

FIRST AMENDMENT TO

DECLARATION OF CONDOMINIUM REGIME

FOR

LIVE OAK ON SPICEWOOD SPRINGS,  
A RESIDENTIAL CONDOMINIUM

RECITALS

WHEREAS, by instrument entitled “Declaration of Condominium Regime for Live Oak on Spicewood Springs, a Residential Condominium,” dated May 21, 2018, and recorded under Document No. 2018078243, of the Official Public Records of Travis County, Texas (the “Declaration”), SYCAMORE COURT, LLC, a Texas limited liability company (the “Declarant”), created Live Oak on Spicewood Springs, a Residential Condominium, located in Travis County, Texas (the “Condominium Regime”); and

WHEREAS, pursuant to Sections 12.1 and 12.8 of the Declaration, Declarant and WES PEOPLES HOMES, LLC, a Texas limited liability company (the “LLC Owner”), as Owner of all the Units currently annexed into the Regime as of the effective date of this First Amendment to the Declaration, desire to amend the Declaration to amend and restate Article XI of the Declaration; and

WHEREAS, the Declarant and the LLC Owner hold all of the votes in the Association; and

WHEREAS, pursuant to Section 11.8 of the Declaration, the Association (acting through a Majority of the Board) hereby joins in this First Amendment to the Declaration to show consent thereto; and

WHEREAS, the LLC Owner and the Declarant desire to file this First Amendment to the Declaration of Condominium Regime for Live Oak on Spicewood Springs, a Residential Condominium (the “First Amendment to the Declaration”) and, as evidenced by their signatures below, consent to the following action without a meeting;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, THAT:

1. Amendment and Restatement of Article XI. Article XI of the Declaration is hereby deleted in its entirety and replaced with the following quoted language:

**“ARTICLE XI.  
DISPUTE RESOLUTION”**

11.1 INTRODUCTION AND DEFINITIONS. The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the “Parties”) agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of

litigation and arbitration if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all Claims as hereafter defined and agrees to be bound by this Article. This Article may not be amended without the prior written approval of Declarant, the Association (acting through a Majority of the Board), and Owners holding one hundred percent (100%) of the votes of the Association.

As used in this Article only, the following words, when capitalized, have the following specified meanings:

(a) "Claim" means:

(1) claims relating to the rights and/or duties of Declarant, or its permitted assigns under the Condominium Documents;

(2) claims relating to the design or construction of a Unit or Common Element or its condition; and

(3) claims relating to the acts or omissions of the Declarant, Board, ACC, or an individual officer, director, or other person acting in an official capacity of such entities during the Declarant's control and administration of the Association or the Regime as provided in this Declaration.

(b) "Claimant" means any Party having a Claim against any other Party.

(c) "Claimant Attorney" means any a law firm or attorney which is hired or is under consideration to be hired by a Claimant.

(d) "Respondent" means any Party against which a Claim has been asserted by Claimant.

11.2 RIGHT OF ACTION AS TO CLAIMS BY THE ASSOCIATION. All Owners hereby acknowledge and agree that the Association shall not be entitled to institute any Claim against anyone on behalf of any or all of the Owners including, without limitation, any Claim which is based on any alleged construction defect or design in any Unit(s) or the Common Elements, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all Claims shall be instituted by the Owner of such Unit(s) or the Owners served by such Common Elements allegedly sustaining such damage. Notwithstanding the above, once the Declarant Control Period terminates, the Board may negotiate (but not institute any Claim for) the resolution of any Claim on behalf of the Owners and shall have the right and authority to settle and release Claims on behalf of any and all of the Owners. Any such settlement and release shall bind all Owners and their successors and assigns. No amendment to this Declaration shall (i) modify, alter or delete any provisions of this Declaration that benefits Declarant or any rights, privileges, easements and protections or defenses of this Declaration; or (ii) alter the rights of Owners or the Association in relationship to the Declarant, without the written consent of the Declarant attached to and recorded with such amendment. This Section 11.2 controls over any provision to the contrary in the Condominium Documents. The provisions of this Article XI which specifically pertain to Claims by the Association (including without limitation those set forth in Section 11.4) shall only apply and have any effect if the provisions set forth in this Section 11.2 are legally

determined to be invalid or unenforceable.

