

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**PARADISE POINTE**

STATE OF TEXAS       §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF NUECES §

This declaration, made on the date hereinafter set forth by Vision Land Group, Ltd., a Texas limited partnership, as “Developer”.

WITNESSETH:

Vision Land Group, Ltd., Developer, is the owner of the following property in Nueces County, Texas (herein referred to as the “Property” or “Subdivision”):

Lots 7 through 86 and Lot 99,  
PARADISE POINTE, a subdivision in the City of Port Aransas, Nueces County, Texas,  
according to the map or plat thereof duly recorded in  
Volume \_\_, Page \_\_, of the Map Records of Nueces County,  
Texas (the “Recorded Plat”), to which map and plat reference is  
here made for all purposes.

WHEREAS, it is the desire of Developer to place certain restrictions, easements, covenants, conditions, stipulations and reservations (herein sometimes referred to as the “Restrictions”) upon and against such Property in order to establish a uniform plan for the development, improvement and sale of the Property, and to insure the preservation of such uniform plan for the benefit of both the present and future owners of Lots in said Subdivision;

NOW, THEREFORE, Developer hereby declares, adopts, establishes and imposes upon the Subdivision known as Paradise Pointe, the following reservations, easements, restrictions, covenants and conditions, applicable thereto. The purpose of this Declaration is to enhance and protect the value, desirability and attractiveness of the Subdivision. The Covenants, Conditions and Restrictions shall run with said Property and title or interest therein, or any part thereof, and shall inure to the benefit of each Owner thereof. No part of this Declaration shall be deemed to apply in any manner to any area not included in the boundaries of the recorded Plat.

## ARTICLE I

### DEFINITIONS

Section 1.01 “Developer” refers to Vision Land Group, Ltd., and its successors and assigns, and also will include any third party to which Developer specifically assigns its development rights under this Declaration. Sale of a Lot or Lots in the Subdivision by Developer to a third party shall not imply a transfer of development rights, unless a specific conveyance of development rights is made.

Section 1.02 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to the surface estate of any Lot which is part of the Property, including contract sellers, but excluding those claiming an interest in a Lot merely as security for the performance of an obligation.

Section 1.03 “Contractor” shall mean and refer to the person or entity with whom an Owner contracts to construct a residential dwelling or other related improvements on such Owner’s Lot.

Section 1.04 “Builders” shall mean and refer to persons or entities that purchase a Lot of Lots to build speculative or custom homes thereon for third party purchasers.

Section 1.05 “Property” or “Subdivision” shall mean and refer to the tract of land platted as Paradise Pointe subdivision.

Section 1.06 “Lot” refers to Lots 7 through 36, 38 through 57, and 59 through 86 and refer both to each plot of land shown upon the Recorded Plat upon which there has been or will be constructed a single family residence, and to the residence and improvements constructed or to be constructed thereon.

Section 1.07 “Common Area” refers only to Lots 37, 58 and Lot 99 which will be used for the purpose of park area, a private lake, private road and walking trail. The Common Area will be equally owned by the owners of Lots 7 through 36, 38 through 57, and 59 through 86. ( 1/80th share per Lot.)

Section 1.08 “Easements” shall mean and refer to the various utility or other easements of record, as shown on the Recorded Plat of the Subdivision and such other easements as are created or referred to herein or granted hereafter by Developer.

Section 1.09 “Paradise Pointe Homeowners’ Association” shall refer to the non-profit home owners’ association to be formed and operated as provided in Article V.

Section 1.10 “Architectural Control Committee” shall mean and refer to the Paradise Pointe Architectural Control Committee created and provided for in Article VI hereof.

Section 1.11 Terminology. All personal pronouns used in the Declaration and all exhibits attached hereto, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural and vice versa as may be appropriate.

Titles to Articles and sections are for convenience only and neither limit nor amplify the provisions of this Declaration itself. The terms “herein”, “hereof” and similar terms, as used in this instrument, refer to the entire agreement and are not limited to referring only to the specific paragraph, section or article in which such terms appear. All references in this Declaration to Exhibits shall refer to the Exhibits attached hereto. All references to Plat shall refer to the recorded plat of the Subdivision.

## ARTICLE II

### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

Section 2.01 Recorded Subdivision Map of the Property. The Plat (“Plat”) of the Subdivision dedicates for use, subject to the limitations as set forth therein, the roads, streets and easements shown thereon. The Plat further establishes certain restrictions applicable to the Property. All dedications, restrictions, and reservations created herein or shown on the Plat, replats or amendments of the Plat of the Subdivision recorded or hereafter recorded shall be construed as being included in each contract, deed, or conveyance executed or to be executed by or on behalf of Developer, conveying said Property or any part thereof whether specifically referred to therein or not.

Section 2.02 Easements. Developer reserves and makes the Subdivision subject to the utility easements as shown on the Plat or that have been or hereafter may be created by separate instrument recorded in the Real Property Records of Nueces County, Texas, for the purpose of constructing, maintaining and repairing a system or systems of electric lighting, electric power, telephone line or lines, gas lines, sewers, water lines, storm drainage (surface or underground), cable television, or any other utility the Developer or utility sees fit to install in, across, and/or under the Property. Any utility company serving the Subdivision and/or any Utility District serving the Subdivision shall have the right to enter upon any utility easement for the purpose of installation, repair and maintenance of their respective facilities.

