

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
COUNTY OF LUBBOCK §

WHEREAS, **VITRUVIAN DEVELOPMENT, LLC**, a Texas limited liability company, hereinafter referred to as either "the Declarant," or "the Developer," being one and the same, is the owner of all of that certain real property located in Lubbock County, Texas, described as follows:

Lots 1 thru 28, Highland Trails, a Subdivision Out of Section 23, Block D-5, Lubbock County, Texas, being more fully described in a Dedication Deed filed on or about the 7th day of September, 2021. in the Official Public Records of Lubbock County, Texas, to which reference is hereby made for all purposes; and

WHEREAS, the Declarant will convey the above described properties, subject to certain protective covenants, conditions, restrictions and charges, as hereinafter set forth;

NOW, THEREFORE, it is hereby declared that all of the property described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the above described real property, and shall be binding on all parties having any right, title or interest in or to the above described properties or any part thereof, their heirs, successors, and assigns, and which easements, restrictions, covenants, and conditions shall inure to the benefit of each owner thereof.

1. Lots 1 thru 28 (hereinafter sometimes referred to as "the lots") shall be used for single family residential purposes only, and a "single-family residence" shall be construed as a single-family dwelling used and occupied by one family and its constituent members. No building shall be erected, altered, placed, or permitted to remain on any lot other than one single family residence not to exceed two stories in height, and a private two-car garage attached to the main residence. Houses constructed on the lots shall contain at least 2,400 square feet of floor space, exclusive of garage, open or screened porch, storage rooms, basement and other space not equipped with heating and cooling.

2. Each residence built on a lot shall be located that it fronts the street on which the lot faces. All lots shall be entered from the front of the lot and each garage attached to the house shall be facing the side of the lot on which it is located and must accommodate a minimum of two vehicles (the "first garage"); Each lot may have a second garage or shop (the "second garage") provided such second garage shall face the front of the lot and shall be set back behind the rear wall of the house, and so long as (a) the second garage does not exceed the height of the house constructed on such lot (and in particular the bottom roof line of the second garage is of the same height as the bottom roof line of the house where the same attaches at the eaves); (b) the drive

to such garage complies with the applicable City of Shallowater ordinances affecting same; (c) such garage and the drive thereto is enclosed by a screening fence of the same construction and appearance of the wood fence encompassing all of each such lot's "back yard"; and (d) the exposed exterior of any such second garage shall be of the same brick veneer construction as the house located on the lot. Each lot adjacent to a side street may also have a driveway entrance from the side street providing entry to the first garage, so long as such driveway complies with the applicable City of Shallowater ordinances affecting same. The exposed exterior wall of any second garage adjacent to the side street shall be of brick veneer construction.

3. For purposes of the following paragraphs, houses may sometimes be referred to collectively as "residences" house lots may sometimes be referred to collectively as "lots." All of any chimney and at least eighty percent (80%) of the exposed exterior walls of each residence shall be of brick veneer construction; provided, all of any chimney may alternatively be of synthetic stucco or other masonry material approved by Declarant. No residence may be constructed of stucco; provided, synthetic epoxy based stucco texture may be used. In calculating the above eighty percent (80%) requirement, openings for doors, windows, etc., shall be excluded. It is the intent hereby to prohibit concrete blocks, as well as asbestos shingles, as an exterior siding. No residence may be constructed pursuant to an experimental design, including, but not limited to adobe, geodesic domes or all steel exterior construction; provided, the foregoing is not intended to prohibit steel frame construction. No residence shall be built with a roof of crushed stone, marble or gravel. Rather, each residence roof shall be constructed of thirty year or greater laminate shingles or other lifetime roofing materials (except as otherwise excluded) in earth tone colors only and shall have a pitch of 6 x 12 or more. Replacement shingles or other roofing materials shall be of the same or similar color as that being replaced. Residences consisting of two stories shall provide for sixty percent (60%) of floor space to be located on the first floor of such residence. There shall be no portable or "move in" homes allowed on any of the lots, which shall include (and thereby preclude) any modular or pre-built home of any kind. It is the intent of the foregoing to require that only newly-erected, permanent residences be placed on the Addition lots and that such be built in-place and on-site. Both the first garage and any second garage shall be constructed of the same material as the residence, including the roof.