11.3 MANDATORY PROCEDURES. Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

11.4. CLAIMS – COMMON ELEMENTS. In accordance with Section 11.2 of this Declaration, the Association does not have the power or right to institute Claims. However, in the event the provisions of Section 11.2 are found by a court of competent jurisdiction to be invalid or otherwise unenforceable with respect to a Claim related to the Common Elements, the provisions of this Section 11.4 shall apply. As a precondition to providing the Notice defined in Section 11.6, initiating the mandatory dispute resolution procedures set forth in this Article XI, or taking any other action to prosecute a Claim, a Claimant (whether Owner(s) or the Association) must:

(a) Obtain Owner Approval of Engagement by the Association. The requirements related to Owner approval set forth in this Section 11.4(a) are intended to ensure that the Association and the Owners approve and are fully informed of the financial arrangements between the Association and a Claimant Attorney engaged by the Association to prosecute a Claim relating to the design or construction of the Common Elements. The engagement agreement between the Association and the Claimant Attorney may include requirements that the Association pay costs, fees, and expenses to the Claimant Attorney which will be paid through Assessments levied against Owners. The financial agreement between the Association and the Claimant Attorney may also include obligations related to payment, and the conditions and circumstances when the payment obligations arise, if the relationship between the Association and the Claimant Attorney is terminated or if the Association agrees to settle the Claim. In addition, the financial arrangement between the Association and the Claimant Attorney may include additional costs, expenses, and interest charges. This financial obligation can be significant. The Board may not engage a Claimant Attorney to prosecute a Claim relating to the design, or construction of the Common Elements or execute a written agreement between the Association and a Claimant Attorney for the purpose of prosecuting a Claim relating to the design or construction of Common Elements unless the Claimant Attorney and the financial arrangements between the Association and the Claimant Attorney are approved by the Owners in accordance with this Section 11.4(a).

Unless otherwise approved by Members holding seventy-five percent (75%) of the votes in the Association, the Association, acting through its Board, shall in no event have the authority to engage a Claimant Attorney to prosecute a Claim relating to the design or construction of the Common Elements. The approval requirement set forth in the preceding sentence shall include without limitation approval of any provision or requirement in the agreement with such Claimant Attorney that would obligate the Association to pay any costs, expenses, fees, or other charges to the Claimant Attorney, including but not limited to, costs, expenses, fees, or other charges payable by the Association: (i) if the Association terminates the engagement with the Claimant Attorney or engages another firm or third party to assist with the Claim; (ii) if the Association agrees to settle the Claim for a cash payment or in exchange for repairs or remediation performed by the Respondent or any other third party; (iii) if the Association agrees to pay interest on any costs or expenses incurred by the Claimant Attorney; and/or (iv) for consultants, expert witnesses, and/or general contractors hired by the Claimant Attorney. For avoidance of doubt, it is intended that Members holding seventy-five percent (75%) of the votes in the Association must approve the Claimant Attorney who will prosecute the Claim and the written agreement between

