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WATER CREST ON LAKE CONROE

MASTER COVENANT

Montgomery County, Texas

NOTE: NO PORTION OF THE PROPERTY DESCRIBED ON EXHIBIT "A" IS SUBJECT TO THE TERMS OF THIS COVENANT UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PORTION OF THE PROPERTY IS FILED IN THE OFFICIAL PUBLIC RECORDS OF MONTGOMERY COUNTY, TEXAS, IN ACCORDANCE WITH SECTION 9.05 BELOW.

Declarant: D. R. HORTON – TEXAS, LTD., a Texas limited partnership

WATER CREST ON LAKE CONROE

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WATER CREST ON LAKE CONROE

MASTER COVENANT

This Water Crest on Lake Conroe Master Covenant (the "Covenant") is made by D. R. HORTON – TEXAS, LTD., a Texas limited partnership (the "Declarant"), and is as follows:

RECITALS:

A. Declarant is the present owner of certain real property located in Montgomery County, Texas, as more particularly described on Exhibit "A" attached hereto (the "Property").

B. Declarant desires to create a uniform plan for the development, improvement, and sale of the Property.

C. Portions of the Property may be made subject to this Covenant upon the filing of one or more Notices of Applicability pursuant to *Section 9.05* below, and once such Notices of Applicability have been filed, the portions of the Property described therein will constitute the Development (as defined below) and will be governed by and fully subject to this Covenant, and the Development in turn will be comprised of separate Development Areas (as defined below) which will be governed by and subject to separate Development Area Declarations (as defined below) in addition to this Covenant.

No portion of the Property is subject to the terms and provisions of this Covenant until a Notice of Applicability is Recorded. A Notice of Applicability may only be filed by the Declarant.

Property versus Development versus Development Area

"Property"	Described on <u>Exhibit "A"</u> . This is the land that <u>may be made</u> subject to this Covenant, from time to time, by the filing of one or more Notices of Applicability. Declarant has no obligation to add all or any portion of the Property to this Covenant.
"Development"	This is the portion of the land described on <u>Exhibit "A"</u> that <u>has been made</u> subject to this Covenant through the filing of a Notice of Applicability.
"Development Area"	This is a portion of the Development. Each Development Area may be made subject to a Development Area Declaration.

D. This Covenant serves notice that upon the further filing of one or more Notices of Applicability, portions of the Property identified in such notice or notices will be subject to the terms and provisions of this Covenant.

NOW, THEREFORE, it is hereby declared that: (i) those portions of the Property as and when made subject to this Covenant by the filing of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; and (ii) each contract or deed conveying those portions of the Property which are made subject to this Covenant will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed.

This Covenant uses notes (text set apart in boxes) to illustrate concepts and assist the reader. If there is a conflict between any note and the text of the Covenant, the text will control.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Covenant will have the meanings hereinafter specified:

"Applicable Law" means the statutes and public laws and ordinances in effect at the time a provision of the Documents is applied and pertaining to the subject matter of the Document provision, including but not limited to, all ordinances and any other applicable building codes, zoning restrictions and permits or other applicable regulations. Statutes and ordinances specifically referenced in the Documents are "Applicable Law" on the date of the Document and are not intended to apply to the Development if they cease to be applicable by operation of law or if they are replaced or superseded by one or more other statutes or ordinances.

"Assessment" or **"Assessments"** means all assessments imposed by the Association under *Article 5* of this Covenant.

"Assessment Unit" has the meaning set forth in *Section 5.09*.

"Association" means WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, which will be created by the Declarant to exercise the authority and assume the powers specified in *Article 3* and elsewhere in this Covenant. The failure of the Association to maintain its corporate charter from time to time

does not affect the existence or legitimacy of the Association, which derives its authority from this Covenant, the Certificate, the Bylaws, and Applicable Law.

“Board” means the Board of Directors of the Association.

“Bulk Rate Contract” or “Bulk Rate Contracts” means one or more contracts which are entered into by the Association for the provision of utility services or other services of any kind or nature to the Lots and/or Condominium Units. The services provided under Bulk Rate Contracts may include, without limitation, security services, trash pick-up services, propane service, natural gas service, landscape maintenance services, cable television services, telecommunications services, internet access services, “broadband services”, wastewater services, and any other services of any kind or nature which are considered by the Board to be beneficial. Each Bulk Rate Contract must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

“Bylaws” means the Bylaws of the Association as adopted and as amended from time to time.

“Certificate” means the Certificate of Formation of the Association, filed in the Office of the Secretary of State of Texas, as the same may be amended from time to time.

“Commercial Lot” means a Lot within the Development, other than Common Area or Special Common Area that is intended and designated for business or commercial use. Business or commercial use shall include, but not be limited to, all office, retail, wholesale, manufacturing, and service activities, and shall also be deemed to include multi-family, duplex and apartment housing of various densities. A Commercial Lot, for the purpose of this Covenant, may also include a Lot on which a residential condominium will be impressed.

“Common Area” means any property and facilities that the Association owns or in which it otherwise holds rights or obligations, including any property or facilities held by the Declarant for the benefit of the Association or its Members. Common Area also includes any property that the Association holds under a lease, license, or any easement in favor of the Association. Some Common Area will be solely for the common use and enjoyment of the Owners, while other portions of the Common Area may be for the use and enjoyment of the Owners and members of the public.

“Community Manual” means the community manual, which may be initially adopted and Recorded by the Declarant as part of the initial project documentation for the benefit of the Association. The Community Manual may include the Bylaws, Rules and other policies governing the Association. The Community Manual may be amended, from time to time, by the Declarant during the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

“Condominium Unit” means an individual unit, including any common element assigned thereto, within a condominium regime, if any, established within the Development. A Condominium Unit may be intended and designated in any Development Area Declaration for residential, commercial, or live/work purposes.

“Declarant” means D. R. HORTON – TEXAS, LTD., a Texas limited partnership, its successors and assigns. Notwithstanding any provision in this Covenant to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or non-exclusively, any of its privileges, exemptions, rights, reservations and duties under this Covenant to any person. Declarant may also, by Recorded written instrument, permit any other person to participate in whole, in part, exclusively or non-exclusively, in any of Declarant’s privileges, exemptions, rights and duties under this Covenant.

Declarant enjoys special privileges to facilitate the development, construction, and marketing of the Property and the Development, and to direct the size, shape and composition of the Property and the Development. These special rights are described in this Covenant. Many of these rights do not terminate until either Declarant: (i) has sold all Lots or Condominium Units which may be created out of the Property; or (ii) voluntarily terminates these rights by a Recorded written instrument. Declarant may also assign, in whole or in part, all or any of the Declarant’s rights established under the terms and provisions of this Covenant to one or more third-parties.

“Design Guidelines” means the standards for design and construction of Improvements, landscaping, and exterior items proposed to be placed on any Lot or Condominium Unit, adopted pursuant to *Section 6.04(b)*, as the same may be amended from time to time. The Design Guidelines may consist of multiple written design guidelines applying to specific portions of the Development. At Declarant’s option, the Water Crest on Lake Conroe Reviewer may adopt, and amend from time to time, the Design Guidelines applicable to the Development or any Development Area, or any portion thereof. The Design Guidelines may be Recorded as a separate written instrument or may be incorporated into a Development Area Declaration by exhibit or otherwise. Notwithstanding anything in this Covenant to the contrary, Declarant will have no obligation to establish Design Guidelines for the Property, the Development, or any portion thereof.

“Development” refers to all or any portion of the Property made subject to this Covenant by the filing of a Notice of Applicability.

“Development Area” means any part of the Development (less than the whole), which Development Area may be subject to a Development Area Declaration in addition to being subject to this Covenant.

“Development Area Declaration” means, with respect to any Development Area, the separate instruments containing covenants, restrictions, conditions, limitations and/or easements, to which the property within such Development Area is subjected.

“Development Period” means the period of time beginning on the date when this Covenant has been Recorded, and ending at such time as Declarant no longer owns any portion of the Property, unless earlier terminated by Declarant by a Recorded written instrument executed by the Declarant. The Development Period is the period of time in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property and the Development, and the right to direct the size, shape and composition of the Property and the Development.

“Documents” means, singularly or collectively, as the case may be, this Covenant, the Certificate, Bylaws, the Community Manual, the Design Guidelines (if adopted), any applicable Development Area Declaration, any applicable Notice of Applicability, and any Rules promulgated by the Association pursuant to this Covenant or any Development Area Declaration, as each may be adopted and amended from time to time, and all restrictions, covenants, and conditions contained therein. An appendix, exhibit, schedule, or certification accompanying a Document is part of a Document. See *Table 1* for a summary of the Documents.

“Homebuilder” refers to any Owner (other than Declarant) who is in the business of constructing single-family residences for resale to third parties.

“Improvement” means all physical enhancements and alterations to the Development, including but not limited to grading, clearing, removal of trees, site work, alteration of drainage flow, and every structure and all appurtenances of every type and kind, whether temporary or permanent in nature, including, but not limited to, buildings, outbuildings, storage sheds, patios, tennis courts, sport courts, recreational facilities, swimming pools, putting greens, garages, driveways, parking areas and/or facilities, storage buildings, sidewalks, fences, walls, gates, signage, screening walls, retaining walls, drainage facilities, detention/retention ponds, water features, stairs, patios, decks, walkways, landscaping, trails, hardscape, mailboxes, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

“Lot” means any portion of the Development designated by Declarant in a Recorded written instrument or as shown as a subdivided lot on a Plat other than Common Area, Special Common Area, or a Lot on which a condominium regime has been established, and shall include both Commercial Lots and Residential Lots.

“Majority” means more than half.

“Manager” has the meaning set forth in *Section 3.08(h)*.

“Members” means every person or entity that holds membership privileges in the Association.

“Mortgage” or **“Mortgages”** means any mortgage(s) or deed(s) of trust securing indebtedness and covering any Lot or Condominium Unit.

“Mortgagee” or **“Mortgagees”** means the holder(s) of any Mortgage(s).

“Neighborhood” has the meaning set forth in *Section 3.02*.

“Neighborhood Delegate” means the representative elected by the Owners of Lots and Condominium Units in each Neighborhood pursuant to the Representative System of Voting (as further defined herein) which may be established by the Declarant to cast the votes of all Lots and Condominium Units in the Neighborhood on all matters requiring a vote of the membership of the Association, except for the following situations in which this Covenant specifically requires Members or Owners to cast their vote individually: (i) changes to the term of the Covenant as described in *Section 10.01*; (ii) amendments to the Covenant as described in *Section 10.03*; and (iii) initiation of any judicial or administrative proceeding as described in *Section 10.18*. Notwithstanding the foregoing, the Documents may set forth additional circumstances in which the Members or Owners are required to cast their vote individually, and voting by Neighborhood Delegates is prohibited.

“Notice of Applicability” means the Recorded notice executed by the Declarant for the purpose of adding all or any portion of the Property to the terms and provisions of this Covenant. In accordance with *Section 9.05*, a Notice of Applicability may also subject a portion of the Property to a previously Recorded Development Area Declaration.

“Occupant” means a resident, an occupant or tenant of a Lot or Condominium Unit, regardless of whether the person owns the Lot or Condominium Unit.

“Owner” means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot or Condominium Unit, but does not include the Mortgagee under a Mortgage prior to its acquisition of fee simple interest in such Lot pursuant to foreclosure of the lien of its Mortgage. Mortgagees who acquire title to a Lot or Condominium Unit through a deed in lieu of foreclosure or through foreclosure are Owners. Persons or entities having ownership interests merely as security for the performance of an obligation are not Owners. Every Owner is a Member of the Association.

“Plat” means a Recorded subdivision plat of any portion of the Development, and any amendments thereto.

"Property" means all of that certain real property described on Exhibit "A", attached hereto, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 9.03* and *Section 9.04* of this Covenant.

"Record, Recording, Recordation and Recorded" means recorded in the Official Public Records of Montgomery County, Texas.

"Representative System of Voting" means the method of voting which may be established by Declarant pursuant to *Section 3.06* below.

"Residential Developer" refers to any Owner who acquires a Lot for the purpose of resale to a Homebuilder.

"Residential Lot" means a portion of the Development shown as a subdivided lot on a Plat, other than Common Area and Special Common Area, or a Lot on which a condominium regime has been established, which is intended and designated solely for single-family residential use.

"Rules" means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Development, including any amendments to those instruments.

"Service Area" means a group of Lots and/or Condominium Units designated as a separate Service Area pursuant to this Covenant for purpose of receiving benefits or services from the Association which are not provided to all Lots and Condominium Units. A Service Area may be comprised of more than one type of use or structure and may include noncontiguous Lots. A Lot or Condominium Unit may be assigned to more than one Service Area. Service Area boundaries may be established and modified as provided in *Section 2.04*.

"Service Area Assessments" means assessments levied against the Lots and/or Condominium Units in a particular Service Area to fund Service Area Expenses, as described in *Section 5.06*.

"Service Area Expenses" means the estimated and actual expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Service Area, which may include a reasonable reserve for capital repairs and replacements.

"Special Common Area" means any interest in real property or improvements which is designated by Declarant in a Notice of Applicability filed pursuant to *Section 9.05*, in a Development Area Declaration or in any written instrument Recorded by Declarant (which designation will be made in the sole and absolute discretion of Declarant) as Special Common Area which is assigned for the purpose of exclusive use and/or the obligation to pay Special Common Area Assessments attributable thereto, to one or more, but less than all of the Lots, Condominium Units, Owners or Development Areas, and is or will be conveyed to the

Association or as to which the Association will be granted rights or obligations, or otherwise held by the Declarant for the benefit of the Association. The Notice of Applicability, Development Area Declaration, or other written notice will identify the Lots, Condominium Units, Owners or Development Areas assigned to such Special Common Area and further indicate whether the Special Common Area is assigned to such parties for the purpose of exclusive use and the payment of Special Common Area Assessments, or only for the purpose of paying Special Common Area Assessments attributable thereto. By way of illustration and not limitation, Special Common Area might include such things as private drives and roads, entrance facilities and features, monumentation or signage, walkways or landscaping.

“Special Common Area Expenses” means the estimated and actual expenses which the Association incurs or expects to incur to operate, maintain, repair and replace Special Common Area, which may include a reasonable reserve for capital repairs and replacements.

“Special Common Area Assessments” means assessments levied against the Lots and/or Condominium Units as described in *Section 5.05*.

“Voting Group” has the meaning set forth in *Section 3.07*.

“Water Crest on Lake Conroe Reviewer” means Declarant or its designee until expiration of termination of the Development Period. Upon expiration or termination of the Development Period, the rights of the Water Crest on Lake Conroe Reviewer will automatically be transferred to the architectural control committee appointed by the Board, as set forth in *Section 6.02* below.

TABLE 1: DOCUMENTS	
Covenant (Recorded)	Creates obligations that are binding upon the Association and all present and future owners of Property made subject to the Covenant by the filing of a Notice of Applicability.
Notice of Applicability (Recorded)	Describes the portion of the Property being made subject to the terms and provisions of the Covenant and any applicable Development Area Declaration.
Development Area Declaration (Recorded)	Includes additional covenants, conditions and restrictions governing portions of the Development.
Certificate of Formation (Filed with Secretary of State and Recorded)	Establishes the Association as a not-for-profit corporation under Texas law.
Bylaws (Recorded)	Governs the Association’s internal affairs, such as elections, meetings, etc.
Community Manual (Recorded)	Establishes rules and policies governing the Association.
Design Guidelines (if adopted, Recorded)	Governs the design and architectural standards for the construction of Improvements and modifications thereto. Neither the Declarant nor the Water Crest on Lake Conroe

	Reviewer shall have any obligation to adopt Design Guidelines.
Rules (if adopted, Recorded)	Rules regarding the use of property, activities, and conduct within the Development.
Board Resolutions (adopted by the Board of the Association)	Establishes rules, policies, and procedures for the Association.