Section 2.03 Title Subject to Easements. It is expressly agreed and understood that the title conveyed by Developer to any of the Lots by contract, deed or other conveyance shall be subject to any easement affecting same for roadways or drainage, water line, gas, sewer, electric lighting, electric power, telephone purposes as provided by the Plat and other easement hereafter granted affecting the Lots and/or Subdivision. The Owners of the respective Lots shall not be deemed to own pipes, wires, conduits or other service lines running through their Lots which are utilized for or service other Lots, but each Owner shall have an easement in and to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot. The Developer may convey title to said easements to the public or a public utility company.

Section 2.04 Utility Easements. Utility ground and aerial easements have been dedicated in accordance with the Plat and by separate easement documents. No building shall be located over, under, upon or across any portion of any utility easement. The Owner of each Lot shall have the right to construct, keep and maintain concrete drives, fences, and similar improvements across any utility easement, and shall be entitled to cross such easements at all times for purposes of gaining access to and from such Lots, provided, however, any concrete drive, fence or similar improvement placed upon such Utility Easement by the Owner shall be

constructed, maintained and used at Owner's risk and, as such, the Owner of each Lot subject to said Utility Easements shall be responsible for (i) any and all repairs to the concrete drives, fences and similar improvements which cross or are located upon such Utility Easements and (ii) repairing any damage to said improvements caused by the Utility District of any public utility in the course of installing, operating, maintaining, repairing, or removing its facilities located within the Utility Easements.

### ARTICLE III

#### LAND USE AND BUILDING RESTRICTIONS

Section 3.01 Single Family Residential Construction. There are hereby adopted and imposed the following Land Use and Building Restrictions:

- a) One Single Family Dwelling Per Lot. No building shall be erected, altered, placed or permitted to remain on any Lot other than one dwelling unit ("Dwelling"), including recreation amenities and attached or separate parking, per Lot to be used solely for single family residential purposes.
- b) Residential Purposes. As used herein, the "residential purposes" shall be construed to prohibit mobile homes, trailers, motor homes, geodesic domes, manufactured homes, tents, shacks, lean-tos, or other outbuildings being placed on said Lots, or the use of said Lots for duplex houses, condominiums, townhouses, or apartment houses.
- c) Approval. All Dwellings must be approved in writing by the Architectural Control Committee prior to being constructed, erected, altered, or placed on the property.
- d) Eco-friendly Building is encouraged within the Subdivision.
- e) The term "Dwelling" Does Not Include single or double wide manufactured or mobile homes, or any old or used houses to be moved on the Lot. Said manufactured or mobile homes are not permitted within the subdivision if they fall under HUD-code manufactured home or mobile home as defined by The Texas Occupations Code, Chapter 1201: Manufactured Housing. Modular or prefabricated homes that meet the definition of Single Family Industrialized Housing as defined by The Texas Occupations Code, Chapter 1202: Industrialized Housing and Buildings are permitted subject to Architectural Control Committee approval and compliance with the other building standards required herein.
- f) Minimum Square Feet, Porches. All dwellings must have at least 1,000 square feet of air conditioned living area; exclusive of open screened porches, terraces, patios, driveways, carports, and garages. The area of the ground level will not be considered in the calculation of living areas. Each dwelling must have a total porch area equivalent to or greater than 15% of the square footage of living area. All dwellings must have a front porch.
- g) Foundation and Ground Floor Requirements. All building foundations shall meet existing FEMA requirements and City of Port Aransas applicable building codes for elevation above mean high tide as well as other structural requirements. All homes must be built up on a pier and beam foundation.

Some portion of which must be built up to at least eight (8) feet to accommodate under-structure parking. The ground floor of any structure must have at least 100 square feet which is enclosed for storage and/or garage purposes.

- h) Exterior Surfaces. Exterior walls must be cementitious fiber (such as James Hardie materials), in any of the following styles: shingle siding, lap siding or vertical siding. No wood, brick or stone is to be used for exterior surfaces. Exterior surfaces, including railings, soffits, and trim, must be either painted or stained a color blending with the suggested color palette and must be approved by the architectural control committee. Pilings can be left in their natural state. The intention of this restriction is to create a unique subdivision with a color palette that blends with the natural surroundings of Paradise Pointe.
- i) Eaves. All eaves must extend at least twelve (12) inches from the exterior walls.
- j) Roofing. The roof of any Dwelling shall be a snap-lock standing seam corrosion-resistant sheet metal or an architectural grade, high definition composition shingle roof. The color of the roof must blend with the suggested color palette and be approved by the Architectural Control Committee. Sheet metal used for flashing must be corrosion-resistant.
- k) No "A" Frame houses are allowed.
- l) Completion of Construction. Any building, structure or improvement commenced on any Lot shall be completed as to exterior finish and appearance within ten (10) months after construction is commenced. The Paradise Pointe Architectural Control Committee shall have the authority to grant a variance to allow for a longer completion time in its sole discretion.
- m) Applicable Building Codes. All buildings, structures or improvements must meet or exceed all applicable building codes, including the City of Port Aransas Building Code.

Section 3.02 Use of the Lot. No Lot shall be used for business, educational, religious or professional purposes of any kind whatsoever, nor for any commercial or manufacturing purposes. Provided, however, an Owner may maintain a home office in a Dwelling with no advertising signs or regular visits by customers or clients. No residence may be occupied until a Certificate of Occupancy has been issued. Rentals shall be permitted.