the Association and the Claimant Attorney. The approval of the Members required under this Section 11.4(a) must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of Member meeting will be provided pursuant to the Bylaws but the notice must also include: (a) the name of the Claimant Attorney; (b) a copy of the proposed written agreement between the Association and the Claimant Attorney; (c) a narrative summary of the types of costs, expenses, fees, or other charges that may be required to be paid by the Association; (d) the conditions upon which such types of costs, expenses, fees, or other charges are required to be paid by the Association; (e) an estimate of the costs, expenses, fees, or other charges that may be required to be paid by the Association if the conditions for payment occur, which estimate shall be expressed as a range for each type of cost, expense, fee, or other charge; and (f) a description of the process the Claimant Attorney will use to evaluate the Claim and whether destructive testing will be required (i.e., the removal of all or portions of the Common Elements, Units, or Improvements). If destructive testing will be required or is likely to occur, the notice shall include a description of the destructive testing, likely locations of the destructive testing, whether the Owner's use of their Units or the Common Elements will be affected by such testing, and if the destructive testing occurs the means or method the Association will use to repair the Common Elements, Units, or Improvements affected by such testing and the estimated costs thereof. The notice required by this paragraph must be prepared and signed by a person other than the Claimant Attorney who is a party to the proposed agreement being approved by the Members. In the event Members holding seventy-five percent (75%) of the votes in the Association approve the Claimant Attorney who will prosecute the Claim and the written agreement between the Association and the Claimant Attorney, the Board shall have the authority to engage the Claimant Attorney and enter into the written agreement approved by the Members.

(b) Provide Notice of the Inspection. As provided in Section 11.4(c) below, a Common Element Report is required. Before conducting an inspection that is required to be memorialized by the Common Element Report, the Claimant must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Common Element Report, the specific Common Elements to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(c) Obtain a Common Element Report. The requirements related to the Common Element Report set forth in this Section 11.4(c) are intended to provide assurance to the Claimant, Respondent, and the Owners that the substance and conclusions of the Common Element Report and recommendations are not affected by influences that may compromise the professional judgment of the party preparing the Common Element Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Common Element Report is compromised.

The Claimant must obtain a written independent third-party report for the Common Elements (the "Common Element Report") from a professional engineer licensed by the Texas Board of Professional Engineers with an office located in Travis County, Texas (the "Inspection Company"). The Common Element Report must include: (i) a description with photographs of the Common Elements subject to the Claim; (ii) a description of the present physical condition of the Common Elements subject to the Claim; (iii) a detailed description of any modifications, maintenance, or repairs to the Common Elements performed by the Association or a third party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation

and/or repair of the Common Elements subject to the Claim. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Common Element Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Travis County, Texas, and each such contractor providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by applicable law for the work to which the cost estimate relates.

The Common Element Report must be obtained by the Claimant. The Common Element Report will not satisfy the requirements of this Section and is not an “independent” report if: (i) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the Claimant Attorney that presently represents the Association or proposes to represent the Association; (ii) the costs and expenses for preparation of the Common Element Report are not required to be paid directly by the Claimant to the Inspection Company at the time the Common Element Report is finalized and delivered to the Claimant; or (iii) the Claimant Attorney that presently represents the Claimant or proposes to represent the Claimant has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Claimant’s agreement with the Claimant Attorney) the Claimant for the costs and expenses for preparation of the Common Element Report. For avoidance of doubt, an “independent” report means that the Claimant has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Association will directly pay for the report at the time the Common Element Report is finalized and delivered to the Claimant.

(d) Provide a Copy of Common Element Report to all Respondents and Owners. Upon completion of the Common Element Report, and in any event no later than three (3) days after the Claimant has been provided a copy of the Common Element Report, the Claimant will provide a full and complete copy of the Common Element Report to each Respondent and to each Owner. The Claimant shall maintain a written record of each Respondent and Owner who was provided a copy of the Common Element Report which will include the date the report was provided. The Common Element Report shall be delivered to each Respondent by hand-delivery and to each Owner by mail.

(e) Provide a Right to Cure Defects and/or Deficiencies Noted on Common Element Report. Commencing on the date the Common Element Report has been delivered to Respondent and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (a) inspect any condition identified in the Common Element Report; (b) contact the Inspection Company for additional information necessary and required to clarify any information in the Common Element Report; and (c) correct any condition identified in the Common Element Report. As provided in this Declaration, Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Common Element Report.