**ARTICLE 2
GENERAL RESTRICTIONS**

2.01 General.

(a) **Conditions and Restrictions.** Ordinances and requirements imposed by local governmental authorities are applicable to all Lots and Condominium Units within the Development. All Lots and Condominium Units within the Development to which a Notice of Applicability has been filed in accordance with *Section 9.05*, will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the Documents. **NO PORTION OF THE PROPERTY WILL BE SUBJECT TO THE TERMS AND PROVISIONS OF THIS COVENANT UNTIL A NOTICE OF APPLICABILITY HAS BEEN RECORDED.**

(b) **Applicable Law.** Compliance with the Documents is not a substitute for compliance with Applicable Law. Please be advised that the Documents do not purport to list or describe each restriction which may be applicable to a Lot or Condominium Unit located within the Development. Each Owner is advised to review all ordinances, requirements, regulations and encumbrances affecting the use and improvement of their Lot or Condominium Unit prior to submitting plans to the Water Crest on Lake Conroe Reviewer for approval. Furthermore, an approval by the Water Crest on Lake Conroe Reviewer should not be construed by the Owner that any Improvement complies with the terms and provisions of all ordinances, requirements, regulations or encumbrances which may affect the Owner's Lot or Condominium Unit.

(c) **Water Crest on Lake Conroe Reviewer Approval of Project Names.** Each Owner is advised that the name used to identify the Development Area or any portion thereof for marketing or identification purposes must be approved in advance and in writing by the Water Crest on Lake Conroe Reviewer.

(d) **Development Amenities.** A Development Area may include common area, open space, water quality facilities, parkland, trails, landscape areas, roadways, driveways or easements which benefit the Development in addition to the Development Area, as reasonably determined by the Declarant during the Development Period, and a Majority of the Board after termination or expiration of the Development Period (the "Development Amenities"). Declarant, during the Development Period, and a Majority

of the Board after termination or expiration of the Development Period, may require all or a portion of such Development Amenities be conveyed, transferred, or dedicated (by deed easement, or license) to: (i) the Association; or (ii) another entity designated by the Declarant or a Majority of the Board, as applicable. Alternatively, the Declarant, during the Development Period, and a Majority of the Board after termination or expiration of the Development Period, may require that all or a portion of such Development Amenities be owned and maintained by the Owner of all or a portion of a particular Development Area, subject to an easement in favor of other Owner(s) and Occupants, as designated by the Declarant or a Majority of the Board, as applicable (e.g., ingress and egress over and across the driveways constructed within the Development Area).

The Development Amenities may not be conveyed or otherwise transferred unless the conveyance and transfer is approved in advance and in writing by the Declarant during the Development Period, and a Majority of the Board after expiration or termination of the Development Period.

2.02 Incorporation of Development Area Declarations. Upon Recordation of a Development Area Declaration such Development Area Declaration will, automatically and without the necessity of further act, be incorporated into, and be deemed to constitute a part of this Covenant, to the extent not in conflict with this Covenant, but will apply only to portions of the Property made subject to the Development Area upon the Recordation of one or more Notices of Applicability. To the extent of any conflict between the terms and provisions of a Development Area Declaration and this Covenant, the terms and provisions of this Covenant will apply.

2.03 Conceptual Plans. All master plans, site plans, brochures, illustrations, information and marketing materials related to the Property or the Development (collectively, the "Conceptual Plans") are conceptual in nature and are intended to be used for illustrative purposes only. **The land uses and Improvements reflected on the Conceptual Plans are subject to change at any time and from time to time, and it is expressly agreed and understood that land uses within the Property or the Development may include uses which are not shown on the Conceptual Plans.** Neither Declarant nor any Homebuilder or other developer of any portion of the Property or the Development makes any representation or warranty concerning such land uses and Improvements shown on the Conceptual Plans or otherwise planned for the Property or the Development and it is expressly agreed and understood that no Owner will be entitled to rely upon the Conceptual Plans in making the decision to purchase any land or Improvements within the Property or the Development. Each Owner who acquires a Lot or Condominium Unit within the Development acknowledges that the Development is a master planned community, the development of which will extend over many years, and agrees that the Association will not engage in, or use Association funds to support, protest, challenge, or make any other form of objection to development of the Property or changes in the Conceptual Plans as they may be amended or modified from time to time.

The Development is a master planned community which will be developed over a number of years. The plans, land uses, projected Improvements, Assessments, and Documents are subject to change from time to time, without notice or obligation to notify.

2.04 Provision of Benefits and Services to Service Areas.

(a) Declarant, in a Notice of Applicability Recorded pursuant to *Section 9.05* or in any Recorded written notice, may assign Lots and/or Condominium Units to one or more Service Areas (by name or other identifying designation) as it deems appropriate, which Service Areas may be then existing or newly created, and may require that the Association provide benefits or services to such Lots and/or Condominium Units in addition to those which the Association generally provides to the Development. Declarant may unilaterally amend any Notice of Applicability or any Recorded written notice, to re-designate Service Area boundaries. All costs associated with the provision of services or benefits to a Service Area will be assessed against the Lots and/or Condominium Units within the Service Area as a Service Area Assessment.

(b) In addition to Service Areas which Declarant may designate, any group of Owners may petition the Board to designate their Lots and/or Condominium Units as a Service Area for the purpose of receiving from the Association: (i) special benefits or services which are not provided to all Lots and/or Condominium Units; or (ii) a higher level of service than the Association otherwise provides. Upon receipt of a petition signed by Owners of a Majority of the Lots and/or Condominium Units within the proposed Service Area, the Board will investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and associated expenses, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge will apply at a uniform rate per Lot and/or Condominium Units among all Service Areas receiving the same service). Notwithstanding the foregoing, the Declarant shall have the right to withhold its consent for any petition to designate Lots and/or Condominium Units as a Service Area in Declarant's sole and absolute discretion. If approved by the Board, the Declarant during the Development Period, and the Owners of at least sixty-seven percent (67%) of the total number of votes held by all Lots and/or Condominium Units within the proposed Service Area, the Association will provide the requested benefits or services on the terms set forth in the proposal or in a manner otherwise acceptable to the Board. The cost and administrative charges associated with such benefits or services will be assessed against the Lots and/or Condominium Units within such Service Area as a Service Area Assessment.

ARTICLE 3
WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

3.01 **Organization.** The Association will be a nonprofit corporation created for the purposes, charged with the duties, and vested with the powers of a Texas non-profit corporation. Neither the Certificate nor the Bylaws will, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Covenant.

3.02 **Neighborhoods.** Every Lot and Condominium Unit will be located within a "Neighborhood". A Neighborhood may be comprised of any number of Lots or Condominium Units and may include Lots or Condominium Units of more than one type, as well as Lots or Condominium Units that are not contiguous to one another. Each Notice of Applicability shall initially assign the portion of the Property described therein to a specific Neighborhood which may then exist (being identified and described in a previously Recorded Notice of Applicability) or may be newly created. Declarant may Record an amendment to any previously Recorded Notice of Applicability to designate or change Neighborhood boundaries.

3.03 **Membership.**

(a) **Mandatory Membership.** Any person or entity, upon becoming an Owner, will automatically become a Member of the Association. Membership will be appurtenant to and will run with the ownership of the Lot or Condominium Unit that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot or Condominium Unit, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot or Condominium Unit. Within thirty (30) days after acquiring legal title to a Lot or Condominium Unit, if requested by the Board, an Owner must provide the Association with: (1) a copy of the recorded deed by which the Owner has acquired title to the Lot or Condominium Unit; (2) the Owner's address, email address, phone number, and driver's license number, if any; (3) any Mortgagee's name and address; and (4) the name, phone number, and email address of any Occupant other than the Owner.

(b) **Easement of Enjoyment – Common Area.** Every Member will have a right and easement of enjoyment in and to all of the Common Area and an access easement, if applicable, by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot or Condominium Unit, subject to the following restrictions and reservations:

(i) The right of the Declarant or the Declarant's designee, during the Development Period, and the Board thereafter, to cause such Improvements and features to be constructed upon the Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion;

(ii) The right of the Association to suspend the Member's right to use the Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Covenant;

(iii) The right of the Declarant, during the Development Period, and the Board thereafter, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for any purpose;

(iv) The right of the Declarant, during the Development Period, and the Board thereafter to grant easements or licenses over and across the Common Area;

(v) With the advance written approval of the Declarant during the Development Period, the right of the Board to borrow money for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area;

(vi) The right of the Declarant, during the Development Period, and the Board, with the advance written approval of the Declarant during the Development Period, to promulgate Rules regarding the use of the Common Area and any Improvements thereon; and

(vii) The right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant.

(c) Easement of Enjoyment – Special Common Area. Each Owner of a Lot or Condominium Unit which has been assigned use of Special Common Area in a Notice of Applicability, Development Area Declaration, or other Recorded instrument, will have a right and easement of enjoyment in and to all of such Special Common Area for its intended purposes, and an access easement, if applicable, by and through such Special Common Area, which easement will be appurtenant to and will pass with title to such Owner's Lot or Condominium Unit, subject to *Section 3.03(b)* above and subject to the following restrictions and reservations:

(i) The right of the Declarant or the Declarant's designee, during the Development Period, and the Board thereafter, to cause such Improvements and features to be constructed upon the Special Common Area, as determined from time to time by the Declarant, in the Declarant's sole and absolute discretion;

(ii) The right of Declarant, during the Development Period, to grant additional Lots or Condominium Units use rights in and to Special Common Area in a subsequently filed Notice of Applicability, Development Area Declaration, or Recorded instrument;

(iii) The right of the Association to suspend the Member's rights to use the Special Common Area for any period during which any Assessment against such Member's Lot or Condominium Unit remains past due and for any period during which such Member is in violation of any provision of this Covenant;

(iv) The right of the Declarant during the Development Period, and the Board thereafter to grant easements or licenses over and across the Special Common Area or to dedicate or transfer all or any part of the Special Common Area to any public agency, authority or utility for any purpose;

(v) With the advance written approval of the Declarant during the Development Period, the right of the Board to borrow money for the purpose of improving the Special Common Area and, in furtherance thereof, mortgage the Special Common Area;

(vi) The right of the Declarant, during the Development Period, and the Board, with the advance written approval of the Declarant during the Development Period, to promulgate Rules regarding the use of the Special Common Area and any Improvements thereon; and

(vii) The right of the Association to contract for services with any third parties on such terms as the Board may determine, except that during the Development Period, all such contracts must be approved in advance and in writing by the Declarant.

3.04 Governance. As more specifically described in the Bylaws, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for such purpose. **Notwithstanding the foregoing provision or any provision in this Covenant to the contrary, until the 10th anniversary of the date this Covenant is Recorded, Declarant will have the sole right to appoint and remove all members of the Board. No later than the 10th anniversary of the date this Covenant is Recorded, or sooner as determined by Declarant, the Board shall hold a meeting of Members of the Association for the purpose of electing one-third of the Board (the "Initial Member Election Meeting"), which Board member(s) must be elected by Owners other than the Declarant. Declarant shall continue to have the sole right to appoint and remove two-thirds of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period.**

3.05 Voting Allocation. The number of votes which may be cast for election of members to the Board (except as provided by *Section 3.04*) and on all other matters to be voted on by the Members will be calculated as set forth below.

(a) **Residential Lot.** Each Owner of Residential Lot will be allocated one (1) vote for each Residential Lot so owned. In the event of the re-subdivision of any Residential Lot into two or more Residential Lots: (i) the number of votes to which such Residential Lot is entitled will be increased as necessary to retain the ratio of one (1) vote for each Residential Lot resulting from such re-subdivision, *e.g.*, each Residential Lot resulting from the re-subdivision will be entitled to one (1) vote; and (ii) each Residential Lot resulting from the re-subdivision will be allocated one (1) Assessment Unit. In the event of the consolidation of two (2) or more Residential Lots for purposes of construction of a single residence thereon, voting rights and Assessments will continue to be determined according to the number of original Residential Lots contained in such consolidated Residential Lot. Nothing in this Covenant will be construed as authorization for any re-subdivision or consolidation of Residential Lots, such actions being subject to the conditions and restrictions of the applicable Development Area Declaration.

(b) **Commercial Lot or Condominium Unit.** Each Owner of a Commercial Lot or Condominium Unit will be allocated the number of votes for such Commercial Lot or Condominium Unit so owned as determined by Declarant, which determination will be set forth in the Notice of Applicability attributable to the Commercial Lot or Condominium Unit(s). Declarant will determine such votes in its sole and absolute discretion. Declarant's determination regarding the number of votes to which such Owners will be entitled will be final, binding and conclusive. The Notice of Applicability may include a provision with an alternative voting allocation in the event all or a portion of a Commercial Lot is submitted to the condominium form of ownership. Declarant, in its sole and absolute discretion, may modify and amend (which modification and amendment may be effected after Declarant's conveyance of any Commercial Lot or Condominium Unit to any person not affiliated with Declarant) the number of votes previously assigned to a Commercial Lot or Condominium Unit if the actual use of the Commercial Lot or Condominium Unit or the Improvements actually constructed on the Commercial Lot or Condominium Unit differ from the anticipated use of the Commercial Lot or Condominium Unit or Improvements contemplated to be constructed thereon at the time a notice allocating votes thereto was originally filed. In the event of a modification to the votes allocated to a Commercial Lot or Condominium Unit, Declarant will Record an amended Notice of Applicability setting forth the revised allocation of votes attributable to such Commercial Lot or Condominium Unit.

(c) **Declarant.** In addition to the votes to which Declarant is entitled by reason of *Section 3.05(a)* and *Section 3.05(b)*, for every one (1) vote outstanding in favor of

any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period. Declarant may cast votes allocated to the Declarant pursuant to this Section and shall be considered a Member for the purpose of casting such votes, and need not own any portion of the Development as a pre-condition to exercising such votes.

(d) Co-Owners. If there is more than one Owner of a Lot or Condominium Unit, the vote for such Lot or Condominium Unit shall be exercised as the co-Owners holding a Majority of the ownership interest in the Lot or Condominium Unit determine among themselves and advise the Secretary of the Association in writing prior to the close of balloting. Any co-Owner may cast the vote for the Lot or Condominium Unit, and majority agreement shall be conclusively presumed unless another co-Owner of the Lot or Condominium Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of a majority agreement, the Lot's or Condominium Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently. In no event will the vote for such Lot or Condominium Unit exceed the total votes to which such Lot or Condominium Unit is otherwise entitled pursuant to this *Section 3.05*.

3.06 Representative System of Voting. The Representative System of Voting shall only be established if the Declarant first calls for election of a Neighborhood Delegate for a particular Neighborhood. The Declarant shall have no obligation to establish the Representative System of Voting. In addition, Declarant may terminate the Representative System of Voting at any time prior to expiration of the Development Period by Recorded written instrument.

