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## **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR VALENCIA, A RESIDENTIAL COMMUNITY TO THE CITY OF OKLAHOMA CITY.**

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**DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR VALENCIA, A RESIDENTIAL  
COMMUNITY TO THE CITY OF OKLAHOMA CITY.**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this 7<sup>th</sup> day of July, 2004, by Valencia Land, L.L.C., an Oklahoma limited liability company ("Declarant").

**PART ONE: INTRODUCTION TO THE COMMUNITY**

The Declarant has established this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of Valencia as a quality residential community.

The Declaration contemplates the existence, within Valencia, of one or more distinct areas, called "Valencia Series," as well as other individually owned property. Valencia Property Owners Association (the Association, or Valencia Association) is a homeowners association comprised of all owners of real property in Valencia.

The Valencia Association has the power under the Governing Documents to establish standards for conduct and activities for the property within Valencia. Another component of the Valencia development is the Design Review Board, which has jurisdiction over all matters of design review for all property within Valencia.

**Article 1 Creation of the Community.**

**1.1 Purpose and Intent.**

Declarant, as the owner of the real property described in Exhibit "A," intends by the Recording of this Declaration to create a general plan of development for the planned community known as Valencia. This Declaration provides a flexible and reasonable procedure for future expansion of Valencia to include additional real property as Declarant deems appropriate and provides for the overall development, administration, maintenance and preservation of the real property now and hereafter comprising Valencia. An integral part of the development plan is the creation of Valencia Association, an association comprised of all owners of real property in Valencia, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referred to in this Declaration.

This Declaration does not and is not intended to create a unit ownership estate within the meaning of *60 O.S. §501 et seq.* This document does and is intended to create a real estate development and owners association within the meaning of *60 O.S. §851 et seq.*

**1.2 Binding Effect and Term.**

All property described in Exhibit "A" and any additional property which is made a part of

Valencia in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the land and title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Valencia, their heirs, successors, successors-in-title, and assigns.

This Declaration shall remain in effect for a term of 40 years from the date it is Recorded. Declarant, the Association, any Owner and their respective legal representatives, heirs, successors, and assigns may enforce it. After such 40-year period, the Declaration's term shall automatically extend for successive 10-year periods unless 75% of the then Owners sign and Record, within the year preceding any extension, an instrument which terminates, add to, or amends, in whole, or in part, this Declaration.

If any provision of this Declaration would be unlawful, void, or voidable by reason of applicability of the rule against perpetuities, such provision shall expire 21 years after the death of the last survivor of the now living descendants of the youngest living President of the United States having a descendant. Nothing in this Section shall be construed to permit termination of any easement, covenant, restriction, or obligation created in this Declaration without the consent of the holder of such easement.

### **1.3 Governing Documents.**

Valencia Governing Documents create a general plan of development for Valencia which may be supplemented by additional covenants, restrictions, and easements applicable to the property within Valencia. In the event of a conflict between or among Valencia Governing Documents and any such additional covenants or restrictions, and/or the provisions of any other articles of incorporation, By-Laws, or rules or policies, the Declaration shall control.

Nothing in this Section shall preclude the Recording of a Supplemental Declaration or other instrument applicable to any portion of Valencia containing additional restrictions or more restrictive provisions. However, any Person who seeks to Record any instrument applicable to Valencia must obtain Declarant's written consent so long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration (collectively, the Properties). Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by Recorded consent signed by Declarant, so long as Declarant owns any property described in Exhibit "A" or Exhibit "B." The Association may, but shall not be required to, enforce any such covenants, restrictions, rules or other instruments applicable to any Series.

All provisions of Valencia Governing Documents shall apply to all Owners and to all occupants of all Units, as well as their respective tenants, guests and invitees. Any lease of a Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of Valencia Governing Documents.

If any provision of this Declaration is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the

Recorded instrument executed by the immediately preceding Declarant.

2.10 "**Development Plan**": The land use plan for the development of Valencia approved by Oklahoma County, as it may be required and amended, which may include all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of property on the Development Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Development Plan bar its later submission to this Declaration as provided in Article 9.

2.11 "**Member**": A Person subject to membership in the Association pursuant to Section 6.2.