(f) Hold Owner Meeting and Obtain Approval. In addition to obtaining approval from Members for the terms of the Claimant Attorney engagement agreement, the

Claimant must obtain approval from Members holding seventy-five percent (75%) of the votes in the Association to provide the Notice described in Section 11.6, initiate the mandatory dispute resolution procedures set forth in this Article XI, or take any other action to prosecute a Claim, which approval from Members must be obtained at a meeting of Members called in accordance with the Bylaws. The notice of meeting required hereunder will be provided pursuant to the Bylaws but the notice must also include: (i) the nature of the Claim, the relief sought, the anticipated duration of prosecuting the Claim, and the likelihood of success; (ii) a copy of the Common Element Report; (iii) a copy of any engagement letter between the Claimant and the Claimant Attorney; (iv) a description of the attorney fees, consultant fees, expert witness fees, and court costs, whether incurred by the Claimant directly or for which the Claimant may be liable as a result of prosecuting the Claim; (v) a summary of the steps previously taken by the Claimant to resolve the Claim; (vi) a statement that initiating the lawsuit or arbitration proceeding to resolve the Claim may affect the market value, marketability, or refinancing of a Unit while the Claim is prosecuted; and (vii) a description of the manner in which the Claimant proposes to fund the cost of prosecuting the Claim. The notice required by this paragraph must be prepared and signed by a person who is not (a) the Claimant Attorney; (b) a member of the Claimant Attorney's law firm; or (c) employed by or otherwise affiliated with the law firm of the Claimant Attorney. In the event Members approve providing the Notice described in Section 11.6, or taking any other action to prosecute a Claim, the Members holding a majority of the votes in the Claimant, at a special meeting called in accordance with the Bylaws, may elect to discontinue prosecution or pursuit of the Claim.

(g) Funding Arbitration and Litigation. For Claims pursued by the Association, the Association must levy a Special Assessment to fund the estimated costs of arbitration conducted pursuant to this Article XI or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund.

11.5 CLAIM BY OWNERS - UNITS. In the event an Owner asserts a Claim related to a Unit, as a precondition to providing the Notice defined in Section 11.6, initiating the mandatory dispute resolution procedures set forth in this Article XI, or taking any other action to prosecute a Claim, the Owner must:

(a) Provide Notice of the Inspection. As provided in Section 11.5(b) below, a Unit Report is required which is a written inspection report issued by the Inspection Company. Before conducting an inspection that is required to be memorialized by the Unit Report, the Owner must have provided at least ten (10) days prior written notice of the date on which the inspection will occur to each Respondent which notice shall identify the Inspection Company preparing the Unit Report, the Unit and areas of the Unit to be inspected, and the date and time the inspection will occur. Each Respondent may attend the inspection, personally or through an agent.

(b) Obtain a Unit Report. The requirements related to the Unit Report set forth in this Section 11.5(b) are intended to provide assurance to the Claimant and Respondent that the substance and conclusions of the Unit Report and recommendations are not affected by influences that may compromise the professional judgment of the party preparing the Unit Report, and to avoid circumstances which would create the appearance that the professional judgment of the party preparing the Unit Report is compromised.

A written independent third-party report for the Unit (the "Unit Report") must be obtained from an Inspection Company by the Unit Owner. The Unit Report must include: (i) a description with photographs of the Unit and portions of the Unit subject to the Claim; (ii) a description of the present physical condition of the Unit; (iii) a detailed description of any modifications, maintenance, or repairs to the Unit performed by the Owner or a third party, including any Respondent; and (iv) specific and detailed recommendations regarding remediation and/or repair of the Unit. For the purpose of subsection (iv) of the previous sentence, the specific and detailed recommendations must also include the specific process, procedure, materials, and/or improvements necessary and required to remediate and/or repair the deficient or defective condition identified in the Unit Report and the estimated costs necessary to effect such remediation and/or repairs. The estimate of costs required by the previous sentence shall be obtained from third-party contractors with an office located in Travis County, Texas, and each such contractor providing the estimate must hold all necessary or required licenses from the Texas Department of Licensing and Regulation or otherwise required by Applicable Law for the work to which the cost estimate relates.