(a) Election of Initial Neighborhood Delegate. In the event that the Declarant chooses to establish a Representational System of Voting, the Owners of Lots and Condominium Units within each Neighborhood shall elect a Neighborhood Delegate and an alternate Neighborhood Delegate, in the manner provided below, to cast the votes of all Lots and Condominium Units in the Neighborhood on matters requiring a vote of the membership, except where this Covenant specifically requires the Owners or Members to cast their votes individually as more particularly described in the definition of "Neighborhood Delegate" in *Article 1* of this Covenant. Notwithstanding the foregoing or any provision to the contrary in this Covenant, as provided in *Section 3.04* above, until the 10th anniversary of the date this Covenant is Recorded, Declarant will have the sole right to appoint and remove all members of the Board.

(b) Election of Successor Neighborhood Delegates. If the Declarant calls for the first election of a Neighborhood Delegate from a Neighborhood, subsequent elections shall, if necessary, be held within thirty (30) days of the same date each year.

(c) Term. The Neighborhood Delegate and the alternate Neighborhood Delegate shall be elected on a biennial basis (once every two years), by electronic and

absentee ballot without a meeting of Owners, or at a meeting of the Owners within each Neighborhood where written, electronic, proxy, and absentee ballots (or any combination of the foregoing) may also be utilized, as the Board determines. If the Board determines to hold a meeting for the election of the Neighborhood Delegate and the alternate Neighborhood Delegate, the presence, in person or by proxy, absentee or electronic ballot, of Owners representing at least ten percent (10%) of the total votes in a Neighborhood shall constitute a quorum at such meeting. Notwithstanding the foregoing provision, the Declarant during the Development Period, and the Board thereafter, may elect to extend the term of a Neighborhood Delegate and alternate Neighborhood Delegate to the extent Declarant or the Board, as applicable, determines that such extension will result in administrative efficiencies by allowing elections within different Neighborhoods to occur in close proximity to one another; provided, however, that the term of an existing Neighborhood Delegate and alternate Neighborhood Delegate shall not be extended for more than twelve (12) months.

(d) Election Results. At any Neighborhood election, the candidate for each position who receives the greatest number of votes shall be elected to serve as the Neighborhood Delegate and the candidate with the second greatest number of votes shall be elected to serve as the alternate Neighborhood Delegate. The Neighborhood Delegate and alternate Neighborhood Delegate shall serve until his or her successor is elected.

(e) Voting by the Neighborhood Delegate. The Neighborhood Delegate or, in his or her absence, the alternate Neighborhood Delegate, attends Association meetings and casts all votes allocated to Lots and Condominium Units in the Neighborhood that he or she represents on any matter as to which such Neighborhood Delegate is entitled to vote under this Covenant. A Neighborhood Delegate may cast all votes allocated to Lots and Condominium Units in the Neighborhood in such delegate's discretion and may, but need not, poll the Owners of Lots and Condominium Units in the Neighborhood which he or she represents prior to voting. Neither the Neighborhood Delegate nor the alternative Neighborhood Delegate may casts votes allocated to Lots and Condominium Units not owned by such Neighborhood Delegate in the Neighborhood that he or she represents for the purpose of amending this Covenant.

(f) Qualification. Candidates for election as the Neighborhood Delegate and alternate Neighborhood Delegate from a Neighborhood shall be Owners of Lots or Condominium Units in the Neighborhood, spouses of such Owners, Occupants, of the Neighborhood, or an entity representative where an Owner is an entity.

(g) Removal. Any Neighborhood Delegate or alternate Neighborhood Delegate may be removed, with or without cause, upon the vote or written petition of Owners holding a Majority of the votes allocated to the Lots and Condominium Units in

the Neighborhood that the Neighborhood Delegate represents. If a Neighborhood Delegate is removed in accordance with the foregoing sentence, the alternate Neighborhood Delegate shall serve as the Neighborhood Delegate unless also removed.

(h) Subordination to the Board. Neighborhood Delegates are subordinate to the Board and their responsibility and authority does not extend to policy making, supervising, or otherwise being involved in Association governance.

(i) Running for the Board. An Owner may not simultaneously hold the position of Neighborhood Delegate and be a member of the Board of Directors. In addition, if Neighborhood Delegates are established, a Neighborhood Delegate running for the Board shall resign their position prior to casting any vote for a member of the Board. In such event, the alternate Neighborhood Delegate shall serve out the rest of the term as the former Neighborhood Delegate, and another alternate Neighborhood Delegate shall be elected by the Owners or Members in the Neighborhood to serve out the term as the successor alternate Neighborhood Delegate.

3.07 Voting Groups. Declarant may designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing members of the Board. The purpose of Voting Groups is to provide groups with dissimilar interests the opportunity to be represented on the Board and to avoid a situation in which less than all the Neighborhoods are able to elect the entire Board. Voting Groups may be established by the Declarant without regard to whether the Representative System of Voting has been implemented in accordance with *Section 3.06* by the Declarant. If Voting Groups are established and the Representative System of Voting has been implemented, then a Neighborhood Delegate shall only vote on the slate of candidates assigned to the Neighborhood Delegate. If Voting Groups are established and the Representative System of Voting has not been implemented, then each Owner of a Lot or Condominium Unit shall only vote on the slate of candidates assigned to their Neighborhood.

(a) Voting Group Designation. Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Development Period by Recording a written instrument identifying the Neighborhoods within each Voting Group (the "**Voting Group Designation**"). The Voting Group Designation will assign the number of members of the Board which the Voting Group is entitled to exclusively elect.

(b) Amendment of Voting Group Designation. The Voting Group Designation may be amended unilaterally by the Declarant at any time prior to the expiration of the Development Period. After expiration of the Development Period, the Board shall have the right to Record or amend such Voting Group Designation upon the vote of a Majority of the Board and approval of Neighborhood Delegates representing a Majority of the Neighborhoods. Neither Recordation nor amendment of such Voting Group Designation shall constitute an amendment to this Covenant, and no consent or

approval to modify the Voting Group Designation shall be required except as stated in this paragraph.

(c) Single Voting Group. Until such time as Voting Groups are established, all of the Development shall constitute a single Voting Group. After a Voting Group Designation is Recorded, any and all portions of the Development which are not assigned to a specific Voting Group shall constitute a single Voting Group.

3.08 Powers. The Association will have the powers of a Texas nonprofit corporation. It will further have the power to do and perform any and all acts that may be necessary or proper, for or incidental to, the exercise of any of the express powers granted to it by Applicable Law or this Covenant. Without in any way limiting the generality of the two preceding sentences, the Board, acting on behalf of the Association, will have the following powers at all times:

(a) Rules. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, Rules, policies, the Bylaws and the Community Manual, as applicable, which are not in conflict with this Covenant, as the Board deems proper, covering any and all aspects of the Development (including the operation, maintenance and preservation thereof) or the Association. Any Rules, policies, the Bylaws and the Community Manual and any modifications thereto, proposed by the Board, must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period.

(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) Records. To keep books and records of the Association's affairs, and to make such books and records, together with current copies of the Documents available for inspection by the Owners, Mortgagees, and insurers or guarantors of any Mortgage upon request during normal business hours.

(d) Assessments. To levy and collect Assessments and to determine Assessment Units, as provided in *Article 5* below.

(e) Right of Entry and Enforcement. To enter at any time without notice in an emergency (or in the case of a non-emergency, after twenty-four (24) hours written notice), without being liable to any Owner, upon any Lot and into any Improvement thereon or into any Condominium Unit for the purpose of enforcing the Documents or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Documents. The expense incurred by the Association in connection with the entry upon any Lot or into any Condominium Unit and the maintenance and repair

work conducted thereon or therein will be a personal obligation of the Owner of the Lot or the Condominium Unit so entered, will be deemed an Individual Assessment against such Lot or Condominium Unit, will be secured by a lien upon such Lot or Condominium Unit, and will be enforced in the same manner and to the same extent as provided in *Article 5* hereof for Assessments. The Association will have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of the Documents. The Association is also authorized to settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the Documents; provided, however, that the Board will never be authorized to expend any Association funds for the purpose of bringing suit against Declarant, or its successors or assigns. The Association may not enter into, alter or demolish any Improvements on any Lot or Condominium Unit, other than Common Area or Special Common Area, in enforcing this Covenant before a judicial order authorizing such action has been obtained by the Association, or before the written consent of the Owner(s) of the affected Lot(s) or Condominium Unit(s) has been obtained. **EACH OWNER AND OCCUPANT HEREBY RELEASES AND HOLDS HARMLESS THE ASSOCIATION, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 3.08(e) (INCLUDING ANY COST, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT TO THE EXTENT SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION RESULTED FROM THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

(f) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association.

(g) Conveyances. To grant and convey to any person or entity the real property and/or other interest, including fee title, leasehold estates, easements, rights-of-way or mortgages, out of, in, on, over, or under any Common Area or Special Common Area for the purpose of constructing, erecting, operating or maintaining the following:

- (i) Parks, parkways or other recreational facilities or structures;
- (ii) Roads, streets, sidewalks, signs, street lights, walks, driveways, trails and paths;

- (iii) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (iv) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
- (v) Any similar improvements or facilities.

Nothing set forth above, however, will be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed by the Documents or Applicable Law. In addition, until expiration or termination of the Development Period, any grant or conveyance under this *Section 3.08(g)* must be approved in advance and in writing by the Declarant. In addition, the Association (with the advance written approval of the Declarant during the Development Period) and the Declarant are expressly authorized and permitted to convey easements over and across Common Area or Special Common Area for the benefit of property not otherwise subject to the terms and provisions of this Covenant.

(h) Manager. To retain and pay for the services of a person or firm (the "Manager"), which may include Declarant or an affiliate of Declarant, to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by Applicable Law, the Board may delegate any other duties, powers and functions to the Manager. In addition, the Board may adopt resale certificate fees or any other fees associated with the provision of management services to the Association or its Members. **THE MEMBERS HEREBY RELEASE THE ASSOCIATION AND THE MEMBERS OF THE BOARD FROM LIABILITY FOR ANY OMISSION OR IMPROPER EXERCISE BY THE MANAGER OF ANY SUCH DUTY, POWER OR FUNCTION SO DELEGATED.**

(i) Property Services. To pay for water, sewer, garbage removal, street lights, landscaping, and all other utilities, services, repair and maintenance, including but not limited to private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, canals, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments that the Association or the Board is required or permitted to secure or to pay for pursuant to Applicable Law or under the terms of the Documents or as determined by the Board.

(k) Construction on Common Area and Special Common Area. To construct new Improvements or additions to Common Area and Special Common Area, subject to

the approval of the Board and the Declarant until expiration or termination of the Development Period.

(l) Contracts. To enter into Bulk Rate Contracts or other contracts or licenses with Declarant or any third party on such terms and provisions as the Board will determine, to operate and maintain the Development, any Common Area, Special Common Area, Improvement, or other property, or to provide any service, including but not limited to cable, utility, or telecommunication services, or perform any function on behalf of Declarant, the Board, the Association, or the Members. During the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant.

(m) Property Ownership. To acquire, own and dispose of all manner of real and personal property, including habitat, whether by grant, lease, easement, gift or otherwise. During the Development Period, all acquisitions and dispositions of the Association hereunder must be approved in advance and in writing by the Declarant.

(n) Authority with Respect to the Documents. To do any act, thing or deed that is necessary or desirable, in the judgment of the Board, to implement, administer or enforce any of the Documents. Any decision by the Board to delay or defer the exercise of the power and authority granted by this *Section 3.08(n)* will not subsequently in any way limit, impair or affect ability of the Board to exercise such power and authority.

(o) Membership Privileges. To establish Rules governing and limiting the use of the Common Area, Special Common Area, and any Improvements thereon. All Rules governing and limiting the use of the Common Area, Special Common Area, and any Improvements thereon must be approved in advance and in writing by the Declarant during the Development Period.

3.09 Common Area and Special Common Area. The Association may acquire, hold, and dispose of any interest in tangible and intangible personal property and real property. Declarant and its assignees reserve the right, from time to time and at any time, to designate by written and Recorded instrument portions of the Property being held by the Declarant for the benefit of the Association. Upon the filing of such designation, the portion of the Property identified therein will be considered Common Area or Special Common Area for the purpose of this Covenant. Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Development and/or the general public, and the Association will accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. In addition, Declarant may reserve from any such property easements for the benefit of the Declarant, any third party, and/or property not otherwise subject to the terms and provisions of this Covenant. Such property will be accepted by the Association and thereafter will be maintained as Common Area or Special Common

Area, as applicable, by the Association for the benefit of the Development and/or the general public subject to any restrictions set forth in the deed or other instrument transferring or assigning such property to the Association. Upon Declarant's written request, the Association will re-convey to Declarant any unimproved real property that Declarant originally conveyed to the Association to the extent conveyed in error or needed to make minor adjustments in property lines, as determined in the sole and absolute discretion of the Declarant. Declarant and/or its assignees may construct and maintain upon portions of the Common Area and/or the Special Common Area such facilities and may conduct such activities which, in Declarant's sole opinion, may be required, convenient, or incidental to the construction or sale of Improvements on the Development, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and its assignees shall have an easement over and across the Common Area and the Special Common Area for access and shall have the right to use such facilities and to conduct such activities at no charge.

3.10 Indemnification. To the fullest extent permitted by Applicable Law but without duplication (and subject to) any rights or benefits arising under the Certificate or Bylaws of the Association, the Association will indemnify any person who was, or is, a party, or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such person is, or was, a director, officer, committee member, employee, servant or agent of the Association against expenses, including attorneys' fees, reasonably incurred by such person in connection with such action, suit or proceeding if it is found and determined by the Board or a court of competent jurisdiction that he or she: (a) acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Association; or (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *nolo contendere* or its equivalent, will not of itself create a presumption that the person did not act in good faith or in a manner which was reasonably believed to be in, or not opposed to, the best interests of the Association or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

3.11 Insurance. The Board may purchase and maintain, at the expense of the Association, insurance on behalf of any person who is acting as a director, officer, committee member, employee, servant or agent of the Association against any liability asserted against such person or incurred by such person in their capacity as an director, officer, committee member, employee, servant or agent of the Association, or arising out of the person's status as such, whether or not the Association would have the power to indemnify the person against such liability or otherwise.

3.12 Bulk Rate Contracts. Without limitation on the generality of the Association powers set out in *Section 3.08* hereinabove (except that during the Development Period, all Bulk Rate Contracts must be approved in advance and in writing by the Declarant), the Association will have the power to enter into Bulk Rate Contracts at any time and from time to time. The

Association may enter into Bulk Rate Contracts with any service providers chosen by the Board (including Declarant, and/or any entities in which Declarant, or the owners or partners of Declarant are the owners or participants, directly or indirectly). The Bulk Rate Contracts may be entered into on such terms and provisions as the Board may determine in its sole and absolute discretion. The Association may, at its option and election add the charges payable by such Owner under such Bulk Rate Contract to the Assessments (Regular, Special, Service Area, Special Common Area, or Individual, as the case may be) against such Owner's Lot or Condominium Unit. In this regard, it is agreed and understood that, if any Owner fails to pay any charges due by such Owner under the terms of any Bulk Rate Contract, then the Association will be entitled to collect such charges by exercising the same rights and remedies it would be entitled to exercise under this Covenant with respect to the failure by such Owner to pay Assessments, including without limitation the right to foreclose the lien against such Owner's Lot or Condominium Unit which is reserved under the terms and provisions of this Covenant. In addition, in the event of nonpayment by any Owner of any charges due under any Bulk Rate Contract and after the lapse of at least twelve (12) days since such charges were due, the Association may, upon five (5) days' prior written notice to such Owner (which may run concurrently with such 12-day period), in addition to all other rights and remedies available at law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility service or other service provided at the cost of the Association and not paid for by such Owner (or Occupant of such Owner's Lot or Condominium Unit) directly to the applicable service or utility provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of termination, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner (or Occupant of such Owner's Lot or Condominium Unit) can make arrangements for payment of the bill and for re-connection or re-institution of service. No utility or cable television service will be disconnected on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services.