Section 3.03 Location of the Improvements upon the Lot. No building of any kind shall be located on any Lot nearer to any side or rear property line, or nearer to any public road than as may be indicated on the Plat. For the purposes of this section, eaves shall not be considered to be part of the building, provided, however, that the foregoing shall not be construed to permit any portion of a building on any Lot to encroach upon another Lot. The main residential structure on any Lot shall face the front of the Lot towards the street or road, unless the Architectural Control Committee approves a deviation in writing.

The building setback lines shall be as follows (provided, any conflict with the building setback lines set forth on the Plat shall be controlled by the Plat):

- a) The building setback line along the front of each Lot shall be twenty (20) feet.
- b) The building setback line along the side of each Lot shall be five (5) feet.

c) The building setback line along the rear of each Lot shall be ten (10) feet.

Section 3.04 Driveways. All driveways in the Subdivision shall be constructed of concrete. No asphalt paving, dirt or gravel is permitted. The concrete driveway shall not cover the entire Lot. The driveway must be a part of the construction plan submittal and approved by the Architectural Control Committee.

Section 3.05. Landscaping. All Property visible from any street, excluding the approved driveways, must be covered with ground cover or sod. Covering Property with a majority of gravel or rock is not permitted. Additionally, at least two (2) palm trees, with a trunk at least eight (8) feet in height, shall be planted in the front yard, concurrently with landscaping. Lots may not be left unlandscaped. Landscape must be completed sixty (60) days after Certificate of Occupancy. Lots without homes are not required to be landscaped but will be mowed by the Owner regularly. If the Home Owner's Association has to mow or maintain a Lot, the Lot shall be subject to an assessment lien for the expenses incurred and the Owner shall promptly pay the expenses incurred.

Section 3.06 Walls and Fences. Walls and fences, if any, must be approved prior to construction by the Architectural Control Committee and shall not be closer to front street property lines than the utility easement boundary line across the front of said Lot and no closer than the utility easement boundary line along any side street. The erection of any wall, fence or other improvements on any utility easement adjoining any street is prohibited. All walls and fences may be constructed of vinyl or a material approved by the Architectural Control Committee. No wire or chain link fences shall be allowed.

Section 3.07 Swimming Pools. Pools must be located in the back yard of homes and must be completely surrounded by decking such that they have the appearance of a permanent in-ground pool. Pools must be fenced in accordance with appropriate laws and ordinances and must comply with Section 3.06 above.

Section 3.08 Water Wells. Water wells for the purpose of landscape irrigation are allowed. Well must be located in the rear of the house. Well equipment must be covered from view with a material painted and blending with the Dwelling.

Section 3.09 Use of Temporary Structures. No structure of a temporary character, whether trailer, basement, tent, shack, garage, barn or other outbuildings shall be maintained or used on any Lot at any time as a residence, either temporarily or permanently; provided, however, that Developer reserves the exclusive right to erect, place and maintain such facilities in or upon any portion of the Subdivision as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other improvements within the Subdivision.

Section 3.10 Prohibition of Offensive Activities. Without expanding the permitted use of the Lots, no activity, whether for profit or not, shall be conducted on any Lot which is not related to single family residential purposes. No use shall be permitted which is offensive by reason of odors, fumes, dust, smoke, noise or pollution, or which is hazardous by reason of excessive danger of fire or explosion, nor shall anything be done on any Lot which may be or

become an annoyance or a nuisance to the Subdivision. No hunting is allowed. Without limitation, the discharge or use of firearms is expressly prohibited.

Section 3.11 Garbage and Trash Disposal. Garbage and trash or other refuse accumulated in this Subdivision shall not be permitted to be dumped at any place upon adjoining land where a nuisance to any residence of this Subdivision is or may be created. No Lot shall be used or maintained as a dumping ground for rubbish or landfill. Trash, garbage or other waste shall not be allowed to accumulate, shall be kept in sanitary containers and shall be disposed of regularly. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. In no event shall trash containers or compost piles be maintained so as to be visible from neighboring property or street, except to make the same available for collection and then, only the shortest time reasonably necessary to effect such collection.

Section 3.12 Signs. Except for signs which are a part of Developer's overall marketing plan for the property, no sign larger than 24 inches by 24 inches and no more than two (2) signs will be displayed on any Lot at any time. Permitted signs are limited to name and address signs, for sale or rent signs and political signs that must be removed within one week after the applicable election. No signs referencing businesses are allowed.

Section 3.13 Livestock and Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot in the Subdivision except that dogs, cats or other common household pets may be kept on all Lots in the Subdivision, provided that are not kept, bred or maintained for commercial purposes and do not become a nuisance or threat to other Owners. All domestic animals are to be confined within the structure on the Lot, or will be leashed or fenced within the boundaries of the Lot, and shall not be allowed to roam from the Owner's Lot. All pets must be restrained on a leash when being walked on common areas. Owners shall clean up after all of their pets and shall not allow them to become nuisances in the Subdivision.

Section 3.14 Lot Maintenance. All Lots, at Owner's sole cost and expense, shall be kept and maintained at all times in a neat, attractive, healthful and sanitary condition. No incinerators shall be kept on any Lot. Lot maintenance includes, but is not limited to the following:

- a) Prompt removal of all litter, trash, refuse and waste
- b) Lawn mowing, tree and shrub pruning, keeping lawn and garden areas alive, free of weeds and attractive
- c) Keeping exterior lighting and mechanical facilities in working order
- d) Keeping parking areas, walkways and driveways in good repair
- e) Keeping ground floor area of dwelling orderly and free of debris
- f) All items, except for typical yard decor, such as planters and picnic tables, must be kept in an enclosed space or screened from public view at all times.
- g) Repair of exterior damage to improvements

h) Repainting of improvements

Section 3.15 Resale of Lot. An Owner may not resell his Lot after purchase from the Developer during the minimum holding period. The minimum holding period of Lots after the initial sale from Developer to Purchaser is eighteen (18) months. This holding period does not apply to Lots on which a home has been constructed. Special circumstances will be taken into consideration by Developer. This does not prohibit transfers by gift, inheritance or devise.