4. Each residence shall have and there shall be erected a six foot or greater wood fence, not to exceed seven (7) feet in height, encompassing all of that residence's "back yard." The wood fence shall not be painted but rather left in its natural state and shall be maintained in good repair and condition. In no instance shall a fence, wall or hedge be constructed, altered or maintained closer to any street than the minimum building setback line as promulgated by the City of Shallowater, except that on corner lots the fence may be installed from the interior lot line, along the rear lot line to the side street property line, and forward along the side street property line to within ten (10) feet of the front of the residence, thence across the side yard to the residence.

5. Each residence shall have landscaping complying with "Smartscape" principles. If an automatic sprinkler system is installed, Each such system shall have a low mist automatic sprinkler system equipped with a rain sensor and utilizing underground drip systems in any flowerbeds. Only native and adaptive

plants, turf grasses and trees promulgated by Texas Smartscape for the West Texas region and/or included as water-wise plant recommendations by the Lubbock Master Gardeners Association, may be utilized in the landscaping; accordingly, all varieties of fescue are specifically prohibited.

6. Each residence shall have access to mail service delivered by the United States Postal Service to either a brick column double mailbox or a double-mount metal mailbox attached to a single pedestal post, to be located on the property line between the residences served by same, but if the rules and regulations of the United States Postal Service require cluster mail boxes, each residence shall have access to mail service at a lockable cluster mail box in compliance with said rules and regulations. In the event cluster boxes are required, Declarant will assign one mailbox within a cluster mailbox to each Lot. Regardless of the type of mailboxes installed, all mailboxes will be installed by Declarant and each lot shall bear its proportionate share of the cost of such mailbox and installation thereof. Further, each lot owner shall be responsible to undertake and pay his, her or its proportionate share of the cost of any future maintenance, repair or replacement of such mailbox.

7. As to all building setback requirements, such shall comply with the minimum requirements as promulgated by the City of Shallowater, Texas. For purposes of complying with the setback requirements, eaves, steps and open porches shall not be considered as a part of the residence, but this shall not be interpreted as permitting encroachment on another lot.

8. Easements for installation and maintenance of utilities and drainage facilities are either reserved, as shown on the recorded plat, or recorded contemporaneously with the Dedication Deed. Right of use for ingress and egress shall be had at all times over any dedicated easement and for the installation, operation, maintenance, repair or removal of any utility, together with the right to remove any obstruction that may be placed in such easement which would constitute interference with the use, maintenance, operation or installation of such utility.

9. No garage, basement, trailer, tent, shack, or any other like building or shelter erected or located on any lot, shall ever be used as a dwelling unit. No residence dwelling or other type building, or any part of any other type building, shall ever be moved from outside of the lots onto any one or more of the lots. Regardless of the foregoing sentence, a portable storage building may be moved into a lot's "back yard" subject to the following conditions: (1) the portable storage building must be located within the wood fence surrounding such lot's back yard; (2) the portable storage building must be proportionate in size to the residence and to the lot's back yard; and (3) the portable storage building must be of an attractive appearance and in good condition at the time the portable storage building is moved into the lot's back yard and must be maintained in this same manner. For a period of 7 years beginning date hereof, Declarant reserves the right to require the owner of any lot to remove a portable storage building from such lot if, in the sole discretion of the Declarant, these conditions are not met. For purposes of enforcing this right, Declarant shall be considered as the owner of a lot with access to the options for enforcement set forth in paragraph 21 below.

10. No home beauty shops or home barber shops shall be allowed. Further, no occupations of any kind shall be allowed which require any structural alterations in any dwelling unit or room of any residence, or require the installation of machinery or equipment other than that customary to normal household operations, or require stocks in trade or inventory being kept and sold on the premises, or require exterior storage for equipment or materials. Any such occupation or activity shall be considered as noxious and offensive, and thereby deemed to be a nuisance.

11. No sign of any kind shall be displayed to the public view on any lot, except one professional sign of not more than five square feet advertising the property for sale or rent, or a sign used by a building contractor to advertise the building of such property during the construction and sales period.

12. No radio or television antenna shall extend more than five (5) feet above the highest point of the roof of any building, and no antenna shall be erected or maintained on any lot not having a residence thereon.

13. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

14. No trailer, camper, boat, motor home or other recreational vehicle, pickup truck of more than one ton capacity, or any other vehicle not used in day to day transportation, shall be parked, stored or maintained on any lot or street adjacent thereto in such a way as to be visible from the front street or nearer to the side street than the side street building set back line.

15. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. All such garbage, trash and rubbish shall be kept in sanitary containers. All receptacles for disposal of such material shall be kept in a clean and sanitary condition.