3.13 Protection of Declarant's Interests. Despite any assumption of control of the Board by Owners other than Declarant, until the expiration or termination of the Development Period, the Board is prohibited from taking any action which would discriminate against Declarant, or which would be detrimental to the sale of Lots, Condominium Units, or any portion of the Property owned by Declarant. Declarant shall be entitled to determine, in its sole and absolute discretion, whether any such action discriminates or is detrimental to Declarant. Unless otherwise agreed to in advance and in writing by the Declarant, the Board will be required to continue the same level and quality of maintenance, operations and services as that provided immediately prior to assumption of control of the Board by Owners other than Declarant until the expiration or termination of the Development Period.

3.14 Administration of Common Area. The administration of the Common Area or the Special Common Area by the Association shall be in accordance with the provisions of Applicable Law, the Documents, and of any other agreements, documents, amendments or

supplements to the foregoing which may be duly adopted or subsequently required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Common Area or the Special Common Area or by any title insurance company selected by Declarant to insure title to any portion of the Common Area.

ARTICLE 4 INSURANCE AND RESTORATION

4.01 **Insurance.** Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot or Condominium Unit. The Association will not maintain insurance on the Improvements constructed upon any Lot or Condominium Unit. The Association may, however, obtain such other insurance as it may deem necessary, including but not limited to such policies of liability and property damage insurance as the Board, in its discretion, may deem necessary. Insurance premiums for such policies will be a common expense to be included in the Assessments levied by the Association. The acquisition of insurance by the Association will be without prejudice to the right and obligation of any Owner to obtain additional individual insurance.

ARE YOU COVERED?

The Association will not provide insurance which covers an Owner's Lot, a Condominium Unit, or any Improvements or personal property located on a Lot or within a Condominium Unit.

4.02 **Restoration Requirements.** In the event of any fire or other casualty, unless otherwise approved by the Water Crest on Lake Conroe Reviewer, the Owner will: (i) promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof or (ii) in the case of substantial or total damage or destruction of any Improvement, remove all such damaged Improvements and debris from the Development within thirty (30) days after the occurrence of such damage. Such repair, restoration or replacement will be commenced and completed in a good and workmanlike manner using exterior materials substantially similar to those originally used in the structures damaged or destroyed. To the extent that the Owner fails to commence such repair, restoration or replacement of substantial or total damage or destruction within one hundred and twenty (120) days after the occurrence of such damage or destruction, and thereafter prosecute the same to completion, or if the Owner does not clean up any debris resulting from any damage within thirty (30) days after the occurrence of such damage, the Association may commence, complete or effect such repair, restoration, replacement or clean-up, and such Owner will be personally liable to the Association for the cost of such work; provided, however, that if the Owner is prohibited or delayed by Applicable Law from

commencing such repair, restoration, replacement or clean-up, the rights of the Association under this provision will not arise until the expiration of thirty (30) days after such prohibition or delay is removed. If the Owner fails to pay such cost upon demand by the Association, the cost thereof (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, than at the rate of one and one-half percent (1½%) per month) will be added to the Assessment chargeable to the Owner's Lot. Any such amounts added to the Assessments chargeable against a Lot or Condominium Unit will be secured by the liens reserved in this Covenant for Assessments and may be collected by any means provided in this Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot or Condominium Unit. **EACH OWNER WILL RELEASE AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION 4.02, EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR COST OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.**

4.03 **Restoration - Mechanic's and Materialmen's Lien.** Each Owner whose structure is repaired, restored, replaced or cleaned-up by the Association pursuant to the rights granted under this *Article 4*, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, replacement or clean-up of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration, replacement, or clean-up exceeds any insurance proceeds allocable to such repair, restoration, replacement, or clean-up which are delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration, replacement, or clean-up such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

ARTICLE 5 COVENANT FOR ASSESSMENTS

5.01 **Assessments.**

(a) **Established by the Board.** Assessments established by the Board pursuant to the provisions of this *Article 5* will be levied against each Lot and Condominium Unit in amounts determined pursuant to *Section 5.09* below. The total amount of Assessments will be determined by the Board in accordance with the terms of this *Article 5*.

(b) Personal Obligation; Lien. Each Assessment, together with such interest thereon and costs of collection as hereinafter provided, will be the personal obligation of the Owner of the Lot or Condominium Unit against which the Assessment is levied and will be secured by a lien hereby granted and conveyed by Declarant to the Association against each such Lot and all Improvements thereon and each such Condominium Unit (such lien, with respect to any Lot or Condominium Unit not in existence on the date hereof, will be deemed granted and conveyed at the time that such Lot or Condominium Unit is created). The Association may enforce payment of such Assessments in accordance with the provisions of this Article. Unless the Association elects otherwise (which election may be made at any time), each residential condominium association established by a condominium regime imposed upon all or a portion of the Development Area will collect all Assessments levied pursuant to this Covenant from Condominium Unit Owners within such condominium regime. The condominium association will promptly remit all Assessments collected from Condominium Unit Owners to the Association. If the condominium association fails to timely collect any portion of the Assessments due from the Owner of the Condominium Unit, then the Association may collect such Assessments allocated to the Condominium Unit on its own behalf and enforce its lien against the Condominium Unit without joinder of the condominium association. The condominium association's right to collect Assessments on behalf of the Association is a license from the Association which may be revoked by written instrument at any time, and from time to time, at the sole and absolute discretion of the Board.

(c) Declarant Subsidy. Declarant may, but is not obligated to, reduce Assessments which would otherwise be levied against Lots and Condominium Units for any fiscal year by the payment of a subsidy to the Association. Any subsidy paid to the Association by Declarant may be treated as a contribution or a loan, in Declarant's sole and absolute discretion. Any subsidy and the characterization thereof will be disclosed as a line item in the annual budget prepared by the Board and attributable to such Assessments. The payment of a subsidy in any given year will not obligate Declarant to continue payment of a subsidy to the Association in future years.

5.02 Maintenance Fund. The Board will establish a maintenance fund into which will be deposited all monies paid to the Association and from which disbursements will be made in performing the functions of the Association under this Covenant. The funds of the Association may be used for any purpose authorized by the Documents and Applicable Law.

5.03 Regular Assessments. Prior to the beginning of each fiscal year, the Board will prepare a budget for the purpose of determining amounts sufficient to pay the estimated net expenses of the Association ("Regular Assessments") which sets forth: (i) an estimate of expenses to be incurred by the Association during such year in performing its functions and exercising its powers under this Covenant, including, but not limited to, the cost of all management, repair and maintenance, the cost of providing street and other lighting, the cost of

administering and enforcing the Documents; and (ii) an estimate of the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and giving due consideration to any expected income and any surplus from the prior year's fund; and which (iii) excludes the operation, maintenance, repair and management costs and expenses associated with any Service Area and Special Common Area. Regular Assessments sufficient to pay such estimated net expenses will then be levied at the level set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any Individual Assessment by any Owner, the Association may at any time, and from time to time, levy further Regular Assessments in the same manner. All such Regular Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.04 **Special Assessments.** In addition to the Regular Assessments provided for above, the Board may levy special assessments ("**Special Assessments**") whenever in the Board's opinion such Special Assessments are necessary to enable the Board to carry out the functions of the Association under the Documents. The amount of any Special Assessments will be at the sole discretion of the Board. In addition to the Special Assessments authorized above, the Association may, in any fiscal year, levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or Special Common Area. Any Special Assessment levied by the Association for the purpose of defraying, in whole or in part, costs of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area will be levied against all Owners based on Assessment Units. Any Special Assessments levied by the Association for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any Special Common Area will be levied against all Owners who have been assigned the obligation to pay Special Common Area Assessments and will be allocated among such Owners based on Assessment Units.

5.05 **Special Common Area Assessments.** Prior to the beginning of each fiscal year, the Board will prepare a separate budget covering the estimated expenses to be incurred by the Association to operate, maintain, repair, or manage any Special Common Area. The budget will be an estimate of the amount needed to operate, maintain, repair and manage such Special Common Area including a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and surplus from the prior year's fund. The level of assessments levied to pay for expenses associated with a Special Common Area ("**Special Common Area Assessments**") will be set by the Board in its sole and absolute discretion, and the Board's determination will be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including non-payment of any individual Special Common Area Assessment, the Association may at any

time, and from time to time, levy further Special Common Area Assessments in the same manner as aforesaid. All such Special Common Area Assessments will be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

5.06 **Service Area Assessments.** Prior to the beginning of each fiscal year, the Board will prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses to be incurred by the Association in the coming year. The total amount of assessments levied to pay for Service Area Expenses for each Service Area ("**Service Area Assessments**") will be allocated either: (i) equally; (ii) based on Assessment Units; or (iii) based on the benefit received among all Lots and Condominium Units in the benefited Service Area and will be levied as a Service Area Assessment. All amounts that the Association collects as Service Area Assessments will be expended solely for the benefit of the Service Area for which they were collected and will be accounted for separately from the Association's general funds.

5.07 **Individual Assessments.** In addition to any other Assessments, the Board may levy an individual assessment ("**Individual Assessment**") against an Owner and the Owner's Lot or Condominium Unit, which may include, but is not limited to: (i) interest, late charges, and collection costs on delinquent Assessments; (ii) reimbursement for costs incurred in bringing an Owner or the Owner's Lot or Condominium Unit into compliance with the Documents; (iii) fines for violations of the Documents; (iv) transfer-related fees and resale certificate fees; (v) fees for estoppel letters and project documents; (vi) insurance deductibles; (vii) reimbursement for damage or waste caused by willful or negligent acts of the Owner, the Owner's guests, invitees or Occupants of the Owner's Lot or Condominium Unit; (viii) common expenses that benefit fewer than all of the Lots or Condominium Units, which may be assessed according to benefit received; (ix) fees or charges levied against the Association on a per-Lot or per-Condominium Unit basis; and (x) "pass through" expenses for services to Lots or Condominium Units provided through the Association and which are paid by each Lot or Condominium Unit according to benefit received.

5.08 **Working Capital Assessment.** Each Owner (other than Declarant) will pay a one-time working capital assessment to the Association in such amount, if any, as may be determined by the Board from time to time in its sole and absolute discretion. Such working capital assessment need not be uniform among all Lots or Condominium Units, and the Board is expressly authorized to levy working capital assessments of varying amounts depending on the size, use and general character of the Lots or Condominium Units then being made subject to such levy. The Association may use the working capital to discharge operating expenses. The levy of any working capital assessment will be effective only upon the Recordation of a written notice, signed by a duly authorized officer of the Association, setting forth the amount of the working capital assessment and the Lots or Condominium Units to which it applies.

Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital assessment: (i) foreclosure of a deed of trust lien, tax lien, or the Association's Assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-owners, or to the Owner's spouse, child, or parent. In the event of any dispute regarding the application of the working capital assessment to a particular Owner, Declarant's determination regarding application of the exemption will be binding and conclusive without regard to any contrary interpretation of this *Section 5.08*. The working capital assessment will be in addition to, not in lieu of, any other Assessments levied in accordance with this *Article 5* and will not be considered an advance payment of such Assessments. The working capital assessment hereunder will be due and payable to the Association immediately upon each transfer of title to the Lot or Condominium Unit, including upon transfer of title from one Owner of such Lot or Condominium Unit to any subsequent purchaser or transferee thereof. The Declarant during the Development Period, and thereafter the Board, will have the power to waive the payment of any working capital assessment attributable to a Lot or Condominium Unit (or all Lots and Condominium Units) by the Recordation of a waiver notice or in the Notice of Applicability, which waiver may be temporary or permanent.

5.09 Amount of Assessment.

(a) Assessments to be Levied. The Board will levy Assessments against each "Assessment Unit" (as defined in *Section 5.09(b)* below). Unless otherwise provided in this Covenant, Assessments levied pursuant to *Section 5.03* and *Section 5.04* will be levied uniformly against each Assessment Unit. Special Common Area Assessments levied pursuant to *Section 5.05* will be levied uniformly against each Assessment Unit allocated to a Lot or Condominium Unit that has been assigned the obligation to pay Special Common Area Assessments for specified Special Common Area. Service Area Assessments levied pursuant to *Section 5.06* will be levied either: (i) equally; (ii) based on Assessment Units allocated to the Lots and/or Condominium Units within the Service Area; or (iii) based on the benefit received among all Lots and Condominium Units in the benefited Service Area that has been included in the Service Area to which such Service Area Assessment relates.

(b) Assessment Unit. Each Residential Lot will constitute one "Assessment Unit" unless otherwise provided in *Section 5.09(c)*. Each Commercial Lot and Condominium Unit will be allocated that number of Assessment Units set forth in the Notice of Applicability attributable to such Commercial Lot or Condominium Unit. Declarant will determine such Assessment Units in its sole and absolute discretion. Declarant's determination regarding the number of Assessment Units applicable to each Commercial Lot or Condominium Unit will be final, binding and conclusive. The Notice of Applicability may include a provision with an alternative Assessment Unit allocation in the event all or a portion of a Commercial Lot is submitted to the condominium form of ownership. Declarant, in its sole and absolute discretion, may modify and amend

(which modification and amendment may be effected after Declarant's conveyance of any Commercial Lot or Condominium Unit to any person not affiliated with Declarant) the number of Assessment Units previously assigned to a Commercial Lot or Condominium Unit if the actual use of the Commercial Lot or Condominium Unit or Improvements actually constructed on the Commercial Lot or Condominium Unit differ from the anticipated use of the Commercial Lot or Condominium Unit or Improvements contemplated to be constructed thereon at the time the notice allocating Assessment Units thereto was originally Recorded. In the event of a modification to the Assessment Units allocated to a Commercial Lot or Condominium Unit, Declarant will Record an amended Notice of Applicability setting forth the revised allocation of Assessment Units attributable to the Commercial Lot or Condominium Unit.

(c) Residential Assessment Allocation. Declarant, in Declarant's sole and absolute discretion, may elect to allocate more than one Assessment Unit to a Residential Lot. An allocation of more than one Assessment Unit to a Residential Lot must be made in a Notice of Applicability or in a Development Area Declaration for the Development in which the Residential Lot is located. Declarant's determination regarding the number of Assessment Units applicable to a Residential Lot pursuant to this *Section 5.09(c)* will be final, binding and conclusive.

(d) Declarant Exemption. Notwithstanding anything in this Covenant to the contrary, no Assessments will be levied upon Lots or Condominium Units owned by Declarant.

(e) Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Development, Lot or Condominium Unit from Assessments; or (ii) delay the levy of Assessments against any un-platted, unimproved or improved portion of the Development, Lot or Condominium Unit or (iii) reduce the levy of Assessments against any unplatted, unimproved or improved portion of the Development, Lot or Condominium Unit. In the event Declarant elects to delay or reduce Assessments pursuant to this Section, the duration of the delay or the amount of the reduction will be set forth in a Recorded written instrument. Declarant may terminate, extend, or modify any delay or reduction set forth in a previously Recorded instrument by the Recordation of a replacement instrument. Declarant or the Board may also exempt any portion of the Property which is dedicated and accepted by public authority from Assessments.