Section 3.16 Miscellaneous Use Restrictions. Without limiting the foregoing, the following restrictions shall apply to all Lots:

- a) Unightly Articles; Vehicles. No article deemed to be unsightly by the Architectural Control Committee will be permitted to remain on any Lot so as to be visible from any other portion of the Property or public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment must be kept at all times, except when in actual use, in an enclosed garage or screened from view and no repair or maintenance work may be done on any of them, or on any automobile (other than emergency repairs), except in enclosed garages. No inoperable vehicle or equipment, or vehicle or equipment without a current license tag, may be maintained on any portion of the Property, including any street right-of-way adjacent to a Lot, so as to be visible from any adjoining Lot or public right-of-way. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics must be appropriately screened from view and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse of trash may be kept, stored or allowed to accumulate on any portion of the Property, except within enclosed structures or appropriately screened from view. No overnight parking of commercial vehicles is permitted. No radio antenna and/or towers will be permitted. Eighteen inch (18") diameter maximum satellite dishes located with minimum street visibility will be permitted.
- b) Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes may be parked or placed on any Lot at any time, and no travel trailers, recreational vehicles or similar vehicles may be parked on any portion of the Property so as to be visible from other portions of the Property or public or private thoroughfares for more than 72 hours.
- c) Air conditioning and heating units must be centralized. No window units are permitted.
- d) All electrical, telephone, gas, and television drops shall be underground.
- e) No oil well drilling is allowed. Water well drilling must be approved by the Architectural Control Committee and must comply with all laws and regulations.
- f) No Lot may be re-subdivided.
- g) The topographical elevations may not be changed affecting natural drainage without approval of the Architectural Control Committee.

- h) A full lot is required for the construction of a residence.
- i) No tennis courts are allowed.
- j) No functioning or decorative windmills are allowed.

Section 3.17 Hazardous Substances. No Hazardous Substance shall be brought onto, installed, used, stored, treated, buried, disposed of or transported over the Lots or the Subdivision, and all activities on all Lots shall, at all times, comply with applicable law. No vehicle of any size which transports inflammatory or explosive cargo may be kept in the Subdivision at any time.

## **ARTICLE IV**

### GENERAL PROVISIONS

Section 4.01 Term. The terms and provisions, including the covenants and restrictions, of the Declaration shall run with and bind the Property, Subdivision, Lots, and Common Area, and shall inure to the benefit of all Owners of Lots in the Subdivision, their respective legal representatives, heirs, successors and assigns, for an initial term of forty (40) years from the date this Declaration is recorded, after which time said Declaration shall be automatically extended for successive periods of ten (10) years each, unless an instrument, signed by not less than two-thirds (2/3) of the then Owners (including the Developer) of the Lots has been recorded agreeing to cancel, amend or change, in whole or in part, this Declaration.

Section 4.02 Amendments. This Declaration may be amended or changed, in whole or in part, at any time by the written agreement of at least ninety percent (90%) of all Owners (including the Developer if Developer still owns a Lot or Lots in the Subdivision). Such amendment must be approved by at least ninety percent (90%) of all Owners within three hundred sixty-five (365) days of the date the first Owner executes such agreement. The date an Owner's signature is acknowledged shall constitute prima facia evidence of the date of execution of said amendment in the Real Property Records of Nueces County, Texas.

Notwithstanding anything to the contrary, Developer shall have the right at any time, at its sole discretion and without any joinder or consent of any other party, to amend this Declaration for the purposes of correcting any error, ambiguity or inconsistency appearing herein or for any reason whatsoever deemed necessary for the benefit of the overall development as determined by Developer, in its sole discretion until Turnover. Said amendment shall be effective upon filing the said amended restrictions with the County Clerk of Nueces County, Texas.

Section 4.03 Enforcement. In the event of any violation or attempted violation of any of the terms or provisions hereof, including any of the restriction or covenants set forth herein, enforcement of the terms and provisions shall be authorized by any proceedings at law or in equity against any person or persons violating or attempting to violate any of the provisions hereof, including by means of actions to restrain or prevent such violation or attempted violation by injunction, prohibitive or mandatory, and it shall not be a prerequisite to the granting of any

such injunction that there be inadequate remedy at law or that there be any showing or irreparable harm or damage if such injunction is not granted. In addition, any person entitled to enforce the provisions hereof may recover such damages, either actual or punitive, as such person may show himself justly entitled by reason of such violations of the terms and provisions hereof. The terms and provisions hereof may be enforced by Developer, The Paradise Pointe Homeowners Association, or by the Owner of any Lot. Failure by anyone to enforce any covenant or restrictions hereof shall not be constructed to constitute a waiver.

Section 4.04 Severability. Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability or partial invalidity or partial unenforceability of any provision or portion hereof shall not affect the validity or enforceability of any other provision.

Section 4.05 Binding Effect. All of the terms hereof shall be binding upon and inure to the benefit of the Owners, the Developer, and their respective heirs, legal representatives, executors, administrators, successors and assigns.