16. No truck, bus or commercial trailer shall be parked in the street in front of any lot. No truck, bus or commercial trailer shall be parked on the driveway or any portion of any lot in such a manner as to be visible from the street.

17. Construction of the residence shall commence within one (1) year of closing date, and "closing date" shall be construed as the date when Declarant transferred title to the respective lot. If construction has not commenced within one (1) year, Declarant shall be entitled to purchase the respective lot at the gross sales price of such lot at closing date plus a sum equal to the calculated interest from closing date to date of purchase by the Declarant on such gross sales price at the prime rate as published by the Wall Street Journal on closing date. Once commenced, construction shall be diligently pursued to the end that it will be completed within eighteen (18) months from the date commenced.

18. Declarant hereby establishes an Architectural Control Committee and the initial member shall be Kyle Carruth. The committee shall remain in existence for purposes hereof for a period of 10 years from date hereof. No residence, residential

accessory structure or fence shall be erected or maintained, or construction of same started until the building plans and specifications for the same and a plot plan (accurately showing the topography of the lot) showing the proposed location of same, have been approved by the Architectural Control Committee. In reviewing building plans and specifications, the Architectural Control Committee shall consider the overall suitability and architecture of the proposed placement on the lot, the structural soundness of the proposed building materials, and the aesthetic quality thereof, and the height relationship of the improvements with respect to other existing structures in the area. In addition to the foregoing, the Architectural Control Committee shall have submitted to it: (i) the color of the exterior paint trim of each residence and associated residential accessory structure and (ii) color and type of roofing for each residence and associated residential accessory structure so as to obtain from such committee its permission or objection as to such color and/or type of roofing to be used. The decision of the committee shall be final. This provision shall be applicable both to initial construction and to alterations, changes and additions subsequently made. Kyle Carruth may name any person or persons or corporation as his successor as the member or members of the Architectural Control Committee. The term "residential accessory structure" shall refer to any addition or structure built on a lot to be used as a garage, servant quarters, storage shed, or a like structure, but used only for or in conjunction with the family living associated with the residence built on the lot.

19. Regardless of any other provision contained herein, for a period of 7 years beginning date hereof Declarant reserves the right (on application and request of the owner of any lot) to waive, vary or amend (by an appropriate letter to that effect, addressed and delivered to such applicant owner by Declarant for filing in the Real Property Records of Lubbock County) any of these covenants and restrictions to any particular lot, if, in the sole discretion of the Declarant such action relieves hardship or permits better architectural planning to be effected.

20. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Any one or more of these covenants may be amended by an instrument signed by at least 75% of the then owners of the lots agreeing to change any such covenant, condition, and restriction in whole or in part. Regardless of the foregoing sentence, no covenant can be changed or amended without accompanying permission to do such from Declarant so long as Declarant owns at least 10% of the lots.

21. Enforcement shall be by proceedings, at law or in equity, by the owner of any lot or lots, against any person or persons, or any other entity, violating or attempting to violate any covenants. The person or entity seeking enforcement shall have the right to enforce, by any proceedings, at law or in equity, all restrictions, conditions and reservations now or hereafter imposed by the provisions of this declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or right to do so thereafter. If any lot owner shall be required to employ an attorney to enforce or defend the rights of such lot owner hereunder, the prevailing lot owner shall be entitled to recover reasonable attorney's fees, court costs and out-of-pocket expenses incurred as a result thereof.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision, and all other provisions shall remain in full force and effect.

The undersigned, being the sole owner of the hereinabove described real property, does hereby revoke any and all prior restrictions or restrictive covenants, if any, placed on said land by any prior owners.

[Signature Page Follows]


EXECUTED AND EFFECTIVE this 7th day of September, 2021.

VITRUVIAN DEVELOPMENT,
LLC, a
Texas limited liability company

By: 
KYLE CARRUTH, Manager

STATE OF TEXAS §
 §
COUNTY OF
LUBBOCK §

On this 7th day of September, 2021, before me, a Notary Public in and for said state, personally appeared **KYLE CARRUTH**, known to me to be the person who executed the within Declaration of Covenants, Conditions and Restrictions and acknowledged to me that he executed the same for the purposes therein stated.


Notary Public, State of Texas



After recording, please return to:

Field, Manning, Stone, Hawthorne & Aycock, P.C.
Attn: Carrissa A. Cleavinger Attorney at Law
2112 Indiana
Lubbock, Texas 79410