5.10 Late Charges. If any Assessment is not paid by the due date applicable thereto, the Owner responsible for the payment may be required by the Board, at the Board's election at any time and from time to time, to pay a late charge in such amount as the Board may designate, and the late charge (and any reasonable handling costs) will be a charge upon the Lot or Condominium Unit owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot or Condominium

Unit; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

5.11 Owner's Personal Obligation for Payment of Assessments. Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot or Condominium Unit against which are levied such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot or Condominium Unit will be obligated to pay interest on the amount of the Assessment at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1 and 1/2% per month), together with all costs and expenses of collection, including reasonable attorney's fees.

5.12 Assessment Lien and Foreclosure. The payment of all sums assessed in the manner provided in this *Article 5* is, together with late charges as provided in *Section 5.10* and interest as provided in *Section 5.11* hereof and all costs of collection, including attorney's fees as herein provided, are secured by the continuing Assessment lien granted to the Association pursuant to *Section 5.01(b)* above, and will bind each Lot and Condominium Unit in the hands of the Owner thereof, and such Owner's heirs, devisees, personal representatives, successors or assigns. The aforesaid lien will be superior to all other liens and charges against such Lot or Condominium Unit, except only for (i) tax or governmental assessment liens; (ii) all sums secured by a Recorded first mortgage lien or Recorded first deed of trust lien, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot or Condominium Unit in question; and (iii) home equity loans or home equity lines of credit which are secured by a Recorded second mortgage lien or Recorded second deed of trust lien; provided that, in the case of subparagraphs (ii) and (iii) above, such Mortgage was Recorded, before the delinquent Assessment was due. The Association will have the power to subordinate the aforesaid Assessment lien to any other lien. Such power will be entirely discretionary with the Board, and such subordination may be signed by an authorized officer of the Association. The Association may, at its option and without prejudice to the priority or enforceability of the Assessment lien granted hereunder, prepare a written notice of Assessment lien setting forth the amount of the unpaid indebtedness, the name of the Owner of the Lot or Condominium Unit covered by such lien and a description of the Lot or Condominium Unit. Such notice may be signed by an authorized officer of the Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot or Condominium Unit subject to this Covenant will be deemed conclusively to have granted a power of sale to the Association to secure and enforce the Assessment lien granted hereunder. The Assessment liens and rights to foreclosure thereof will be in addition to and not in substitution of any other rights and remedies the Association may have pursuant to Applicable Law and under this Covenant, including the rights of the Association to institute suit against such Owner personally obligated to pay the Assessment and/or for foreclosure of the aforesaid lien. In any foreclosure proceeding, such Owner will be required to pay the costs, expenses and reasonable attorney's fees incurred. The

Association will have the power to bid (in cash or by credit against the amount secured by the lien) on the property at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same. Upon the written request of any Mortgagee, the Association will report to said Mortgagee any unpaid Assessments remaining unpaid for longer than sixty (60) days after the same are due. The lien hereunder will not be affected by the sale or transfer of any Lot or Condominium Unit; except, however, that in the event of foreclosure of any lien superior to the Assessment lien, the lien for any Assessments that were due and payable before the foreclosure sale will be extinguished, provided that past-due Assessments will be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the indebtedness secured by the Mortgage. The provisions of the preceding sentence will not, however, relieve any subsequent Owner (including any Mortgagee or other purchaser at a foreclosure sale) from paying Assessments becoming due and payable after the foreclosure sale. Upon payment of all sums secured by a lien of the type described in this *Section 5.12*, the Association will upon the request of the Owner, and at such Owner's cost, execute a release of lien relating to any lien for which written notice has been Recorded as provided above, except in circumstances in which the Association has already foreclosed such lien. Such release must be signed by an authorized officer of the Association and Recorded. In addition to the lien hereby retained, in the event of nonpayment by any Owner of any Assessment and after the lapse of at least twelve (12) days since such payment was due, the Association may, upon five (5) days' prior written notice (which may run concurrently with such 12 day period) to such Owner, in addition to all other rights and remedies available pursuant to Applicable Law, equity or otherwise, terminate, in such manner as the Board deems appropriate, any utility or cable services, provided through the Association and not paid for directly by an Owner or occupant to the utility or service provider. Such notice will consist of a separate mailing or hand delivery at least five (5) days prior to a stated date of disconnection, with the title "termination notice" or similar language prominently displayed on the notice. The notice will include the office or street address where the Owner or the Owner's tenant can make arrangements for payment of the bill and for reconnection of service. Any utility or cable service will not be disconnected or terminated on a day, or immediately preceding a day, when personnel are not available for the purpose of collection and reconnecting such services. Except as otherwise provided by Applicable Law, the sale or transfer of a Lot or Condominium Unit will not relieve the Owner of such Lot or Condominium Unit or such Owner's transferee from liability for any Assessments thereafter becoming due or from the lien associated therewith. If an Owner conveys its Lot or Condominium Unit and on the date of such conveyance Assessments against the Lot or Condominium Unit remain unpaid, or said Owner owes other sums or fees under this Covenant to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot or Condominium Unit, and such sums will be paid in preference to any other charges against the Lot or Condominium Unit other than liens superior to the Assessment liens and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot or Condominium Unit which are due and unpaid. The Owner conveying such Lot or Condominium Unit will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot or

Condominium Unit also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the administrative expenses associated with updating the Association's records upon the transfer of a Lot or Condominium Unit to a third party; provided, however, that no administrative transfer fee will be due upon the transfer of a Lot or Condominium Unit from Declarant to a third party.

5.13 Exempt Property. The following areas will be exempt from the Assessments provided for in this Article:

- (a) All area dedicated and accepted by a public authority;
- (b) The Common Area and the Special Common Area; and
- (c) Any portion of the Property or Development owned by Declarant.

No portion of the Property will be subject to the terms and provisions of this Covenant, and no portion of the Property (or any owner thereof) will be obligated to pay Assessments hereunder unless and until such Property has been made subject to the terms of this Covenant by the filing of a Notice of Applicability in accordance with *Section 9.05* below.

5.14 Fines and Damages Assessment.

(a) **Board Assessment.** The Board may assess fines against an Owner for violations of the Documents which have been committed by an Owner, an Occupant, or an Owner's or Occupant's guests, agents or invitees. Any fine and/or charge for damage levied in accordance with this *Section 5.14* will be considered an Individual Assessment pursuant to this Covenant. Each day of violation may be considered a separate violation if the violation continues after written notice to the Owner. The Board may assess damage charges against an Owner for pecuniary loss to the Association from property damage or destruction of Common Area, the Special Common Area, or any facilities caused by the Owner, the Occupant, or their guests, agents, or invitees. The Manager will have authority to send notices to alleged violators, informing them of their violations and asking them to comply with the Documents and/or informing them of potential or probable fines or damage assessments. The Board may from time to time adopt a schedule of fines.

(b) **Procedure.** Before levying a fine, the Association will give the Owner a written violation notice via certified mail, return receipt requested, and an opportunity to be heard, if requested by the Owner. This requirement may not be waived. The Association's written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due to the Association from the Owner; (3) a reference to the rule or provision that is

being violated; (4) a description of the action required to cure the violation; (5) the timeframe in which the violation is required to be cured to avoid the fine or suspension; (6) the amount of the fine; (7) a statement that no later than the thirtieth (30th) day after receiving the notice, the Owner may request a hearing pursuant to Section 209.007 of the Texas Property Code, and further, if the hearing held pursuant to Section 209.007 of the Texas Property Code is to be held by a committee appointed by the Board, a statement notifying the Owner that he or she has the right to appeal the committee's decision to the Board by written notice to the Board; and (8) a statement informing the Owner that they may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. section *et seq*), if the Owner is serving on active military duty. The notice sent out pursuant to this paragraph is further subject to the following:

- a. First Violation. If the Owner has not been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months, the notice will state those items set out in (1) – (8) above, along with a specific timeframe by which the violation must be cured to avoid the fine. The notice must state that any future violation of the same rule may result in the levy of a fine.
 - b. Repeat Violation – No Cure within 6 Months. If the Owner has been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months but commits the violation again, the notice will state those items set out in (1) - (3), (6) and (8) above, but will also state that because the Owner has been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months but has not cured the violation, then the Owner will be fined pursuant to the *Schedule of Fines* described in the Community Manual.
 - c. Continuous Violation. After an Owner has been notified of a violation as set forth herein and assessed fines in the amounts set forth in the *Schedule of Fines* described in the Community Manual, if the Owner has never cured the violation in response to either the notices or the fines, in its sole discretion, the Board may determine that such a circumstance is a continuous violation which warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board.
- (c) Due Date. Fine and/or damage charges are due immediately after the later of: (1) the date that the cure period set out in the First Violation notice ends and the Owner does not attempt to cure the violation or the attempted cure is unacceptable to Association, or (2) if a hearing is requested by the Owner, such fines or damage charges

will be due immediately after the Board's final decision on the matter, assuming that a fine or damage charge of some amount is confirmed by the Board at such hearing.

(d) Lien Created. The payment of each fine and/or damage charge levied by the Board against the Owner of a Lot or Condominium Unit is, together with interest as provided in *Section 5.11* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 5.01(b)* of this Covenant. Unless otherwise provided in this *Section 5.14*, the fine and/or damage charge will be considered an Assessment for the purpose of this Article and will be enforced in accordance with the terms and provisions governing the enforcement of assessments pursuant to this *Article 5*.

ARTICLE 6 WATER CREST ON LAKE CONROE REVIEWER

6.01 Architectural Control By Declarant. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of any Improvements. Until expiration of the Development Period, the Water Crest on Lake Conroe Reviewer for Improvements is Declarant or its designee. No Improvement constructed or caused to be constructed by the Declarant will be subject to the terms and provisions of this *Article 6* and need not be approved in accordance herewith.

(a) Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Lot or Condominium Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that during the Development Period no Improvements will be started or progressed without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

(b) Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to an architectural control committee appointed by the Board or a committee comprised of architects, engineers, or other persons who may or may not be members of the Association. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant to: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated until twenty-four (24) months after the expiration of the Development Period; and (ii) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. The

Declarant is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the Declarant; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

6.02 **Architectural Control by Association.** Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Board, or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through an architectural control committee (the "ACC") will assume jurisdiction over architectural control and will have the powers of the Water Crest on Lake Conroe Reviewer hereunder.

(a) **ACC.** The ACC will consist of at least three (3) persons but not more than seven (7) persons appointed by the Board. Members of the ACC serve at the pleasure of the Board and may be removed and replaced at the Board's discretion. At the Board's option, the Board may act as the ACC, in which case all references in the Documents to the ACC will be construed to mean the Board. Members of the ACC need not be Owners or Occupants, and may but need not include architects, engineers, and design professionals whose compensation, if any, may be established from time to time by the Board.

(b) **Limits on Liability.** The ACC has sole discretion with respect to taste, design, and all standards specified in this Article. The members of the ACC have no liability for the ACC's decisions made in good faith, and which are not arbitrary or capricious. The ACC is not responsible for: (i) errors in or omissions from the plans and specifications submitted to the ACC; (ii) supervising construction for the Owner's compliance with approved plans and specifications; or (iii) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

6.03 **Prohibition of Construction, Alteration and Improvement.** No Improvement, or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction thereof may occur unless approved in advance by the Water Crest on Lake Conroe Reviewer. The Water Crest on Lake Conroe Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property and the Development. Notwithstanding the foregoing, each Owner will have the right to modify, alter, repair, decorate, redecorate, or improve the interior of an Improvement, provided that such action is not visible from any other portion of the Development or Property.

6.04 **Architectural Approval.**

(a) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to plat, re-subdivide or consolidate Lots or Condominium Units, a proposal for such plat, re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines, if any, or any additional rules adopted by the Water Crest on Lake Conroe Reviewer together with any review fee which is imposed by the Water Crest on Lake Conroe Reviewer in accordance with *Section 6.04(b)*. No plat, re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot or Condominium Unit, until the plans and specifications and the contractor which the Owner intends to use to construct the proposed Improvement have been approved in writing by the Water Crest on Lake Conroe Reviewer. The Water Crest on Lake Conroe Reviewer may, in reviewing such plans and specifications consider any information that it deems proper; including, without limitation, any permits, environmental impact statements or percolation tests that may be required by the Water Crest on Lake Conroe Reviewer or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The Water Crest on Lake Conroe Reviewer may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which Water Crest on Lake Conroe Reviewer, in its sole discretion, may require. Site plans must be approved by the Water Crest on Lake Conroe Reviewer prior to the clearing of any Lot or Condominium Unit, or the construction of any Improvements. The Water Crest on Lake Conroe Reviewer may refuse to approve plans and specifications for proposed Improvements, or for the plat, re-subdivision or consolidation of any Lot or Condominium Unit on any grounds that, in the sole and absolute discretion of the Water Crest on Lake Conroe Reviewer, are deemed sufficient, including, but not limited to, purely aesthetic grounds. Notwithstanding any provision to the contrary in this Covenant, the Water Crest on Lake Conroe Reviewer may issue an approval to Homebuilders or a Residential Developer for the construction of Improvements based on the review and approval of plan types and adopt a procedure which differs from the procedures for review and approval otherwise set forth in this Covenant.

(b) Design Guidelines. The Water Crest on Lake Conroe Reviewer will have the power, from time to time, to adopt, amend, modify, or supplement the Design Guidelines, if any, which may apply to all or any portion of the Development. In the event of any conflict between the terms and provisions of the Design Guidelines, if any, and the terms and provisions of this Covenant, the terms and provisions of this Covenant will control. In addition, the Water Crest on Lake Conroe Reviewer will have the power and authority to impose a fee for the review of plans, specifications and other documents and information submitted to it pursuant to the terms of this Covenant. Such charges will be held by the Water Crest on Lake Conroe Reviewer and used to defray the administrative expenses and any other costs incurred by the Water Crest on Lake Conroe Reviewer in performing its duties hereunder; provided, however, that any

excess funds held by the Water Crest on Lake Conroe Reviewer will be distributed to the Association at the end of each calendar year. The Water Crest on Lake Conroe Reviewer will not be required to review any plans until a complete submittal package, as required by this Covenant and the Design Guidelines, if any, is assembled and submitted to the Water Crest on Lake Conroe Reviewer. The Water Crest on Lake Conroe Reviewer will have the authority to adopt such additional or alternate procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for a compliance deposit, certificates of compliance or completion relating to any Improvement, and the right to approve in advance any contractor selected for the construction of Improvements), not in conflict with this Covenant, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(c) Failure to Act. In the event that any plans and specifications are submitted to the Water Crest on Lake Conroe Reviewer as provided herein, and the Water Crest on Lake Conroe Reviewer fails to either approve or reject such plans and specifications for a period of thirty (30) days following such submission, the plans and specifications will be deemed disapproved.

(d) Variances. The Water Crest on Lake Conroe Reviewer may grant variances from compliance with any of the provisions of the Documents, when, in the opinion of the Water Crest on Lake Conroe Reviewer, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and, if Declarant has assigned its rights to the ACC, must be approved by the Declarant until expiration or termination of the Development Period, or otherwise by a Majority of the members of the ACC. Each variance must also be Recorded; provided, however, that failure to Record a variance will not affect the validity thereof or give rise to any claim or cause of action against the Water Crest on Lake Conroe Reviewer, Declarant, the Board or the ACC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in the Documents will be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance will not operate to waive or amend any of the terms and provisions of the Documents for any purpose, except as to the particular property and in the particular instance covered by the variance, and such variance will not be considered to establish a precedent for any future waiver, modification, or amendment of the terms and provisions of the Documents.