Section 4.06 Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of the Declaration.

## ARTICLE V

### PARADISE POINTE HOMEOWNERS' ASSOCIATION

Section 5.01 Upon purchasing a Lot, the Owner becomes a member of the Paradise Pointe Homeowners' Association. Owners are bound by the provisions of the Articles and Bylaws of the homeowners' association as well as the Paradise Pointe Subdivision's Covenants, Conditions, and Restrictions.

Section 5.02 Duties of the Association. Subject to and in accordance with these restrictions, the Association acting through its Board shall have and perform each of the following duties:

a) Association Property

- Ownership and Control. To accept, own, operate, and maintain all Common Area, together with all improvements of whatever kind and for whatever purpose that may be located in said Common Area, and all sidewalks, pathways and private driveways (not an Owner's driveway) and streets located within the Property.
- Repair and Maintenance. To maintain in good repair and conditions the Common Area and all lands, Improvements, security devices, and other property owned by or leased to the Association, including, without limitation,

all sidewalks, pathways, private streets, driveways and fences located within the Property.

- Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to the Common Area to the extent that such taxes and assessment are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- b) Insurance. To obtain and maintain in effect policies of insurance that, in the opinion of the Board, are reasonably necessary or appropriate to carry out the Association's functions.
- c) Rules and Bylaws. To make, establish, and promulgate and in its discretion, to amend or repeal and re-enact the Bylaws and such Rules not in conflict with this Declaration, as it deems proper, covering any and all aspects of its functions. In the event of any conflict between the terms and provisions of the Articles, Bylaws, or any other Rules with this Declaration, the terms and provisions of this Declaration are intended to, and shall be controlling.
- d) Records. To keep books and records of the Association's affairs and to make such books and records, together with current copies of the Restrictions available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.
- e) Other. To carry out and enforce all duties of the Association set forth in the Restrictions.

Section 5.03 Turnover. At any time after commencement of operations of the Association, but not any later than when seventy (70) percent of the lots are conveyed by Developer to Owners, the Owners may be required to take over the management of the Association and relieve Developer of all duties associated therewith. Upon such "Turnover" by the Developer, the property owners within the Subdivision will be required to elect their own Board of Directors to represent them and to manage the Association in accordance with the terms and conditions of these restrictions and to establish any and all rules, bylaws, procedures and other management devices by which the Association shall operate. All Board Members/Directors must be Owners within the Subdivision.

Notwithstanding anything to the contrary, until such "Turnover" has taken place, the management of the Association shall be by Developer and its staff, and any expenses incurred in such management shall be reimbursed to Developer by the Association. Said reimbursable expenses shall include the cost of Developer's staff for the time spent in the management thereof of this Association. From and after the time of such turnover, the Association shall indemnify and hold Developer, its officers and partners, harmless from and against any and all claims or damages of every kind, arising out of the development and operations of the Properties or the Association.

Section 5.04 Voting Rights. To cast votes and the number of votes which may be cast for election of members of the Board on all other matters to be voted by the Members shall be calculated as set forth below. The Association will have two (2) classes of Members:

- a) Class "A". Class "A" Members will be all Owners, with the exception of the Developer. Each Class "A" Member shall have one (1) vote for each Lot so owned. In no event, except as set forth in Section 5.03 (b) below, shall any Lot be entitled to more than one (1) vote. In the event of the consolidation of two (2) or more Lots for purposes of construction of a single residence thereon, voting rights shall continue to be determined according to the number of original Lots contained in such consolidated Lot. Nothing herein shall be construed as authorization for any consolidation of Lots; such action is subject to and requires the prior approval of the Architectural Control Committee and the Developer pursuant to other provisions of this Declaration.
- b) Class "B". The Class "B" is the Developer. The Class "B" Member is allowed three (3) votes for each Lot owned by the Developer. All Class "B" votes will cease to exist and automatically be converted to Class "A" votes on the happening of any of the following events, whichever occurs earlier: (a) when the total number of Class "A" votes entitled to be cast with respect to the Property equals the total number of Class "B" votes entitled to be cast with respect to the Property; or (b) at such earlier time as the holder of the Class "B" votes may, in its sole discretion, elect by conveying Developer rights in writing to the Association.
- c) Suspension of Voting Rights. The right of any Owner (other than Developer) to vote may be suspended by the Association, acting through the Board, for any period during which any Assessment against such Owner's Lot(s) remains past due, for any period during which such Owner or such Owner's Lot is in violation of the Restrictions.

Section 5.05 Annual Homeowner's Association Meetings. The first meeting of the Paradise Pointe Homeowner's Association will be the first Saturday, one month following the Turnover of the Subdivision. Each subsequent meeting will be held the first Saturday in June, annually.

Section 5.06 Board of Directors. Members of the Board of Directors shall be selected and appointed every two years at the annual meeting of the Paradise Pointe Homeowner's Association by the record owners of the Subdivision Lots. The number of members elected to the Board of Directors shall be three. Details of each member's term are provided in the Bylaws of the Association. Selection of such members shall be by written ballot cast either in person or by proxy at the meeting.

Section 5.07 Owner's Personal Obligation for Payment of Assessments. The Assessments and Special Assessments, provided for herein, shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No owner may exempt himself from liability for such Assessments. Any Assessment provided for in the Declaration which is not paid

when due shall be delinquent as of February 1 (the “delinquency date”). If any such assessment is not paid within twenty-five (25) days after the delinquency date; a late charge of Twenty Dollars (\$20.00) shall be levied as of the first of every month thereafter the delinquency date. In the event of delinquency in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay all costs and expenses of collection, including reasonable attorneys’ fees.