The Unit Report will not satisfy the requirements of this Section and is not an "independent" report if: (i) the Inspection Company has an arrangement or other agreement to provide consulting and/or engineering services with the Claimant Attorney; (ii) the costs and expenses for preparation of the Unit Report are not directly paid by the Owner to the Inspection Company no later than the date the Unit Report is finalized and delivered to the Owner; or (iii) the Claimant Attorney has agreed to reimburse (whether unconditional or conditional and based on the satisfaction of requirements set forth in the Owner's agreement with the Claimant Attorney) the Owner for the costs and expenses for preparation of the Unit Report. For avoidance of doubt, an "independent" report means that the Owner has independently contracted with the Inspection Company on an arms-length basis based on customary terms for the preparation of engineering reports and that the Owner will directly pay for the report no later than the date the Unit Report is finalized and delivered to the Owner.

(c) Provide a Copy of Unit Report to all Respondents. Upon completion of the Unit Report, and in any event no later than three (3) days after the Owner has been provided a copy of the Unit Report, the Owner will provide a full and complete copy of the Unit Report to each Respondent. The Owner shall maintain a written record of each Respondent who was provided a copy of the Unit Report which will include the date the report was provided. The Unit Report shall be delivered to each Respondent by hand delivery and to each Owner by mail.

(d) Right to Cure Defects and/or Deficiencies Noted on Unit Report. Commencing on the date the Unit Report has been delivered to Respondent and continuing for a period of ninety (90) days thereafter, each Respondent shall have the right to: (a) inspect any condition identified in the Unit Report; (b) contact the Inspection Company for additional information necessary and required to clarify any information in the Unit Report; and (c) correct any condition identified in the Unit Report. As provided in this Declaration, the Declarant has an easement throughout the Property for itself, and its successors, assigns, architects, engineers, other design professionals, builders, and general contractors that may be utilized during such ninety (90) day period and any additional period needed thereafter to correct a condition identified in the Unit Report.

(e) Claims Pertaining to the Common Elements. In pursuing a Claim related to the Common Elements, a Unit Owner shall be required, as a precondition to providing the Notice defined in Section 11.6, initiating the mandatory dispute resolution procedures set forth in this Article XI, or taking any other action to prosecute a Claim, to comply with the requirements imposed by Section 11.4(b) (Provide Notice of Inspection), Section 11.4(c) (Obtain a Common Element Report), Section 11.4(d) (Provide a Copy of Common Element Report to all Respondents and Owners), Section 11.4(e) (Provide Right to Cure Defects and/or Deficiencies Noted on Common Element Report), Section 11.4(f) (Owner Meeting and Approval), and Section 11.6 (Notice).