(e) Duration of Approval. The approval of the Water Crest on Lake Conroe Reviewer of any final plans and specifications, and any variances granted by the Water Crest on Lake Conroe Reviewer will be valid for a period of one hundred and twenty (120) days only. If construction in accordance with such plans and specifications or variance is not commenced within such one hundred and twenty (120) day period and diligently prosecuted to completion within either: (i) one year after issuance of approval of such plans and specifications; or (ii) such other period thereafter as determined by the

Water Crest on Lake Conroe Reviewer, in its sole and absolute discretion, the Owner will be required to resubmit such final plans and specifications or request for a variance to the Water Crest on Lake Conroe Reviewer, and the Water Crest on Lake Conroe Reviewer will have the authority to re-evaluate such plans and specifications in accordance with this *Section 6.04(e)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(f) No Waiver of Future Approvals. The approval of the Water Crest on Lake Conroe Reviewer to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the Water Crest on Lake Conroe Reviewer will not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications on any other matter, subsequently or additionally submitted for approval by the same or a different person, nor will such approval or consent be deemed to establish a precedent for future approvals by the Water Crest on Lake Conroe Reviewer.

6.05 Non-Liability of Water Crest on Lake Conroe Reviewer. NEITHER THE DECLARANT, THE ASSOCIATION, NOR THE WATER CREST ON LAKE CONROE REVIEWER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THEIR DUTIES UNDER THIS COVENANT.

ARTICLE 7 MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots or Condominium Units within the Development. The provisions of this Article apply to the Covenant and the Bylaws of the Association.

7.01 Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot or Condominium Unit to which its Mortgage relates (thereby becoming an "**Eligible Mortgage Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Lot or Condominium Unit on which there is a Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Lot or Condominium Unit subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Documents relating to such Lot or Condominium Unit or the Owner or

occupant which is not cured within sixty (60) days after notice by the Association to the Owner of such violation; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

7.02 **Examination of Books.** The Association will permit Mortgagees to examine the books and records of the Association during normal business hours.

7.03 **Taxes, Assessments and Charges.** All taxes, assessments and charges that may become liens prior to first lien mortgages under Applicable Law will relate only to the individual Lots or Condominium Units and not to any other portion of the Development.

ARTICLE 8 EASEMENTS

8.01 **Right of Ingress and Egress.** Declarant, its agents, employees, successors and assigns will have a right of ingress and egress over and the right of access to the Common Area or Special Common Area to the extent necessary to use the Common Area or Special Common Area and the right to such other temporary uses of the Common Area or Special Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with construction and development of the Property or the Development. The Development shall be subject to a perpetual non-exclusive easement for the installation and maintenance of, including the right to read, meters, service or repair lines and equipment, and to do everything and anything necessary to properly maintain and furnish the Community Services and Systems and the facilities pertinent and necessary to the same, which easement shall run in favor of Declarant. Declarant shall have the right, but not the obligation, to install and provide the Community Services and Systems and to provide the services available through the Community Services and Systems to any and all Lots or Condominium Units within the Development. Neither the Association nor any Owner shall have any interest therein. Any or all of such services may be provided either (1) directly through the Association and paid for as part of the Assessments or (2) directly by Declarant, any affiliate of Declarant, or a third party, to the Owner who receives the services. The Community Services and Systems shall be the property of Declarant unless transferred by Declarant, whereupon any proceeds of such transfer shall belong to Declarant. Declarant shall have the right but not the obligation to convey, transfer, sell or assign all or any portion of the Community Services and Systems or all or any portion of the rights, duties or obligations with respect thereto, to the Association or to any Person. The rights of Declarant with respect to the Community Services and Systems installed by Declarant and the services provided through such Community Services and Systems are exclusive, and no other person may provide such services through the Community Services and Systems installed by Declarant without the prior written consent of Declarant. In recognition of the fact that interruptions in cable television and other Community Services and Systems services will occur from time to time, no person or entity described above shall in any

manner be liable, and no user of any Community System shall be entitled to any refund, rebate, discount or offset in applicable fees, for any interruption in Community Services and Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider of such services.

8.02 Reserved Easements. All dedications, limitations, restrictions and reservations shown on any Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant or any third-party prior to any portion of the Property becoming subject to this Covenant are incorporated herein by reference and made a part of this Covenant for all purposes as if fully set forth herein, and will be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant. Declarant reserves the right to relocate, make changes in, and additions to said easements, rights-of-way, dedications, limitations, reservations and grants for the purpose of developing the Property and the Development.

8.03 Roadway and Utility Easements. Declarant hereby reserves for itself, and its successors and assigns, a perpetual non-exclusive easement over, under, and across the Development, as well as any portion of the Property owned by Declarant, or any areas owned or maintained by the Association, or any areas reserved or held as Common Area or Special Common Area, for the installation, use, operation, maintenance, repair, relocation, removal and/or modification of utilities and associated infrastructure or Improvements that serve the Development, the Property, and any other property owned by Declarant, including but not limited to roadways, walkways, pathways, street lighting, sewer lines, water lines, utility lines, and/or other pipelines, conduits, wires, and/or any public utility function on, beneath or above the surface of the ground, with the right of access to the same at any time. Declarant will be entitled to unilaterally assign the easements reserved hereunder to any third party who owns, operates or maintains the infrastructure, facilities and Improvements described in this *Section 8.03*. The exercise of the easement reserved herein will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or residence or Improvement constructed thereon. In addition, Declarant may designate all or any portion of the easements or facilities constructed therein as Common Area, Special Common Area, or a Service Area.

8.04 Subdivision Entry and Fencing Easement. Declarant reserves for itself and the Association, an easement over and across the Development for the installation, maintenance, repair or replacement of subdivision entry facilities and fencing which serves the Development, the Property, or any other property owned by Declarant. Declarant will have the right, from time to time, to Record a written notice which identifies the subdivision entry facilities and fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities and/or fencing as Common Area, Special Common Area, or a Service Area.

8.05 Sign, Monumentation, and Landscape Easement. Declarant hereby reserves for itself, its successors and assigns, and the Association an easement over and across the Development for the installation, maintenance, repair or replacement of signs, monument signs and/or landscaping which serves the Development, the Property, and any other property owned by Declarant. Declarant will have the right, from time to time, to Record a written notice which identifies those portions of the Property or Development to which the easement reserved hereunder applies. Declarant may designate all or any portion of the easement areas reserved hereunder as Common Area, Special Common Area, or a Service Area. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot, Condominium Unit, or residence or Improvement constructed thereon.

8.06 Easement to Construct and Maintain Drainage Facilities. Declarant hereby reserves, for the benefit of the Property, perpetual, non-exclusive easement, over, upon, under and across any open space within the Development (the "Easement Property") for the following purposes:

(a) The construction, installation, placement, operation, maintenance, replacement, upgrade, and repair of drainage and stormwater facilities and related appurtenances in, upon, under and across the Easement Property, including but not limited to irrigation facilities, storm water detention ponds and water quality ponds, and;

(b) The construction, installation, placement, operation, maintenance, replacement, upgrade, and repair of water and wastewater lines and related appurtenances, or making connections thereto, in, upon, under, over, and across the Easement Property.

(c) Declarant may unilaterally assign the easements reserved hereunder to any third-party who owns, operates, manages or maintains the facilities and Improvements described in this *Section 8.06*. The assignment may be made: (i) unilaterally and without the consent or any further approval of any other party, (ii) exclusively or non-exclusively; and (iii) in whole or in part.

8.07 Easement for Special Events. The Declarant reserves for itself and the Association, and their successors, assigns, and designees, a perpetual, nonexclusive easement over the Common Area, for the purpose of conducting educational, cultural, artistic, musical and entertainment activities; and other activities of general community interest at such locations and times as the Declarant or the Association, in their reasonable discretion, deem appropriate. Members of the public may have access to such events. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot or Condominium Unit subject to this Covenant acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on

behalf of itself and the Occupants to take no action, legal or otherwise, which would interfere with the exercise of such easement.

8.08 Declarant as Attorney in Fact. To secure and facilitate Declarant's exercise of the rights reserved by Declarant pursuant to the terms and provisions of the Documents, each Owner, by accepting a deed to a Lot or Condominium Unit and each Mortgagee, by accepting the benefits of a Mortgage against a Lot or Condominium Unit, and any other third party by acceptance of the benefits of a mortgage, deed of trust, mechanic's lien contract, mechanic's lien claim, vendor's lien and/or any other security interest against any Lot or Condominium Unit, will thereby be deemed to have appointed Declarant such Owner's, Mortgagee's, and third party's irrevocable attorney-in-fact, with full power of substitution, to do and perform, each and every act permitted or required to be performed by Declarant pursuant to the terms of the Documents. The power thereby vested in Declarant as attorney-in-fact for each Owner, Mortgagee and/or third party, will be deemed, conclusively, to be coupled with an interest and will survive the dissolution, termination, insolvency, bankruptcy, incompetency and death of an Owner, Mortgagee and/or third party and will be binding upon the legal representatives, administrators, executors, successors, heirs and assigns of each such party. The aforesaid power shall be vested in Declarant, its successors and assigns, for a period of twenty-five (25) years from the date the first Lot or Condominium Unit is conveyed to an individual purchaser, or until the expiration or termination of the Development Period, whichever occurs first. Declarant hereby reserves for itself, its successors and assigns the right to execute on behalf of each Owner, Mortgagee, and third party claiming a legal or equitable interest in the Common Area, Special Common Area, or a Service Area, any such agreements, documents, amendments or supplements to the Documents which may be required by any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (including, for example, the Federal Home Loan Mortgage Corporation) or by any governmental or quasi-governmental agency having regulatory jurisdiction over the Common Area, Special Common Area, or a Service Area, or by any title insurance company selected by Declarant to insure title to any portion of the Common Area, Special Common Area, or a Service Area.

ARTICLE 9 DEVELOPMENT RIGHTS

9.01 Development. It is contemplated that the Development will be developed pursuant to a plan, which may, from time to time, be amended or modified by the Declarant in its sole and absolute discretion. Declarant reserves the right, but will not be obligated, to designate Development Areas, and to create and/or designate Lots, Condominium Units, Neighborhoods, Voting Groups, Common Area, Special Common Area, and Service Areas, and to subdivide all or any portion of the Development and Property. As each area is conveyed, developed or dedicated, Declarant may Record one or more Development Area Declarations and designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area. Any Development Area Declaration may provide its own procedure for the amendment thereof.

9.02 Special Declarant Rights. Notwithstanding any provision of this Covenant to the contrary, during the Development Period, Declarant will have the right and privilege: (i) to erect and maintain advertising signs (illuminated or non-illuminated), sales flags, other sales devices and banners for the purpose of aiding the sale of Lots and Condominium Units in the Development; (ii) to maintain Improvements upon Lots as sales, model, management, business and construction offices; and (iii) to maintain and locate construction trailers and construction tools and equipment within the Development. The construction, placement or maintenance of Improvements by Declarant will not be considered a nuisance, and the right and privilege to conduct the activities enumerated in this *Section 9.02* shall remain until twenty-four (24) months after the expiration or termination of the Development Period.

9.03 Addition of Land. Declarant may, at any time and from time to time, add additional lands to the Property and, upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Covenant, and upon the further filing of a Notice of Applicability meeting the requirements of *Section 9.05* below, such added lands will be considered part of the Development subject to this Covenant and the terms, covenants, conditions, restrictions and obligations set forth in this Covenant, and the rights, privileges, duties and liabilities of the persons subject to this Covenant will be the same with respect to such added land as with respect to the lands originally covered by this Covenant. To add lands to the Property, Declarant will be required only to Record, a notice of addition of land (which notice may be contained within any Development Area Declaration affecting such land) containing the following provisions:

- (a) A reference to this Covenant, which reference will state the document number or volume and page where this Covenant is Recorded;
- (b) A statement that such land will be considered Property for purposes of this Covenant, and that upon the further filing of a Notice of Applicability meeting the requirements of *Section 9.05* of this Covenant, all of the terms, covenants, conditions, restrictions and obligations of this Covenant will apply to the added land; and
- (c) A legal description of the added land.

9.04 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw from the Property, including the Development, and remove and exclude from the burden of this Covenant and the jurisdiction of the Association any portion of the Development. Upon any such withdrawal and removal, this Covenant and the covenants conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development withdrawn. To withdraw lands from the Property or the Development hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

(a) A reference to this Covenant, which reference will state the document number or volume and page number where this Covenant is Recorded;

(b) A statement that the provisions of this Covenant will no longer apply to the withdrawn land; and

(c) A legal description of the withdrawn land.

9.05 Notice of Applicability. Upon Recording, this Covenant serves to provide notice that at any time, and from time to time, Declarant, and Declarant only, may subject all or any portion of the Property to the terms, covenants, conditions, restrictions and obligations of this Covenant and any applicable Development Area Declaration. This Covenant and any applicable Development Area Declaration will apply to and burden a portion or portions of the Property upon the filing of a Notice of Applicability describing such applicable Property by a legally sufficient description and expressly providing that such Property will be considered a part of the Development and will be subject to the terms, covenants conditions, restrictions and obligations of this Covenant and any applicable Development Area Declaration. To be effective, a Notice of Applicability must be executed by Declarant, and the property included in the Notice of Applicability need not be owned by the Declarant if included within the Property. Declarant may also cause a Notice of Applicability to be Recorded covering a portion of the Property for the purpose of encumbering such Property with this Covenant and any Development Area Declaration previously Recorded by Declarant (which Notice of Applicability may amend, modify or supplement the restrictions, set forth in the Development Area Declaration, which will apply to such Property). To make the terms and provisions of this Covenant applicable to a portion of the Property, Declarant will be required only to cause a Notice of Applicability to be Recorded containing the following provisions:

(a) A reference to this Covenant, which reference will state the document number or volume and page number wherein this Covenant is Recorded;

(b) A reference, if applicable, to the Development Area Declaration which will apply to such portion of the Property (with any amendment, modification, or supplementation of the restrictions set forth in the Development Area Declaration which will apply to such portion of the Property), which reference will state the document number or volume and page wherein the Development Area Declaration is Recorded;

(c) A statement that all of the provisions of this Covenant will apply to such portion of the Property;

(d) A legal description of such portion of the Property; and

(e) If applicable, a description of any Special Common Area which benefits the Property and the beneficiaries of such Special Common Area.

NOTICE TO TITLE COMPANY

NO PORTION OF THE PROPERTY IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS COVENANT AND THIS COVENANT DOES NOT APPLY TO ANY PORTION OF THE PROPERTY UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PROPERTY AND REFERENCING THIS COVENANT HAS BEEN RECORDED.

9.06 **Assignment of Declarant's Rights.** Notwithstanding any provision in this Covenant to the contrary, Declarant may, by Recorded written instrument, assign, in whole or in part, exclusively or nonexclusively, any of its privileges, exemptions, rights, reservations and duties under this Covenant to any person or entity. Declarant may also, by Recorded instrument, permit any other person or entity to participate in whole, in part, exclusively, or non-exclusively, in any of Declarant's privileges, exemptions, rights, and duties hereunder.

