

**FIRST AMENDMENT TO THE  
DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
THE PROMONTORY**

STATE OF TEXAS §  
  §  
COUNTY OF ROCKWALL §

**KNOW ALL MEN BY THESE PRESENTS:**

This **FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE PROMONTORY**, (this "First Amendment") is executed as of the date set forth below by the President of PHOA, Inc. (the "Association").

**WITNESSETH:**

**WHEREAS**, The Promontory Venture, a Texas joint venture, as "Declarant" prepared and declared an instrument entitled **Declaration of Covenants, Conditions and Restrictions for The Promontory**, which was filed for record on May 1, 1996, as Instrument Number 19960000161369, Volume 1112, Page 232 *et seq.*, of the Official Public Records of Rockwall County, Texas (hereinafter referred to as the "Declaration"); and

**WHEREAS**, Article VIII, Section 8.5(a) of the Declaration, which is entitled "AMENDMENTS" provides:

(a) This Declaration may be amended or modified upon the express written consent of at least sixty-six and two thirds percent (66 2/3%) of the outstanding votes...held by Members at a meeting at which a quorum is present...Any and all amendments hereto, if any, shall be recorded in the office of the County Clerk of Rockwall County, Texas[;] and

**WHEREAS**, Section 209.0041(h) of the Texas Property Code, (which supercedes any contrary requirement in a dedicatory instrument per Section 209.0041(f) of the Texas Property Code), provides:

...a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association, in addition to any governmental approval required by law. If the declaration contains a lower percentage, the percentage in the declaration controls[;] and

**WHEREAS**, the express written consent of at least sixty-six and two thirds percent (66 2/3%) of the outstanding votes...held by Members at a meeting at which a quorum was present has been obtained to approve of this First Amendment, as evidenced by the signature of the President of the Association to this First Amendment hereinbelow.

**NOW THEREFORE, the Declaration is hereby amended as follows:**

1. **Article I, Section 1.1 of the Declaration is hereby deleted in its entirety and is replaced with the following:**

**1.1 ASSOCIATION. "Association" shall mean and refer to PHOA, Inc., a Texas non-profit corporation established for the purposes set forth herein, its successors and assigns.**

2. **Any subsequent reference in the Declaration to "The Promontory Homeowners Association, Inc." or "The Promotory Homeowners Association" is hereby changed to "PHOA, Inc."**

3. **Article IV, Section 4.3(b) of the Declaration is hereby deleted in its entirety and is replaced with the following:**

**(b) The maximum regular annual assessment may be increased by an amount up to fifteen percent (15%) over the preceding year's regular annual assessment solely by the Board of Directors. Any increase over and above fifteen percent (15%) year's regular annual assessment shall be done only by the prior written approval of a majority of the votes of the Members (determined pursuant to Section 3.2 hereof) who are present, in person or by proxy or by any other manner allowed by law, at a meeting of the Members, at which a quorum is present.**

4. **Article IV, Section 4.4 of the Declaration, which is entitled "SPECIAL ASSESSMENTS", is hereby deleted in its entirety and is replaced with the following:**

**4.4 SPECIAL ASSESSMENTS. In addition to the regular annual assessment authorized above, the Association may levy a Special Assessment for the purpose of defraying, in whole or in part, the costs incurred by the Association pursuant to the provisions of this Declaration, provided that any such assessment shall have the prior written approval of a majority of the votes of the Members (determined pursuant to Section 3.2 hereof) who are present, in person or by proxy or by any other manner allowed by law, at a meeting of the Members, at which a quorum is present.**

5. **Article IV, Section 4.5 of the Declaration, which is entitled "NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.3 AND 4.4", is hereby deleted in its entirety and is replaced with the following:**

**4.5 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.3 AND 4.4. Written notice of any meeting called for the purpose of taking any action authorized**

under Sections 4.3 and 4.4 hereunder shall be given to all Members not less than ten (10) nor more than thirty (30) days in advance of such meeting. At such meeting, the presence of Members, in person or by proxy or by any other manner allowed by law, entitled to cast twenty percent (20%) of the votes entitled to be cast by the Members of the Association shall constitute a quorum.

Except as modified by this First Amendment, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned officer of the Association hereby represents that the express written consent of at least sixty-six and two-thirds percent (66 2/3%) of the outstanding votes...held by Members at a meeting at which a quorum is present has been obtained to approve of this First Amendment, and the undersigned has been authorized, by a resolution passed by the majority of the Board, to execute this First Amendment.

Executed by PHOA, Inc. this 8<sup>th</sup> day of May, 2018.

PHOA, INC.

By: \_\_\_\_\_

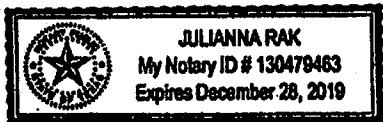
*[Handwritten Signature]*  
DARREN RAK

(Printed Name)  
President

STATE OF TEXAS §  
COUNTY OF Rockwall §

BEFORE ME, the undersigned authority, a Notary Public in and for said county and state, on this day personally appeared Darren Rak, President of PHOA, Inc., a Texas non-profit corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of May, 2018.



*[Handwritten Signature]*  
Notary Public in and for the State of Texas

After recording return to:  
THE BLEND LAW FIRM, P.C.  
14131 Midway Road, Suite 1240  
Addison, Texas 75001

Electronically Filed and Recorded  
Official Public Records  
Shelli Miller, County Clerk  
Rockwall County, Texas  
08/24/2018 01:37:29 PM  
Fee: \$34.00  
20180000015313



*[Handwritten Signature]*