11.6 NOTICE. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (i) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (ii) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (iii) what Claimant wants Respondent to do or not do to resolve the Claim; and (iv) that the Notice is given pursuant to this Section 11.6. For Claims governed by Chapter 27 of the Texas Property Code, the time period for negotiation in Section 11.7 below, is equivalent to the sixty (60) day period under Section 27.004 of the Texas Property Code. If a Claim is subject to Chapter 27 of the Texas Property Code, the Claimant and Respondent are advised, in addition to compliance with Section 11.6, to comply with the terms and provisions of Section 27.004 during such sixty (60) day period. Section 11.6 does not modify or extend the time period set forth in Section 27.004 of the Texas Property Code. Failure to comply with the time periods or actions specified in Section 27.004 could affect a Claim if the Claim is subject to Chapter 27 of the Texas Property Code. The one hundred and twenty (120) day period for mediation set forth in Section 11.8 below, is intended to provide the Claimant and Respondent with sufficient time to resolve the Claim in the event resolution is not accomplished during negotiation. If the Claim is not resolved during negotiation, mediation pursuant to Section 11.8 is required without regard to the monetary amount of the Claim. If the Claimant is the Association, the Notice will also include: (a) if the Claim relates to the design or construction of the Common Elements, a true and correct copy of the Common Element Report, and any and all other reports, studies, analyses, and recommendations obtained by the Association related to the Common Elements; (b) a copy of any engagement letter between the Association and the Claimant Attorney selected by the Association to assert or provide assistance with the Claim; (c) if the Claim relates to the design or construction of the Common Elements, reasonable and credible evidence confirming that Members holding seventy-five percent (75%) of the votes in the Association approved the Claimant Attorney and the written agreement between the Association and the Claimant Attorney in accordance with Section 11.4(a); (d) a true and correct copy of the special meeting notice provided to Members in accordance with Section 11.4(f) above; and (e) reasonable and credible evidence confirming that Members holding seventy-five percent (75%) of the votes in the Association approved providing the Notice. If the Claimant is not the Association and relates to the design or construction of a Unit, the Notice will also include a true and correct copy of the Unit Report.

11.7 NEGOTIATION. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within sixty (60) days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. In the event the Claim involves all or any portion of the Property, then at such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the Property that is subject to the Claim for



the purposes of inspecting the Property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the Property to take and complete corrective action.

11.8 MEDIATION. If the Parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the Parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the Parties mutually agree. The mediator must have at least five (5) years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim. If Claimant does not submit the Claim to mediation within the thirty (30) day period, Respondent will submit the Claim to mediation in accordance with this Section 11.8. If the Parties do not settle the Claim within thirty (30) days after submission to mediation, Respondent or Claimant may initiate arbitration proceedings in accordance with Section 11.9.

11.9 BINDING ARBITRATION CLAIMS. All Claims must be settled by binding arbitration. Claimant or Respondent may, by summary proceedings, bring an action in court to compel arbitration of any Claim not referred to arbitration as required by this Section 11.9.

(a) *Governing Rules.* If a Claim has not been resolved after mediation as required in this Article XI, the Claim will be resolved by binding arbitration in accordance with the terms of this Section 11.9 and the rules and procedures of the American Arbitration Association ("AAA") or, if the AAA is unable or unwilling to act as the arbitrator, then the arbitration shall be conducted by another neutral reputable arbitration service selected by Respondent in Travis County, Texas. Regardless of what entity or person is acting as the arbitrator, the arbitration shall be conducted in accordance with the AAA's Construction Industry Dispute Resolution Procedures and, if they apply to the disagreement, the rules contained in the Supplementary Procedures for Consumer-Related Disputes. If such rules have changed or been renamed by the time a disagreement arises, then the successor rules will apply. Also, despite the choice of rules governing the arbitration of any claim, if the AAA has, by the time of the Claim, identified different rules that would specifically apply to the Claim, then those rules will apply instead of the rules identified above. In the event of any inconsistency between any such applicable rules and this Section, this Section will control. Except as provided in Section 11.9(d) below, judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

(1) one arbitrator shall be selected by Respondent, in its sole and absolute discretion;

(2) one arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and

(3) one arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

(b) *Exceptions to Arbitration; Preservation of Remedies.* No provision of, nor the exercise of any rights under, this Section will limit the right of Claimant or Respondent, and Claimant and the Respondent will have the right during any Claim, to seek, use, and employ ancillary or preliminary remedies, judicial or otherwise for the purpose of realizing upon, preserving or protection upon any property, real or personal, that is involved in a Claim, including, without limitation, rights and remedies relating to: (i) exercising self-help remedies (including set-off rights); or (ii) obtaining provisions or ancillary remedies such as injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of self-help remedies shall not constitute a waiver of the right of any Party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

(c) *Statute of Limitations.* All statutes of limitation that would otherwise be applicable shall apply to any arbitration proceeding hereunder.

