrow, Wagoner County, Oklahoma, described on Exhibit "A" attached hereto and by reference made a part hereof which, along with improvements made thereon, shall constitute the Project; and

WHEREAS, Developer desires to submit and subject the Project and all of its interest therein, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto, to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights contained herein; and

WHEREAS, Developer deems it desirable to establish covenants, conditions, obligations and restrictions upon the Project and each and every portion thereof with respect to the proper use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project as a whole and enhancing the quality of life within the Project; and

WHEREAS, Developer deems it desirable, for the efficient management of the Project, to create the Association which shall exercise the powers of (i) administering and enforcing the covenants, conditions, and restrictions set forth herein; (ii) collecting and disbursing funds pursuant to the assessments, spending procedures and charges hereinafter created; and (iii) performing such other acts as are herein provided for which generally benefit its members, the Project or the owners of any interests therein; and

WHEREAS, the Emerald Falls Homeowners Association, Inc., a non-profit corporation, has been or will be incorporated under the laws of the State of Oklahoma for the purpose of exercising such powers and functions; and

WHEREAS, the Developer may, but is not obligated to, annex additional real property to the Project and thereby subject such property to this Declaration, and to bind the owners of any interests therein to the covenants, conditions, and restrictions contained in this Declaration, which owners will become members of the Association as provided herein; and

WHEREAS, Developer desires and intends that the owners, mortgagees, mortgagors, occupants and all other persons hereinafter acquiring any interest in the Project shall at all times enjoy the benefits of, and shall hold their interests subject to, the covenants, conditions, restrictions, liens, assessments, easements, privileges, and rights hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the Project.

NOW, THEREFORE, Developer, for the purposes above set forth, declares that the property within the Project shall hereafter be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, conditions, restrictions, liens, assessments, easements, privileges, and rights hereinafter set forth, all of which shall run with the land and be binding upon all property within the Project and all parties having or acquiring any right, title, or interest in or to any property within the Project, or any part thereof, and shall inure to the benefit of and be a burden upon each owner thereof, the Association, and each member of the Association.

ARTICLE I

DEFINITIONS

Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows. Defined terms appear throughout this Declaration with the initial letters of such term capitalized.

1.1 "Annexation Property" means any additional real property which is annexed to the Project, thereby becoming a part thereof and subject to this Declaration. Annexation may be accomplished by the filing of a document of record by Developer or the Association which describes the property to be annexed and recites that such property is to be subject to the terms of this Declaration.

1.2 "Assessments" shall include the following:

(a) "Regular Assessment" means the amount which is to be paid by each Association Member as such Association Member's Proportionate Share of the Common Expenses incurred by the Association pursuant to the terms hereof.

(b) "Special Assessment" means (i) a charge against a particular Association Member, an Owner or a Lot directly attributable to such Association Member, Owner or Lot to reimburse the Association for costs incurred in bringing the Association Member, the Owner or the Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, Rules or Design Guidelines, (ii) any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws, Rules or Design Guidelines, or (iii) attorneys' fees and other charges payable by such Association Member or Owner as a Special Assessment pursuant to the provisions of this Declaration.

(c) "Capital Improvement Assessment" means a charge against all Lots for the purpose of defraying, in whole or in part, the cost of any action or undertaking on behalf of the Association in connection with any construction or replacement of a capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto.

1.3 "Association" means the Emerald Falls Homeowners Association, Inc., an Oklahoma non-profit corporation, its successors and assigns, which shall be responsible for implementing the terms of this Declaration.

1.4 "Association Article or Articles" means the Certificate of Incorporation, as such may be amended from time to time, of the Association or of any successor thereto.

1.5 "Association Member" means every Person who holds a membership in the Association.

1.6 "Board" means the Board of Directors of the Association.

1.7 "Bylaws" means the bylaws of the Association, or of any successor thereto, adopted in accordance with the Articles as such Bylaws may be amended from time to time.

1.8 "County" means Wagoner County, a county of the State of Oklahoma.

1.9 "Common Areas" means those parcels of real property, including any improvements thereon, located within the Project and leased, owned or held by the Association or made available by the Developer for the use, benefit or enjoyment of all Owners.

1.10 "Common Expenses" means the actual and estimated costs incurred or to be incurred by the Association in administering, maintaining, operating and conducting activities in connection with the Project for which the Association is responsible pursuant to the terms hereof. Common Expenses contemplated hereby shall include, but not be strictly limited to, the following:

(a) the cost of maintenance, management, operation, repair and replacement of the Common Areas and any other areas within the Project which are, or shall in the future be, maintained by the Association;

(b) unpaid Assessments;

(c) the cost of maintenance by the Association of areas within the right-of-way of public streets in the vicinity of the Project as provided in this Declaration or pursuant to agreements with the City;

(d) the cost of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(e) reasonable reserves for contingencies, replacements and other proper purposes as deemed appropriate by the Association, which reserve fund shall be adequate to meet the costs and expenses of maintenance, repairs and replacement of the Common Areas which must be maintained, repaired or replaced on a periodic basis;

(f) the cost of bonding any person handling the funds of the Association;

(g) any taxes paid by the Association;

(h) the cost of any insurance obtained by the Association;

(i) costs incurred by the New Construction Committee or Modification Committee, as appropriate;

(j) costs incurred by committees established by the Board or the President;

(k) costs of security guards and any security systems or services installed, operated or contracted for by the Association; and

(l) other expenses incurred by the Association for the general benefit of all Owners for any reason whatsoever in connection with any item or items designated, or to be provided or performed, by the Association pursuant to this Declaration or the Articles, Bylaws, Rules or Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.11 "Declaration" means this instrument as from time to time amended.