ARTICLE 10
GENERAL PROVISIONS

10.01 **Term.** Upon the filing of a Notice of Applicability pursuant to *Section 9.05*, the terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Covenant will run with and bind the portion of the Property described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Covenant is Recorded, and continuing through and including January 1, 2064, after which time this Covenant will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the Recording of a certified copy of such resolution. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to a change as contemplated in this *Section 10.01*, it being understood and agreed that any change must be approved by a vote of the Members, with each Member casting their vote individually. Notwithstanding any provision in this *Section 10.01* to the contrary, if any provision of this Covenant would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living, as of the date of the first Recording of this document, descendants of Elizabeth II, Queen of England.

10.02 Eminent Domain. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or Special Common Area for any public purpose during the period this Covenant is in effect, the Board is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Board need be made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on the respective Lot or Condominium Unit. In the event any proceeds attributable to acquisition of Special Common Area are paid to Owners who have been assigned the obligation to pay Special Common Area Assessments attributable to such Special Common Area, such payment will be allocated on the basis of Assessment Units and paid jointly to such Owners and the holders of first Mortgages or deeds of trust on the respective Lot or Condominium Unit.

10.03 Amendment. This Covenant may be amended or terminated by the Recording of an instrument executed and acknowledged by: (i) Declarant acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to an amendment as contemplated in this Section 10.03, it being understood and agreed that any amendment must be approved by a vote of the Members, with each Member casting their vote individually. No amendment will be effective without the written consent of Declarant during the Development Period.

10.04 Enforcement. Except as otherwise provided herein, any Owner of Lot, at such Owner's own expense, Declarant, and the Association will have the right to enforce, by a proceeding at law or in equity, all of the restrictions, conditions, covenants, reservations, liens, charges, and other terms now or hereafter imposed by provisions of this Covenant. The Association, and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Covenant. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Property is hereby declared to be a violation of this Covenant and subject to all of the enforcement procedures set forth herein. Failure to enforce any right, provision, covenant, or condition set forth in the Documents will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future. Failure of the Declarant or the Association to enforce the terms and provisions of the

Documents shall in no event give rise to any claim or liability against the Declarant, the Association, or any of their partners, directors, officers, or agents. EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE PROPERTY, HEREBY RELEASES AND SHALL HOLD HARMLESS EACH OF THE DECLARANT, THE ASSOCIATION, AND THEIR PARTNERS, DIRECTORS, OFFICERS, OR AGENTS FROM AND AGAINST ANY DAMAGES, CLAIMS, OR LIABILITY ASSOCIATED WITH THE FAILURE OF THE DECLARANT OR THE ASSOCIATION TO ENFORCE THE TERMS AND PROVISIONS OF THE DOCUMENTS.

10.05 Higher Authority. The terms and provisions of this Covenant are subordinate to Applicable Law. Generally, the terms and provisions of this Covenant are enforceable to the extent they do not violate or conflict with Applicable Law.

10.06 Severability. If any provision of this Covenant is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Covenant, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

10.07 Conflicts. If there is any conflict between the provisions of this Covenant, the Certificate, the Bylaws, or any Rules adopted pursuant to the terms of such documents, or any Development Area Declaration, the provisions of this Covenant will govern.

10.08 Gender. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

10.09 Acceptance by Owners. Each Owner of a Lot, Condominium Unit, or other real property interest in the Development, by the acceptance of a deed of conveyance, and each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Covenant or to whom this Covenant is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development, and will bind any person having at any time any interest or estate in the Development, and will inure to the benefit of each Owner in like manner as though the provisions of this Covenant were recited and stipulated at length in each and every deed of conveyance.

10.10 Damage and Destruction.

(a) Claims. Promptly after damage or destruction by fire or other casualty to all or any part of the Common Area or Special Common Area covered by insurance, the Board, or its duly authorized agent, will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair of the damage. Repair, as used in this *Section 10.10(a)*, means repairing or restoring the Common Area or Special Common Area to substantially the same condition as existed prior to the fire or other casualty.

(b) Repair Obligations. Any damage to or destruction of the Common Area or Special Common Area will be repaired unless a Majority of the Board decides within sixty (60) days after the casualty not to repair. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or both, are not made available to the Association within said period, then the period will be extended until such information will be made available.

(c) Restoration. In the event that it should be determined by the Board that the damage or destruction of the Common Area or Special Common Area will not be repaired and no alternative Improvements are authorized, then the affected portion of the Common Area or Special Common Area will be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition.

(d) Special Assessment for Common Area. If insurance proceeds are paid to restore or repair any damaged or destroyed Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Assessment, as provided in *Article 5*, against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) Special Assessment for Special Common Area. If insurance proceeds are paid to restore or repair any damaged or destroyed Special Common Area, and such proceeds are not sufficient to defray the cost of such repair or restoration, the Board will levy a Special Assessment, as provided in *Article 5*, against all Owners who have been assigned the obligation to pay Special Common Area Assessments attributable to such Special Common Area. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(f) Proceeds Payable to Owners. In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to any Common Area, such payments will be allocated based on Assessment Units and paid jointly to the Owners and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

(g) Proceeds Payable to Owners Responsible for Special Common Area. In the event that any proceeds of insurance policies are paid to Owners as a result of any damage or destruction to Special Common Area, such payments will be allocated based on Assessment Units and will be paid jointly to the Owners who have been assigned the obligation to pay Special Common Area Assessments attributable to such Special Common Area and the holders of first Mortgages or deeds of trust on their Lots or Condominium Units.

10.11 No Partition. Except as may be permitted in this Covenant or amendments thereto, no physical partition of the Common Area or Special Common Area or any part thereof will be permitted, nor will any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless all or the portion of the Development in question has been removed from the provisions of this Covenant pursuant to *Section 9.04* above. This *Section 10.11* will not be construed to prohibit the Board from acquiring and disposing of tangible personal property or from acquiring title to real property that may or may not be subject to this Covenant.

10.12 Notices. Any notice permitted or required to be given to any person by this Covenant will be in writing and may be delivered either personally or by mail, or as otherwise provided in this Covenant or required by Applicable Law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

10.13 View Impairment. Neither the Declarant, the ACC, nor the Association guarantee or represent that any view over and across the Lots, Condominium Units, or any open space within the Development will be preserved without impairment. The Declarant, ACC, and the Association shall have no obligation to relocate, prune, or thin trees or other landscaping. The Association (with respect to any Common Area or Special Common Area) will have the right to add trees and other landscaping from time to time, subject to Applicable Law. There shall be no express or implied easements for view purposes or for the passage of light and air.

10.14 Safety and Security. Each Owner and Occupant of a Lot or Condominium Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Development. The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Association nor the Declarant shall in any way be considered insurers or guarantors of safety or security within the Development, nor shall either be held liable for any loss or damage by reason of failure to provide adequate

security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Development, cannot be compromised or circumvented; or that any such system or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any Occupants of such Owner's Lot or Condominium Unit that the Association, its Board and committees, and the Declarant are not insurers or guarantors of security or safety and that each person within the Development assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot or Condominium Unit and the contents thereof, resulting from acts of third parties.

10.15 Mining and Drilling. Unless otherwise provided in *Section 10.16*, no portion of the Development may be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, rocks, stones, sand, gravel, aggregate, or earth. This provision will not be construed to prevent the excavation of rocks, stones, sand, gravel, aggregate, or earth or the storage of such material for use as fill provided that such activities are conducted in conjunction with the construction of Improvements and/or the development of the Development by the Declarant. Furthermore, this provision will not be interpreted to prevent the drilling of water wells approved in advance by the Water Crest on Lake Conroe Reviewer which are required to provide water to all or any portion of the Property. All water wells must also be approved in advance by the Water Crest on Lake Conroe Reviewer and any applicable regulatory authority.

10.16 Notice Concerning Mineral Reservation. Each Owner is hereby informed that Declarant has conveyed to an affiliated entity all right, title and interest, if any, of Declarant in all minerals, resources, and groundwater, including but not limited to oil, gas and hydrocarbons, in, on or under, and/or that may be produced from, the Development. The conveyance instrument ("**Mineral Deed**") includes a provision whereby the owner of the minerals, resources and groundwater, if any, conveyed by such Mineral Deed will not be permitted to use the surface of the Development (to a depth of thirty feet below the finished grade of the Development) for the purpose of exploring for, developing or producing such minerals, resources and groundwater on and after the date of the first conveyance of a completed residence on the Development (the "**Surface Waiver**"). This Surface Waiver applies only to the interest, if any, in the minerals, resources and groundwater conveyed by the Mineral Deed. (The minerals, resources and groundwater, or some portion thereof or some interest therein, may have been conveyed or reserved by third parties prior to Declarant's conveyance to its affiliate, and any such portion or interest would not be affected by the Surface Waiver contained in the Mineral Deed. No representation or warranty, express or implied, is made as to the ownership of the minerals, resources and groundwater or any portion thereof or any interest therein. Further, no representation or warranty, express or implied, is made with respect to whether the owner(s), if any, of any interest in or portion of the minerals, resources

and groundwater not conveyed by the Mineral Deed has/have waived their rights to use the surface of the Development or the terms of any such waiver of surface rights.) The Surface Waiver in the Mineral Deed does not prevent the owner of the minerals, resources, and groundwater conveyed by the Mineral Deed from exploring, developing, drilling, producing, withdrawing, capturing, pumping, extracting, mining or transporting the minerals, resources, and groundwater by pooling, unitization, directional drilling or any other manner or method that does not require entry upon the surface of the Development. Each Owner should carefully review the title commitment delivered in connection with its acquisition of a Lot to determine the full extent to which the Mineral Deed and any other mineral conveyances affect the Lots and the Development. In addition, if the Covenant includes a prohibition against mineral, resource, and/or groundwater extraction, drilling, or mining, such provision is not binding on the owner(s) of the minerals, resources and groundwater.

10.17 No Warranty of Enforceability. The Declarant makes no warranty or representation as to the present or future validity or enforceability of any restrictive covenants, terms, or provisions contained in the Covenant. Any Owner acquiring a Lot or Condominium Unit in reliance on one or more of such restrictive covenants, terms, or provisions will assume all risks of the validity and enforceability thereof and, by acquiring the Lot or Condominium Unit, agrees to hold Declarant harmless therefrom

10.18 Initiation of Litigation by Association. The Association will not initiate any judicial or administrative proceeding unless first approved by Members entitled to cast at least seventy-five percent (75%) of the total number of votes of the Association (the foregoing shall in no way be interpreted to mean seventy-five percent (75%) of a quorum as established pursuant to the Bylaws), excluding the votes held by Declarant, except that no such approval will be required for actions or proceedings:

- (a) initiated while Declarant owns any portion of the Property or the Development; or
- (b) initiated to enforce the provisions of the Documents, including collection of assessments and foreclosure of liens; or
- (c) initiated to challenge ad valorem taxation or condemnation proceedings; or
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

The Representative System of Voting is not applicable to initiating any judicial or administrative proceeding as contemplated in this *Section 10.18*, it being understood and agreed that any initiation of judicial or administrative proceeding required to be approved by the Members, must be approved by a vote of the Members, with each Member casting their vote individually. This Section will not be amended unless such amendment is approved by the same percentage of votes necessary to institute judicial or administrative proceedings except any such amendment must also be approved in writing by Declarant until the expiration or termination of the Development Period.

ARTICLE 11
DISPUTE RESOLUTION

11.01 Agreement to Encourage Resolution of Disputes Without Litigation.

(a) **Bound Parties.** Declarant, the Association and its officers, directors, and committee members, Owners and all other parties subject to this Covenant ("**Bound Party**", or collectively, the "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Development without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in *Section 11.02* in a good faith effort to resolve such Claim.

(b) **Claim(s).** As used in this Article, the term "Claim" or "Claims" will refer to any claim, grievance or dispute arising out of or relating to:

(i) The interpretation, application, or enforcement of the Documents;
or

(ii) The rights, obligations, and duties of any Bound Party under the Documents; or

(iii) The design or construction of Improvements within the Development, other than matters of aesthetic judgment under *Article 6*, which will not be subject to review.

(c) **Not Considered Claims.** The following will not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in *Section 11.02*:

(i) Any legal proceeding by the Association to collect Assessments or other amounts due from any Owner;

(ii) Any legal proceeding by the Association to obtain a temporary restraining order (or emergency equitable relief) and such 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 of this Covenant;

(iii) Any legal proceeding which does not include Declarant or the Association as a party, if such action asserts a Claim which would constitute a cause of action independent of the Documents.

(iv) Any legal proceeding in which any indispensable party is not a Bound Party;

(v) Any action by the Association to enforce the Documents; and

(vi) Any legal proceeding as to which any applicable statute of limitations would expire within one hundred and eighty (180) days of giving the Notice required by *Section 11.02 (a)*, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

11.02 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") will give written notice to each Respondent and to the Board stating plainly and concisely:

(i) The nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) The legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) The Claimant's proposed resolution or remedy; and

(iv) The Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent will 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, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in *Section 11.02(a)* (or within such other period as the parties may agree upon), the Claimant will have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in Montgomery County, Texas.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant will be deemed to have waived the Claim, and the Respondent will be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant will thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party will bear its own costs of the mediation, including attorney's fees, and each Party will share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award will, upon prevailing, be entitled to recover from the non-complying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

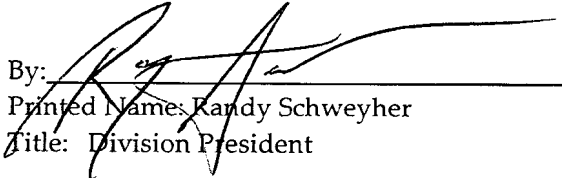
EXECUTED to be effective on the date this instrument is Recorded.

[SIGNATURE PAGE TO FOLLOW]

DECLARANT:

D. R. HORTON – TEXAS, LTD., a Texas limited partnership

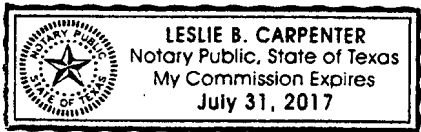
By: D. R. HORTON, INC., a Delaware corporation, its authorized agent

By: 
Printed Name: Randy Schweyher
Title: Division President

THE STATE OF TEXAS §

COUNTY OF MONTEGOMERY §

This instrument was acknowledged before me this 18 day of JUNE, 2014 by Randy Schweyher, Division President of D. R. HORTON, INC., a Delaware corporation, authorized agent of D. R. HORTON – TEXAS, LTD., a Texas limited partnership, on behalf of said corporation and partnership.



(SEAL)

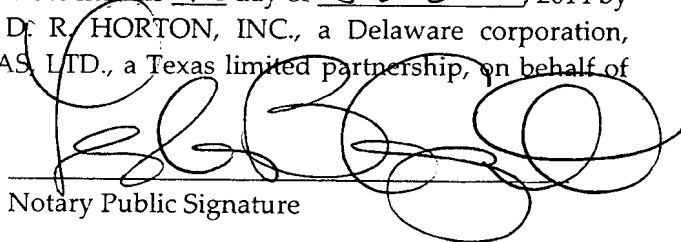

Notary Public Signature

EXHIBIT "A"
DESCRIPTION OF
PROPERTY

EXHIBIT A

METES AND BOUNDS DESCRIPTION
202.12 ACRES IN THE
JAMES EDWARDS SURVEY, ABSTRACT NO. 190 AND THE
ELIJAH COLLARD SURVEY, ABSTRACT NO. 7
MONTGOMERY COUNTY, TEXAS.