(d) *Scope of Award; Modification or Vacation of Award.* The arbitrator shall resolve all Claims in accordance with applicable law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope hereof and subject to Section 11.10; provided, however, that for a Claim, or any portion of a Claim governed by Chapter 27 of the Texas Property Code, or any successor statute, in no event shall the arbitrator award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code. The arbitrator may also grant such ancillary relief as is necessary to make effective the award. In all arbitration proceedings, the Parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on an incorrect or erroneous ruling of law by appeal to an appropriate court having jurisdiction; provided, however, that any such application for vacation or modification of an award based on an incorrect ruling of law must be filed in a court having jurisdiction over the Claim within fifteen (15) days from the date the award is rendered. The arbitrator's findings of fact shall be binding on all Parties and shall not be subject to further review except as otherwise allowed by applicable law. In no event may an arbitrator award speculative, consequential, or punitive damages for any claim.

(e) *Other Matters.* To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within one hundred eighty (180) days of the filing of the Claim for arbitration by notice from either Party to the other. Arbitration proceedings hereunder shall be conducted in Travis County, Texas. The arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and applicable law. Each Party agrees to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the Parties or by applicable law or regulation. In no event shall any Party discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other Parties to the Claim.

11.10 ALLOCATION OF COSTS. Notwithstanding any provision in the Condominium Documents to the contrary, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Binding Arbitration Claims

sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

11.11 GENERAL PROVISIONS. A release or discharge of Respondent from liability to Claimant on account of the Claim does not release a Respondent from liability to persons who are not Party to Claimant's Claim.

11.12 PERIOD OF LIMITATION.

(a) *For Actions by an Owner of a Unit.* The exclusive period of limitation for an Owner to bring any Claim of any nature against Declarant, or its contractors, including, but not limited to, a Claim of construction defect or defective design of a Unit or a Common Element, shall be the earliest of (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim, provided, however, that in no event shall the limitation period exceed four (4) years and one (1) day from the date Declarant conveyed the Unit to the original Owner unless the basis of the Claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the Claim; or (ii) for Claims other than those alleging construction defect or defective design, two (2) years and one (1) day after the date Declarant conveyed the Unit to the original Owner or such other shorter period specified in any written agreement between Declarant and the Owner to whom Declarant initially conveyed the Unit, unless the basis of the Claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the Claim. Any Claim regarding an alleged construction defect or design in a Unit or the Common Elements must be instituted and maintained solely by the Owners in accordance with Section 11.2.

(b) *For Actions by the Association.* The exclusive period of limitation for the Association to bring any Claim of any nature against Declarant or its contractors, including, but not limited to, a Claim of construction defect or defective design of the Common Elements, shall be the earliest of: (i) for Claims alleging construction defect or defective design, two (2) years and one (1) day from the date the Association or its agents discovered or reasonably should have discovered evidence of the Claim, provided, however, that in no event shall the limitation period exceed four (4) years from the date Declarant substantially completed the Common Elements unless the basis of the Claim was intentionally concealed or willfully concealed by Declarant or its contractors, in which case, the state law governing the limitation period and period of repose shall apply to the Claim; or (ii) for Claims other than those alleging construction defect or defective design of the Common Elements, two (2) years and one (1) day after the Declarant Control Period, unless the basis of the Claim was intentional fraud or willful misconduct, in which case, the applicable law governing the limitation period and period of repose shall apply to the Claim.

11.13 APPROVAL AND SETTLEMENT. Notwithstanding any provision in this Article to the contrary, the initiation of binding arbitration as required by this Article is subject to the condition that the Association must levy a Special Assessment to fund the estimated costs of arbitration conducted pursuant to this Article or any judicial action initiated by the Association. The Association may not use its annual operating income or reserve funds or savings to fund arbitration or litigation, unless the Association's annual budget or a savings account was established and funded from its inception as an arbitration and litigation reserve fund."