Section 5.08 Determination of Assessments. Each lot owner shall pay the Association an annual fee to apply to the common area utility services, insurance, taxes, and maintenance, as required within the Subdivision and other charges for services provided by the Association. The Board of Directors shall determine the amount assessed to each lot based on a per lot share of the total cost of such items. The annual assessment may be increased each year not more than ten percent (10%) above the assessment for the previous year, without a majority vote of the lot owners present or by proxy at a meeting duly called. This assessment shall be the personal obligation of the lot owner when the assessment falls due, and shall be a continuing lien on the lot assessed. The initial maximum assessment shall be Two Hundred Dollars (\$200.00) per year, per lot, beginning January 1, 2008, due and payable by January 31.

Notwithstanding any provision herein to the contrary, any and all lots owned by the Developer prior to Turnover shall be exempt from the payment of any and all assessments of any kind or character.

Section 5.09 Special Assessments. In addition to the assessments for services and maintenance, the Association may levy a special assessment as hereafter authorized. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of structures, fixtures and personal property generally beneficial to the Owners of the land within Paradise Pointe Subdivision. Special assessments must have the assent of sixty-seven percent (67%) of the votes of each class of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

Section 5.10 Notice and Quorum for Any Action Authorized Under Sections 5.05 and 5.06. Written notice of any meeting called for the purpose of taking any action authorized under Section 5.05 and 5.06 shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 5.11 Uniform Rate of Assessment. Both annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots and may, at the discretion of the Board of Directors, be collected on a monthly, quarterly or semi-annual basis.

Section 5.12 Date of Commencement of Annual Assessments: Due Dates. The annual Assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Association. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in

advance of each annual Assessment period. Written notice of the annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 5.13 Assessment Lien and Foreclosure. Assessments (together with late charges as provided in Section 5.07 above, and reasonable attorney's fees, costs, and expenses if it becomes necessary for the Association to enforce collection of any amount in respect of any Lot) shall be a charge on each Lot and shall be secured by a continuing lien upon each Lot.

- a) Notice of Lien. Additional notice of the lien created by this Section 5.13 may be effected by recording in the Real Property Records of Nueces County, Texas, and affidavit, duly executed, sworn to and acknowledged by an officer of the Association, setting forth the amount owed, the name of the Owner or Owners of the affected Lot, according to the books and records of the Association, and the legal description of such Lot.
- b) Creation of Lien. Each Owner, by his acceptance of a deed to a Lot, hereby expressly grants to the Association a lien for the purpose of securing payment of Assessments upon such Lot. The Association, acting by and through the Board may, but shall not be obligated to, prepare and record in the Real Property Records of Nueces County, Texas, a notice of such lien which will constitute further evidence of the lien for Assessments against a Lot. In addition to and in connection therewith, by acceptance of the deed to a Lot, each Owner expressly GRANTS, BARGAINS, SELLS and CONVEYS to the President and/or Vice President or agent of the Association from time to time service, as Trustee (and to any substitute or successor trustee as hereinafter provided for) such Owner's Lot, and all rights appurtenant thereto, in trust, for the purpose of securing the Assessments levied hereunder, and other sums due hereunder remaining unpaid hereunder from time to time. The Trustee herein designated may be changed for any reason and at any time and from time to time by execution of an instrument in writing, signed by the President or a Vice-President of the Association and attested to by the Secretary or Assistant Secretary of the Association and filed in the Real Property Records of Nueces County, Texas.
- c) Enforcement of Lien. The Association shall retain the right to enforce the aforesaid lien by all methods available for the enforcement of such liens, both judicially and by non-judicial foreclosure pursuant the Section 51.002 of the Texas Property Code (as may be amended or revised from time to time hereafter). In the event of the election by the Board of the Association to foreclose the lien herein provided for non-payment of sums secured by such lien, then it shall be the duty of the Trustee, or his successor, as hereinabove provided, at the request of the Board (which request shall be presumed) to enforce this trust and to sell such Lot, and all rights appurtenant thereto, in accordance with Section 51.002 of the Texas Property Code (as said statute shall read at the time of enforcement) and to make due conveyance to purchaser or purchasers by deed binding upon the Owner or Owners of such Lot and his heirs, executors, administrators and successors. The Trustee shall give notice of such proposed sale as required by Section 51.002 of the Texas Property Code (as said statute shall read at the time notice is given).

- d) Additional Matters Pertaining to Foreclosure. At any foreclosure, judicial or non-judicial, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure, the occupants of such Lot shall be required to pay a reasonable rent for the use of such Lot and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and further, shall be entitled to sue for recovery of possession of such Lot by forcible detainer with notice as required by law.

Section 5.14 No Offsets. The Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof shall be permitted for any reason including, without limitation, (a) any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration, (b) any claim by the Owner of non-use of the Common Areas or abandonment of his Lot, (c) any claim by the Owner of inconvenience or discomfort arising from making of repairs or improvements to Common Area, or (d) any claim by the Owner of inconvenience or discomfort arising from any action taken to comply with any law or determination of the Board or for any other reason.

