

SECOND AMENDED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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

WHEREAS, **BACON CREST, LTD.**, a Texas limited partnership, acting by and through its general partner, being **GEORGE McMAHAN DEVELOPMENT, LLC**, a Texas limited liability company, hereinafter referred to as either "the Declarant," or "the Developer," being one and the same, is the owner of all of that certain real property located in Lubbock County, Texas, described as follows:

All of Lots 169 thru 221, Bacon Crest, an Addition to the City of Lubbock, Lubbock County, Texas, being more fully described in a Dedication Deed filed on or about the 8th day of February, 2010, in the Official Public Records of Lubbock County, Texas, to which reference is hereby made for all purposes; and

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

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

1. Lots 169 thru 221 (hereinafter sometimes referred to as "the lots") shall be used for single family residential purposes only, and a "single-family residence" (hereinafter sometimes referred to as a "residence") shall be construed as a single family dwelling used and occupied by one family and its constituent members. No building shall be erected, altered, placed, or permitted to remain on any house lot or lots other than one single family residence not to exceed two stories in height, and a private garage attached to the main residence providing for a minimum of two automobiles.

Residences constructed on the lots shall contain at least 2200 square foot of floor space. Each garage shall be entered from and face the alley at the rear of each respective lot (the "first garage"); provided, Lots 175, 183, 200, 201, 214, and 221 (1) may have a garage (in substitution for the first garage or in addition to the first garage) which is entered from and faces the side of each respective lot adjacent to the side street (the "second garage"), so long as (a) the second garage does not exceed the height of the residence constructed on such lot (and in particular the bottom roof line of the second garage is of the same height as the bottom roof line of the residence where the same attaches to the eaves), (b) the drive to such garage complies with the applicable City of Lubbock ordinances affecting same, and (c) if such garage is in addition to the first garage, such garage and the drive thereto is enclosed by a screening fence of the same construction and appearance of the wood fence encompassing all of each such lot's "back yard", or (2) may additionally have a drive located on the side of each respective house lot adjacent to the side street providing entry to the first garage, so long as such drive complies with the applicable City of Lubbock ordinances affecting

same. The exposed exterior wall of any second garage adjacent to the side street shall be of brick veneer construction.

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

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

Each residence shall have access to mail service delivered by the United Postal Service to a double-mount mailbox attached to a single pedestal post; therefore, each residence located on an even-numbered lot shall, in conjunction with the residence located on the odd-numbered lot being one number consecutively higher than such even-numbered lot, attach such a mailbox on the common property line dividing the two lots, equally dividing the cost to purchase and install such mailbox between the two residences. As residences located on Lots 169, 175, 182, 183, 200, 201, and 214 have no such adjacent residence with which to attach such a mailbox, residences located on such lots shall attach a single mount mailbox attached to a single pedestal post on the common property line between each such lot and the only adjacent lot thereto. The residence located on Lot 215 shall attach a double-mount mailbox attached to a single pedestal post on its west property line. Mailboxes described in this paragraph shall be constructed solely of metal components, including, but not limited to, aluminum and steel components, and of an overall appearance similar to that promulgated by Declarant.

Each residence built on a lot shall be located such that it fronts the street on which the lot faces. No parking areas shall be located in front of a residence; provided, (I) a circular drive in the front of a house shall be permitted, so long as such drive complies with the applicable City of Lubbock ordinances affecting same, and (ii) in lieu of a circular drive, or in addition thereto, parking for not more than two vehicles may be provided in the front of a house if the parking area consists only of concrete or brick, or similar material thereto.

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

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

3. An underground electrical distribution system will be installed to serve each lot; provided, however, that any existing overhead electrical lines serving the Addition shall not be required to be underground, but all line connections thereto shall be underground. The then owner of each lot shall, at that owner's cost and expense, furnish, install, own and maintain (all in accordance with the requirements of the City of Lubbock, Lubbock County, Texas) an underground service cable and appurtenances from the meter installed on each lot by the electric company to such point as may be designated by such company on the property line of the lot. The company furnishing electric service shall make the necessary connection at the property line and at the meter. The owner of each lot shall install, furnish, own and maintain, at that owner's cost and expense, a meter loop (in accordance with the then current standards and specifications of the electric company) for the residence constructed on the lot. For so long as underground service is maintained, the electric service to each lot shall be uniform in character and exclusively of the type known as "single-phase 120/240 volt, 3-wire, 60-cycle alternating current." Any and all of the foregoing notwithstanding, should the City of Lubbock or any utility company providing electrical services to this Addition change or alter its policy in regard to underground utilities and/or electrical services provided to this Addition, such change or changes shall automatically be adhered to and followed by all lot owners, and the foregoing provisions of this, Paragraph 3, shall automatically be amended to thereby comply with any such policy change, whether one or more.

4. No garage, basement, trailer, tent, shack, or any other like building or shelter erected or located on any lot, shall ever be used as a dwelling unit. No residence dwelling or other type building, or any part of any other type building, shall ever be moved from outside of the lots onto any one or more of the lots.

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

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

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

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

6. No oil drilling, oil development operations, oil refining, or quarrying or mining operations of any kind shall be permitted on or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on or in any lot. No derrick or other structure designed for use of boring for oil and/or natural gas shall be erected, maintained or permitted on any lot.

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

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

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

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

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

12. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each. Any one or more of these covenants may be amended by an instrument signed by at least 75% of the then owners of the lots agreeing to change any such covenant, condition, and restriction in whole or in part.

13. Enforcement shall be by proceedings, at law or in equity, by the owner of any lot or lots, against any person or persons, or any other entity, violating or attempting to violate any covenants. The person or entity seeking enforcement shall have the right to enforce, by any proceedings, at law or in equity, all restrictions, conditions and reservations now or hereafter imposed by the provisions of this declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or right to do so thereafter. If any lot owner shall be required to employ an attorney to enforce or defend the rights of such lot owner hereunder, the

prevailing lot owner shall be entitled to recover reasonable attorney's fees, court costs and out-of-pocket expenses incurred as a result thereof.

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

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

14. This Second Amended Declaration of Covenants, Conditions and Restrictions is filed by Declarant pursuant to the right provided in paragraphs 11 and 12 of the Amended Declaration of Covenants, Conditions and Restrictions to provide the first garage of Lots 176 thru 187 shall be entered from and face the alley at the rear of each respective lot. Except for the change to the location of the first garage of Lots 176 thru 187 in paragraph 1 of the Amended Declaration of Covenants, Conditions and Restrictions, the terms of such document are ratified and affirmed as filed of record in the Official Public Records of Lubbock, Lubbock County, Texas, instrument #2010008662.

EXECUTED AND EFFECTIVE this 1st day of September, 2010.

BACON CREST, LTD., a Texas limited partnership

By: **GEORGE McMAHAN DEVELOPMENT, LLC**, its General Partner

By: _____
GEORGE McMAHAN, Manager

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On this 1st day of September, 2010, before me, a Notary Public in and for said state, personally appeared **GEORGE McMAHAN**, known to me to be the person who executed the within Second Amended Declaration of Covenants, Conditions and Restrictions and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public, State of Texas

After recording, please return to:

T. Mike Field
Attorney at Law
2112 Indiana
Lubbock, Texas 79410