2. Definitions. All capitalized terms shown in this First Amendment to the Declaration shall have their meaning as expressed under the Declaration unless otherwise indicated herein.

3. No Other Modifications. Except as expressly modified by this First Amendment to the Declaration, the covenants, restrictions, agreements, easements, terms and provisions of the Declaration shall continue in full force and effect.

4. Counterparts. This First Amendment to the Declaration may be executed in multiple originals, each of which shall constitute an original for all purposes and together which shall constitute a fully executed amendment.

*[Signature pages to follow]*

EXECUTED to be effective on the date this instrument is recorded.

**DECLARANT:**

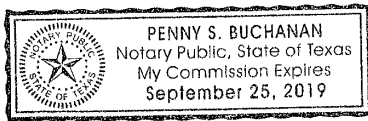
SYCAMORE COURT, LLC,  
a Texas limited liability company

By:   
Wesley Peoples, Manager

NOTARY ACKNOWLEDGMENT

THE STATE OF TEXAS                   §  
  §  
COUNTY OF TRAVIS                 §

This instrument was acknowledged before me on this 30 day of January 2019, by Wesley Peoples, as Manager of SYCAMORE COURT, LLC, a Texas limited liability company, on behalf of said company.

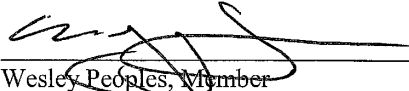


Penny S. Buchanan  
Notary Public, State of Texas

EXECUTED to be effective on the date this instrument is recorded.

**LLC OWNER** (as Owner of Units 1, 2, and 3, Building 1, and Units 12, 13, 14, and 15, Building 2):

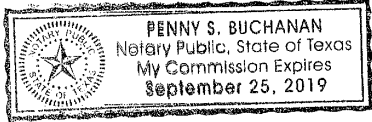
WES PEOPLES HOMES, LLC,  
a Texas limited liability company

By:   
Wesley Peoples, Member

NOTARY ACKNOWLEDGMENT

THE STATE OF TEXAS                   §  
   §  
COUNTY OF TRAVIS                   §

This instrument was acknowledged before me on this 30 day of January, 2019, by Wesley Peoples, as Member of WES PEOPLES HOMES, LLC, a Texas limited liability company, on behalf of said company.

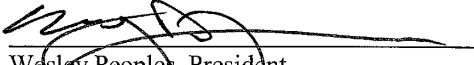


Penny S. Buchanan  
Notary Public, State of Texas

EXECUTED to be effective on the date this instrument is recorded.

**ASSOCIATION:**

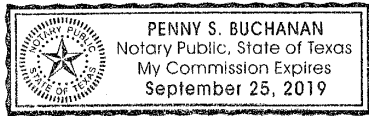
LIVE OAK/SPICEWOOD  
CONDOMINIUM ASSOCIATION,  
a Texas nonprofit corporation

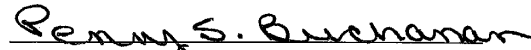
By:   
Wesley Peoples, President

NOTARY ACKNOWLEDGMENT

THE STATE OF TEXAS                   §  
   §  
COUNTY OF TRAVIS                   §

This instrument was acknowledged before me on this 30 day of January, 2019, by Wesley Peoples, as President of Live Oak/Spicewood Condominium Association, Inc., a Texas nonprofit corporation, on behalf of said nonprofit corporation.




  
Notary Public, State of Texas

AFTER RECORDING, RETURN TO:  
McLean & Howard, L.L.P.  
Barton Oaks Plaza, Bldg. II  
901 South Mopac Expressway, Suite 225  
Austin, Texas 78746  
Attn: William P. McLean



**FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS**

  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS  
January 30 2019 03:55 PM  
FEE: \$ 82.00 2019013351