Section 5.15 Subordination of the Assessment Lien to Mortgages, Etc. The lien of Assessments provided for herein shall be superior to all other liens and charges against a Lot except, however, an Assessment lien shall be subordinate to any first lien mortgages relating to the Lots, liens relating to purchase and/or construction upon the Lots and any tax liens. Sale or transfer of any Lot shall not affect the lien of the Assessment; however, the sale or transfer of any Lot pursuant to the foreclosure of a first lien mortgage or any proceeding in lieu thereof or the foreclosure of a tax lien, shall extinguish the lien of the Assessments only as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for the Assessments thereafter becoming due or from the lien thereof. A selling Owner of a Lot shall not be relieved of personal liability for any assessments accruing on such Lot prior to the date of sale or transfer. The Association shall have the power to subordinate the aforesaid Assessment lien to any other lien. Such power shall be entirely discretionary with the Board and such subordination may be signed by an officer of the Association. Upon the written request of any Mortgagee, the Association shall report to said Mortgagee any unpaid Assessment remaining unpaid for longer than thirty (30) days after the same are due.

Section 5.16 Control of Common Area. As provided in the Articles hereof entitled "Definitions", the Common Area shall consist exclusively of Lot 37 and Lot 99 within the Project. Developer, its subcontractors, agents and employees shall have the right to come on the Common Area. Also, notwithstanding the foregoing, in the event that any of the Developer subcontractors are contractually obligated to maintain improvements on the Common Area, such maintenance shall not be assumed by the Association until the termination of such contractual obligation. Neither such construction nor such maintenance shall in any way postpone the commencement of Assessments pursuant to this Article or entitle a Member to claim any offset or reduction in the amount of such Assessments. If any excess of Assessments collected over actual Common Expenses incurred by the Association is caused by aforesaid, or otherwise, such excess shall be placed in the reserve to offset the future expenses of the Association as designated by the Board.

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

Section 6.01 Duties of Architectural Control Committee. There is hereby created an Architectural Control Committee with the following powers and duties:

- a) No building or other improvements of any character shall be erected or placed, or the erection or placing thereof commenced, or changes made in the design or exterior appearance thereof, or any addition or exterior alteration made thereto after original construction, or demolition or destruction by voluntary action made thereto after original construction, on any Lot in the Subdivision until the obtaining of the necessary approval (as hereinafter provided) from the Architectural Control Committee of the construction plans and specifications for the construction or alteration of such improvements or demolition or destruction of existing improvements by voluntary action. Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, harmony of external design and color with existing and proposed structures and location with respect to setbacks, topography and finished grade elevation.
- b) Each application made to the Architectural Control Committee shall be accompanied by one (1) set of plans and specifications for all proposed construction (initial or alterations) to be done on such Lot, plans showing the location and elevation of the improvements on the Lot and dimensions of all proposed walkways, driveways, and all other matters relevant to architectural approval. The address of the Architectural Control Committee shall be the address of the principal office of the Developer until changed. The set of plans submitted will be kept on file and will not be returned to the Owner. Written approval or denial with changes noted will be delivered to Owner.

Section 6.02 Members. The Architectural Control Committee shall consist of Developer until the Turnover. At the first Homeowner's Association Meeting following turnover, three (3) members shall be elected to the Architectural Control Committee. Elections will occur every two years at the Homeowner's Association Meeting. Nominations shall be held at such meeting and election is to be by ballot cast either in person or by proxy.

Section 6.03 Replacement. In the event of death or resignation of any member or members of the Architectural Control Committee, the remaining member or members of the Committee shall appoint a successor member or members to the Committee, and until such successor member or members shall have been appointed, the remaining member or members shall have full authority to approve or disapprove plans, specifications and plot plans submitted until the next Owners Association election. All such successor members must be current property Owners in Paradise Pointe.

Section 6.04 Minimum Construction Standards. The Architectural Control Committee may from time to time promulgate an outline of minimum acceptable construction standards provided, however, that such outline will serve as a minimum guideline and such Architectural Control Committee shall not be bound thereby.

Section 6.05 Variances. Article III of this Declaration contains a number of provisions wherein the Architectural Control Committee is expressly granted the authority, in its discretion, to permit variances from the effect of a particular restrictive covenant. The Architectural Control Committee may require the submission to it such documents and items (including, as examples, but without limitation, written request for and description of the variances requested, plans, specifications, plot plans and samples of materials) as it shall deem appropriate, in connection with its consideration of a request for a variance. If the Architectural Control Committee shall approve such request for a variance, the Architectural Control Committee may evidence such approval, and grant its permission for such variance, only by written instrument, addressed to the Owner of the Lot(s) relative to which such variance has been requested, describing the applicable restrictive covenant(s) and the particular variance requested expressing the decision of the Architectural Control Committee to permit the variance, describing (when applicable) the conditions on which the variance has been approved, and signed by a majority of the then members of the Architectural Control Committee. In the event the Architectural Control Committee or any successor to the authority thereof, shall not then be functioning, no variances from the covenants of this Declaration shall be permitted, it being the intention of the Developer that no variances be available except in the discretion of the Architectural Control Committee. All variances shall be based on architectural merit and not hardship. The Architectural Control Committee shall have no authority to approve any variance except as expressly provided in this Declaration.

Section 6.06 Failure to Take Action by Architectural Control Committee. If the Architectural Control Committee fails to take any action, either approval or disapproval, of such plans, specifications and plot plan within thirty (30) days after said plans, specifications and plot plan have been submitted to it, it shall be presumed that the Committee has approved said plans, specifications and plot plan as submitted.