2.12 "**Mortgage**": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

2.13 "**Owner**": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

2.14 "**Person**": A natural person, a corporation, a partnership, a trustee, a limited liability company, or any other legal entity.

2.15 "**Record,**" "**Recording,**" or "**Recorded**": To file, filing, or filed of record in the official records of the Oklahoma County Clerk, Oklahoma County, State of Oklahoma. The date of Recording shall refer to that time at which a document, map, or plat is Recorded.

2.16 "**Series**": A group of more than one Unit designated as a distinct area for one or more of the following purposes: (a) sharing Series Common Areas, (b) receiving other benefits or services from the Association which are not provided to all Units within Valencia, or (c) electing a Series Board Member as provided in Section 6.4. A Series may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Units within a particular Series, then the benefited Units shall constitute a sub-Series for purposes of determining and levying Series Assessments for such benefits or services.

2.17 "**Series Assessments**": Assessments levied against the Units in a particular Series or multiple Series to fund Series Expenses, as described in Section 8.2.

2.18 "**Series Common Area**": A portion of the Common Area primarily benefiting one or more, but less than all, Series, as more particularly described in Article 12.

2.19 "**Series Expenses**": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of Units within a particular Series or multiple Series, which may include a reasonable reserve for capital repairs and replacements and a reasonable

administrative charge, as may specifically be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Series or multiple Series.

2.20 "**Special Assessment**": Assessments levied in accordance with Section 8.4.

2.21 "**Specific Assessment**": Assessments levied in accordance with Section 8.5.

2.22 "**Supplemental Declaration**": An instrument Recorded pursuant to Article 9, which accomplishes one or more of the following purposes: (a) subjects additional property to this Declaration, (b) designates Series or Series Common Areas, or (c) imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

2.23 "**Unit**": A portion of Valencia, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on the Development Plan or the site plan approved by Declarant, whichever is more recent, until such time as a subdivision plat or condominium plat is Recorded on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth thereon and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

2.24 "**Use Restrictions and Rules**": The initial use restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified and repealed pursuant to Article 3.

2.25 "**Valencia**": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article 9.

2.26 "**Valencia Governing Documents**": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws of the Association, (the "By-Laws"), the Articles of Incorporation of the Association, (the "Articles"), the Use Restrictions and Rules and any design review guidelines promulgated in accordance with Section 4, as they may be amended.

2.27 "**Valencia-Wide Standard**": The standard of conduct, maintenance, or other activity generally prevailing throughout Valencia. Such standard shall be established initially by Declarant and may be more specifically defined in the Use Restrictions and Rules, Design Review Guidelines, and in Board resolutions, the budget, levels of maintenance and the Association's operation of its facilities.

## **PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS**

The standards for use, conduct, maintenance, and architecture at Valencia give the community its identity and make Valencia a place that people want to call "home." The standards are more than simply rules. This Declaration establishes procedures for rulemaking as a dynamic process which allows the community standards to evolve as the community changes and grows and as technology and public perception change.

### **Article 3 Use and Conduct.**

#### **3.1 Framework for Regulation.**

Valencia Governing Documents establish, as part of the general plan of development for Valencia, a framework of affirmative and negative covenants, easements, and restrictions which govern Valencia. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technologies which inevitably will affect Valencia, its Owners and residents. This Article establishes procedures for modifying and expanding the initial Use Restrictions and Rules set forth in Exhibit "C." Any modification or expansion shall be effective whether or not Recorded. Each Owner is charged with determining the scope, terms, and nature of any restrictions, rules, and design guidelines pertaining to Valencia, whether or not such documents are Recorded, provided such document is adopted pursuant to the terms of this Declaration.

#### **3.2 Rule Making Authority.**

(1) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules. The Use Restrictions and Rules may apply to Units, Common Areas, Owners, Persons, Series, Series Common Areas, and the Association. The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (3) below, unless disapproved at a meeting by Members representing more than 50% of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the By-Laws.

(2) Alternatively, the Members, at an Association meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of Members representing more than 50% of the total Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(3) In an effort to assist any Owner in discharging their duty of inquiry under 3.1, at least