1.12 "Default Rate of Interest" means an annual rate of interest equal to eighteen percent (18%). Notwithstanding anything herein to the contrary, if, during any periods, the highest lawful rate of interest which may be paid by the Person required to pay the Default Rate of interest hereunder, despite the provisions hereof, is less than the rate provided above, the interest payable by such Person during said period shall be the highest lawful rate.

1.13 "Design Guidelines" means the rules, regulations, restrictions, architectural standards and design guidelines from time to time adopted by the New Construction Committee or Modification Committee, as appropriate.

1.14 "New Construction Committee" means that certain committee as defined more particularly in Section 7.1(a) of this Declaration.

1.15 "Modification Committee" means that certain committee as defined more particularly in Section 7.1(b) of this Declaration.

1.16 "Developer" means Emerald Falls LLC, an Oklahoma limited company, organized and existing under the laws of the State of Oklahoma, its successors and assigns, or any person to whom the Developer's rights hereunder are hereinafter assigned by recorded instrument, or any Mortgagee of the Developer which acquires title to or succeeds to the interest of the Developer in any Lot or other portion of the Project by reason of a foreclosure (or conveyance in lieu of foreclosure).

1.17 "First Mortgage" means the Mortgage which is the first and most senior of all Mortgages upon the same property. "First Mortgagee" means the holder of a First Mortgage.

1.18 "Golf Course" means the Emerald Falls Golf Course and related facilities to be constructed as a portion of the Project described on Exhibit "B" hereto, and all appurtenances thereto as shown on the Plat, including the clubhouse, maintenance shed and all buildings, vehicles and equipment associated therewith. The Golf Course will exist as a separate portion of the Project and shall not be subject to the terms hereof.

1.19 "Lot" shall mean any plot of land within the Project and all improvements constructed thereon which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Project is located.

1.20 "Majority" unless otherwise specifically provided, means the an affirmative vote of greater than fifty percent (50%) of all eligible votes.

1.21 "Mortgage" means any recorded, filed or otherwise perfected instrument given in good faith and for valuable consideration, which is not a fraudulent conveyance under Oklahoma law as security for the performance of an obligation including, without limitation, a mortgage or deed of trust but shall not include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code.

1.22 "Mortgagee" means the holder of a note secured by a Mortgage, including the trustee and beneficiary under any deed of trust. "Mortgagor" means the party executing a Mortgage.

1.23 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether as a guest, tenant or otherwise.

1.24 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, to any Lot which is a part of the Project, including contract sellers but excluding those having such interest merely as security for the performance of an obligation. In the case of Lots, the fee simple title to which is vested of record in a trustee, legal title shall be deemed to be in the trustor.

1.25 "Person" means an individual, corporation, limited liability company, partnership, trustee or other entity capable of holding title to real property and their respective heirs, successors and assigns.

1.26 "Plat" means the plat of subdivision of the Project as first recorded in the official records of Wagoner County, Oklahoma, and as thereafter from time to time amended or supplemented, together with all subsequent plans of subdivision for real property annexed to the Project.

1.27 "President" means the duly elected or appointed president of the Association.

1.28 "Project" means that parcel of real property referred to in the recitals hereof and described in Exhibit "A" hereto and any additional real property made subject to this Declaration by annexation, together with all buildings, improvements and other permanent fixtures of whatever kind, now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

1.29 "Proportionate Share" shall mean that equal share of the Common Expenses levied against each Lot.

1.30 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with, the office of the County Clerk of Wagoner County, Oklahoma.

1.31 "Rules" means the rules and regulations adopted by the Board of Directors of the Association pursuant hereto.

1.32 "Supplemental Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.

1.33 "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Project. Such standard maybe more specifically determined by the Board of Directors and the New Construction Committee.

ARTICLE II

ASSOCIATION

2.1 Purpose of Association. The Association has been, or will be, incorporated as a non-profit corporation to administer and delegate responsibility for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Project, the assessment of expenses, payment of losses, disposition of casualty insurance proceeds and other matters as provided in this Declaration, the Articles, Bylaws, Rules or Design Guidelines and serve as the supervising and coordinating body for all of the Association Members. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the benefit of the Project in accordance with the provisions of this Declaration, the Articles and the Bylaws. The Association shall promote and coordinate the harmonious development and operation of the Project. The Association shall be primarily responsible for implementing and enforcing the provisions of this Declaration but shall have the authority to delegate any and all of its responsibilities to a manager if such an action is deemed to be more efficient, economical or desirable.

2.2. Membership in Association.

(a) Every Owner shall be an Association Member. No Owner, whether one or more Persons, shall have more than one membership per Lot owned. In the event a Lot is owned by more than one Person, all co-Owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in this Declaration and in the By-Laws and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The membership rights and privileges of an Owner who is a natural person may be exercised by the Association Member or the Association Member's spouse. The membership rights of an Owner which is a corporation, or partnership or other legal entity shall be exercised by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

Association Members shall be entitled to one equal vote for each Lot in which they hold the interest required for membership; there shall be only one vote per Lot; provided however, if an Owner owns more than one (1) Lot and such Lots are contiguous, such Owner will be entitled to the rights of only one (1) membership, including the right to exercise only one (1) vote.

In any situation where an Association Member is entitled personally to exercise the vote for his or her Lot and there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended if more