## ARTICLE VII

### DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

#### Section 7.01 Agreement to Avoid Litigation:

The Developer, Owners and the Paradise Pointe Home Owners' Association ("Association"), its Officers, Directors, and committee members, all persons subject to this Declaration, and any person not otherwise subject to the Declaration who agrees to submit to this Article (collectively, "bound parties") agree to encourage the amicable resolution of disputes involving the Subdivision, without the emotional and financial costs of litigation. Accordingly, each bound party covenants and agrees that those claims, grievances or disputes described below ("claims") shall be resolved using the procedures set forth below in lieu of filing suit in any court.

#### Section 7.02 Claims:

Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the governing documents or the Association's use restrictions, or the rights, obligations and duties of any bound party under the governing documents or relating to the design or construction of improvements on the properties shall be subject to the procedures set forth below.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be claims and shall not be subject to the procedures set forth below:

(a) Any suit by the Association against any bound party to enforce the provisions for assessments;

(b) Any suit by the Association or the Architectural Control Committee to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions for review or plans and control of construction;

(c) Any suit by an Owner to challenge the actions of the Developer, the Association, the Architectural Control Committee, any covenants committee, or other committee with respect to approval, disapproval, application or enforcement of the provisions by the Architectural Control Committee and the provisions restricting use of property;

(d) Any suit between Owners, which does not include Developer or the Association as a party, if such suit asserts a claim which would constitute a cause of action independent of the Covenants and Restrictions;

(e) Any suit in which any indispensable party is not a bound party; and

(f) Any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth below.

### Section 7.3 Mandatory Procedures:

(a) Notice. Any bound party having a claim ("claimant") against any other bound party ("respondent") (collectively, the "parties") shall notify each respondent in writing ("the notice"), stating plainly and concisely:

1. The nature of the claim, including the persons involved and respondent's role in the claim;
2. The legal basis of the claim (i.e., the specific authority out of which the claim arises);
3. The claimant's proposed remedy; and

4. That claimant will meet with respondent to discuss in good faith ways to resolve the claim.

(b) Negotiation and Mediation.

1. The parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation. If requested in writing by any party, accompanied by a copy of the notice, the Board may appoint a designee to assist the parties in resolving the dispute by negotiation.

2. If the parties do not resolve the claim within 30 days of the date of the notice or within such other period as may be agreed upon by the parties (“termination of negotiations”), claimant shall have 30 additional days to submit the claim to mediation either to the Association if it has adopted a mediation procedure, or to an independent agency providing dispute resolution services in the Nueces County, Texas area.

3. If claimant does not submit the claim to mediation within 30 days after termination of negotiations, or does not appear for the mediation, claimant shall be deemed to have waived the claim, and respondent shall be released and discharged from any and all liability to claimant on account of such claim, provided, nothing herein shall release or discharge respondent from any liability to any person other than the claimant.

4. Any settlement of the claim through mediation shall be documented in writing by the mediator. If the parties do not settle the claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“termination of mediation”). The termination of mediation notice shall set forth that the parties are at an impasse and the date the mediation was terminated.

5. Within 5 days of the termination of mediation, the claimant shall make a final written settlement demand (“settlement demand”) to the respondent and the respondent shall make a final written settlement offer (“settlement offer”) to the claimant. If the claimant fails to make a settlement demand, claimant’s original notice shall constitute the settlement demand. If the respondent fails to make a settlement offer, respondent shall be deemed to have made a “zero” or “take nothing” settlement offer.

(c) Final and Binding Arbitration.

1. If the parties do not agree in writing to a settlement of the claim within 15 days of the termination of mediation, the claimant shall have 15 additional days to submit the claim to arbitration in accordance with the rules of Arbitration established by the American Arbitration Association or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the claimant fails to appear for the arbitration proceeding, the claim shall be deemed abandoned, and respondent shall be released and discharged from any and all liability to claimant arising out of such claim; provided, nothing herein shall release or discharge respondent from any liability to persons other than claimant.

2. This subsection ( c ) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Texas. The arbitration award (“award”) shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Texas.

Section 7.04 Allocation of Costs of Resolving Claims;

(a) Subject to subsection (b) below, each party shall bear its own costs, including any attorney’s fees incurred, and each party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding (“post mediation costs”).

(b) Any award which is equal to or more favorable to claimant than claimant’s settlement demand shall add claimant’s post mediation costs to the award, such costs to be borne equally by all respondents. Any award which is equal to or less favorable to claimant than any respondent’s settlement offer shall award to such respondent its post mediation costs.

7.05 Enforcement of Resolution. After resolution of any claim, if any party fails to abide by the terms of any agreement or award, then any other party may file suit or initiate administrative proceedings to enforce such agreement or award without the need to comply again with the procedures set forth above. In such event, the party taking action to enforce the agreement or award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata) all costs incurred in enforcing such agreement or award, including, without limitation, attorney’s fees and court costs.

IN WITNESS WHEREOF, the undersigned, being the Developer, Declarant, and Owner of Lots 7-86 and Lot 99, herein, has hereunto set its hand of this \_\_\_\_ day of \_\_\_\_\_, 2007.

Vision Land Group, Ltd.

By: \_\_\_\_\_  
Randall Morris, President

STATE OF TEXAS §

COUNTY OF HAYS §

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2007 by RANDALL MORRIS, President of Vision Land Group, Ltd., a Texas corporation, on behalf of said corporation and in the capacity therein stated.

\_\_\_\_\_  
Notary Public, State of Texas

After recording, return to:  
Vision Land Group, Ltd.  
333 Cheatham, San Marcos, TX 78666