A 202.12 ACRE TRACT OF LAND SITUATED IN THE JAMES EDWARDS SURVEY, ABSTRACT NO. 190, AND THE ELIJAH COLLARD SURVEY, ABSTRACT NO. 7, MONTGOMERY COUNTY, TEXAS, BEING A PORTION OF THE FOLLOWING TRACTS OF LAND CONVEYED TO HOUSTON INTERNATIONAL TRADE CENTER L.P. A CALLED 175.1768 ACRE TRACT RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NO. (M.C.C.F. NO.) 2007112579, A CALLED 23.43 ACRE TRACT RECORDED UNDER M.C.C.F. NO. 2010074461, A CALLED 37.564 ACRE TRACT RECORDED UNDER M.C.C.F. NO. 2010074462, A CALLED 33.861 ACRE TRACT RECORDED UNDER M.C.C.F. NO. 2007009290 AND A CALLED 23.419 ACRE TRACT RECORDED UNDER M.C.C.F. NO. 2007112578, AND BEING ALL OF A CALLED 0.215 ACRE TRACT RECORDED IN M.C.C.F. NO. 2012104517, ALL OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY (O.P.R.O.R.P.), SAID 202.12 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS WITH ALL BEARINGS BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY GPS MEASUREMENTS;

BEGINNING at a 5/8-inch iron rod found on the north line of Longmire Way (60-foot right-of-way) recorded under M.C.C.F. No. 9536930 O.P.R.O.R.P., being the southeast corner of Reserve "C" of the Replat of Longmire on Lake Conroe, plat of which is recorded in Cabinet J, Sheets 161 thru 163 of the Montgomery County Map Records (M.C.M.R.);

THENCE North 12°45'59" East, along the east line of said Replat of Longmire on Lake Conroe, at 912.84 feet passing the northeast corner of said Replat of Longmire on Lake Conroe and the southeast corner of Longmire on Lake Conroe Section 3, plat of which is recorded in Cabinet J, Sheets 59 thru 65 M.C.M.R. and continuing in all 1255.98 feet to a 5/8-inch iron rod found for the northeast corner of said Longmire on Lake Conroe Section 3;

THENCE North 77°12'16" West, 660.13 feet, along the north line of said Longmire on Lake Conroe Section 3, to a 5/8-inch iron rod with cap stamped "E.H.R.&A. - 713-784-4500" set for corner;

THENCE the following courses:

North 11°49'44" East, 304.14 feet to a point for corner;

South 78°29'09" East, 108.06 feet to a point for corner;

North 13°30'31" East, 359.00 feet to a point for corner;

South 78°12'55" East, 112.02 feet to a point for corner;

North 12°32'16" East, 165.44 feet to a point of curvature to the left;

With said curve to the left having a radius of 171.69 feet, a central angle of 27°01'04", an arc length of 80.96 feet and a chord bearing of North 00°58'16" West, 80.21 feet to a point for corner;

North 14°31'13" West, 200.32 feet to a point for corner;

North 62°31'59" West, 20.07 feet to a point for corner;

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North 69°27'15" East, 76.08 feet to a point for corner;
South 25°03'21" West, 21.43 feet to a point for corner;
South 19°20'33" East, 57.31 feet to a point for corner;
North 72°03'50" East, 98.89 feet to a point for corner;
South 17°06'20" East, 276.04 feet to a point for corner;
North 70°10'39" East, 278.19 feet to a point for corner;
South 18°53'44" East, 7.73 feet to a point for corner;
North 69°26'41" East, 189.27 feet to a point for corner;
North 56°00'54" East, 237.55 feet to a point for corner, being in a non-tangent curve to the left;
With said non-tangent curve to the left having a radius of 660.00 feet, a central angle of 09°35'17", an arc length of 110.45 feet and a chord bearing of North 51°13'16" East, 110.32 feet to a point for corner;
North 81°58'25" East, 365.59 feet to a point for corner;
North 15°20'39" East, 282.06 feet to a point for corner;
North 11°38'13" West, 488.77 feet to a point for corner;
North 55°22'31" West, 236.07 feet to a point for corner;
North 81°41'33" West, 146.05 feet to a point for corner, being in a non-tangent curve to the left;
With said non-tangent curve to the left having a radius of 660.00 feet, a central angle of 55°56'06", an arc length of 644.33 feet and a chord bearing of North 74°28'48" West, 619.04 feet to a point on the 201-foot contour line;
THENCE along the 201-foot contour line, the following five (5) courses and distances:
North 69°28'00" West, 31.92 feet to a point;
North 84°38'33" West, 45.92 feet to a point;
North 86°09'04" West, 59.74 feet to a point;
North 79°31'57" West, 49.92 feet to a point;
South 68°16'23" West, 53.47 feet to a point on the east line of Calfee Road (60-foot right-of-way) recorded in Volume 632, Page 291 and Volume 640, Page 139, both of the Montgomery County Deed Records;
THENCE North 11°11'40" East, 229.45 feet along the east line of said Calfee Road to a 1/2-inch iron

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rod found, being the southwest corner of the aforementioned 23.419-acre tract;

THENCE in a northerly direction along the common line of said Calfee Road and said 23.419-acre tract, the following three (3) courses and distances:

North 21°10'19" East, 89.90 feet to a PK Nail found for an angle point;

North 51°27'01" East, 105.82 feet to a 5/8-inch iron rod found for an angle point;

North 12°47'09" East, 328.16 feet to a point on the southwest corner of League Line Road (60-foot-right-of-way) recorded in Volume 825, Page 102 and Volume 1049, Page 571, both of the Montgomery County Deed Records from which a 1/2-inch iron rod with cap stamped "Jeff Moon RPLS 4539" found for the most westerly northwest corner of said 23.419 acre tract;

THENCE South 76°39'07" East, at 98.85 feet passing a 5/8-inch iron rod with cap stamped "Jeff Moon RPLS 4539" found for the corner of said 23.939-acre tract, and continuing in all 1082.79 feet, along the south line of said League Line Road to a 5/8-inch iron rod found;

THENCE South 77°19'32" East, 957.02 feet along the south line of League Line Road to a point for corner;

THENCE South 56°55'45" West, 139.57 feet to a point for corner, being in a non-tangent curve to the right;

Thence in a southwesterly direction with said non-tangent curve to the right having a radius of 1880.30 feet, a central angle of 10°50'37", an arc length of 355.86 feet and a chord bearing of South 17°30'26" West, 355.33 feet to a point for corner;

THENCE South 60°06'38" East, 104.22 feet to a point in the north line of said called 23.43 acre tract;

Thence South 77°02'20" East, 985.42 along the north line of said called 23.43 acre tract to a point for corner;

THENCE the following courses:

South 12°52'10" West, 354.94 feet to a point for corner;

South, 44.86 feet to a point for corner;

South 88°09'42" West, 122.37 feet to a point for corner;

South 04°08'05" East, 145.76 feet to a point for corner;

South 41°24'51" East, 23.87 feet to a point for corner;

South 78°41'37" East, 319.46 feet to a point for corner;

South 11°08'54" West, 96.79 feet to a point for corner;

South 77°49'45" East, 391.98 feet to a point for corner;

South 77°32'22" East, 136.72 feet to a point for corner;

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South 11°14'10" West, 228.38 feet to a point for corner;
North 79°41'43" West, 27.95 feet to a point for corner;
South 04°18'19" West, 353.00 feet to a point for corner;
South 12°44'25" West, 390.25 feet to a point for corner;
North 88°21'00" West, 22.45 feet to a point for corner;
THENCE South 12°31'55" West, 160.21 feet to a point in the north line of Camellia Subdivision, Section One, plat of which is recorded in Cabinet Z, Sheets 63 thru 65 M.C.M.R.;
THENCE North 77°53'49" West, with the north line of said Camellia Subdivision, 941.21 feet to a point for corner;
THENCE North 22°05'15" West, 156.58 feet to a point for corner;
THENCE South 66°35'34" West, 155.05 feet to a point for corner;
THENCE South 24°23'04" East, 49.07 feet to a point in the north line of that certain called 13.895 acre tract of land described in M.C.C.F. No. 2012-050569 of the O.P.R.O.R.P.;
THENCE, North 77°53'49" West, with said north line of called 13.895 acre tract, 90.17 feet to a point for corner;
THENCE North 12°16'43" East, 41.25 feet to a point for corner;
THENCE North 88°40'02" West, 153.60 feet to a point for corner;
THENCE South 03°38'44" East, 13.04 feet to a point in the north line of said called 13.895 acre tract;
THENCE North 77°53'49" West, with said north line of called 13.895 acre tract, 57.51 feet to a point for corner;
THENCE the following courses:
North 09°40'40" East, 13.26 feet to a point for corner;
North 79°19'08" West, 131.57 feet to a point for corner;
North 08°31'54" East, 39.88 feet to a point for corner;
North 87°07'40" West, 150.13 feet to a point for corner;
North 84°25'05" West, 188.32 feet to a point for corner;
South 12°00'41" West, 258.08 feet to a point for corner;
South 31°19'36" West, 129.14 feet to a point for corner;
South 37°25'13" West, 157.41 feet to a point for corner;

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THENCE South 76°24'44" East, 145.71 feet to a point in the west line of The Estates of Longmire on Lake Conroe, recorded in Cabinet H, Sheets 92B, 93A, 93B and 94A of the M.C.M.R.;

THENCE South 11°12'25" West, along the west line of said The Estates of Longmire on Lake Conroe, 1402.42 feet to a fence corner on the north line of the aforementioned Longmire Way, being on the arc of a non-tangent curve to the right;

THENCE in a westerly direction, along the north line of said Longmire Way, the following six (6) courses and distances:

Along the arc of said non-tangent curve to the right having a radius of 1990.56 feet, a central angle of 05°37'51", an arc length of 195.63 feet, and a chord bearing North 74°33'58" West, 195.55 feet to a 5/8-inch iron rod found at a point of reverse curvature;

Along the arc of said curve to the left having a radius of 824.29 feet, a central angle of 14°21'06", an arc length of 206.47 feet, and a chord bearing North 78°55'35" West, 205.93 feet to a 5/8-inch iron rod found at a point of reverse curvature;

Along the arc of said curve to the right having a radius of 1499.91 feet, a central angle of 07°28'46", an arc length of 195.80 feet, and a chord bearing North 82°21'44" West, 195.66 feet to a 5/8-inch iron rod found for tangency;

North 78°37'21" West, 386.86 feet to a 1/2-inch iron rod found at the beginning of a curve to the left;

Along the arc of said curve to the left having a radius of 2711.89 feet, a central angle of 04°16'15", an arc length of 202.14 feet, and a chord bearing North 80°45'28" West, 202.09 feet to a 1/2-inch iron rod found at a point of reverse curvature;

Along the arc of said curve to the right having a radius of 1997.82 feet, a central angle of 05°38'44", an arc length of 196.85 feet, and a chord bearing North 80°04'13" West, 196.77 feet to the POINT OF BEGINNING, and containing 202.12 acres of land.

EDMINSTER, HINSHAW, RUSS AND ASSOCIATES, INC.

Charles Kennedy, Jr., R.P.L.S.
Texas Registration No. 5708
10555 Westoffice Drive
Houston, Texas 77042
713-784-4500

Date: December 27, 2012
Job No: 121-041-00
File No: R:\2012\121-041-00\Documents\Technical\202.12ac

202.12 Acres
James Edwards Survey, A-190
Elijah Collard Survey, A-7
Page 5 of 5

E-FILED FOR RECORD
06/18/2014 10:54AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/18/2014



County Clerk
Montgomery County, Texas



AFTER RECORDING RETURN TO:
ROBERT D. BURTON, ESQ.
WINSTEAD, PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: RBURTON@WINSTEAD.COM

WATER CREST ON LAKE CONROE
ADOPTION OF WORKING CAPITAL ASSESSMENT

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828 in the Official Public Records of Montgomery County, Texas.

AUSTIN_1/715873v.3
52919-101 06/11/2014

WATER CREST ON LAKE CONROE
ADOPTION OF WORKING CAPITAL ASSESSMENT

Pursuant to *Section 5.08* of that certain Water Crest on Lake Conroe Master Covenant, recorded under Document No. 2014057828, Official Public Records of Montgomery County, Texas (collectively, the "Master Covenant"), the Board of Directors (the "Board") and undersigned officer of the WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation (the "Association"), files this Adoption of Working Capital Assessment as follows:

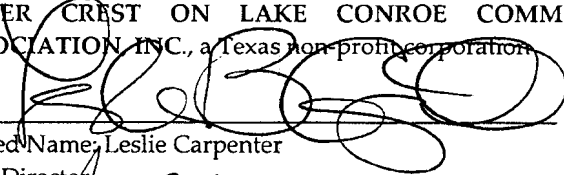
1. **Working Capital Assessment.** In accordance with *Section 5.08* of the Master Covenant, the Board adopts a working capital assessment amount equal to Four Hundred and Fifty and No/100 Dollars (\$450.00) (the "Working Capital Assessment"). The Working Capital Assessment applies to all Lots subject to the Master Covenant unless otherwise exempt pursuant to *Section 5.08* of the Master Covenant.

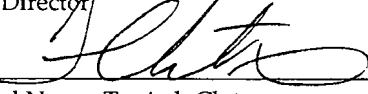
The amount of the Working Capital Assessment designated hereunder is subject to change from time to time by the Board.

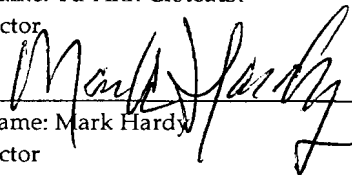
Capitalized terms used by not defined herein shall have the meanings ascribed to such terms in the Master Covenant.

EXECUTED TO BE EFFECTIVE on the 18 day of JUNE, 2014.

WATER CREST ON LAKE CONROE COMMUNITY
ASSOCIATION, INC., a Texas non-profit corporation

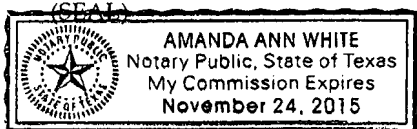
By: 
Printed Name: Leslie Carpenter
Title: Director

By: 
Printed Name: Tu-Anh Cloteaux
Title: Director

By: 
Printed Name: Mark Hardy
Title: Director

THE STATE OF TEXAS §
COUNTY OF Montgomery §

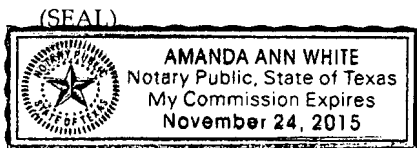
This instrument was acknowledged before me on this the 18th day of June, 2014, by Leslie Carpenter, Director of Water Crest on Lake Conroe Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White
Notary Public Signature

THE STATE OF TEXAS §
COUNTY OF Montgomery §

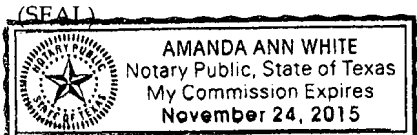
This instrument was acknowledged before me on this the 18th day of June, 2014, by Tu-Anh Cloteaux, Director of Water Crest on Lake Conroe Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White
Notary Public Signature

THE STATE OF TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on this the 18th day of June, 2014, by Mark Hardy, Director of Water Crest on Lake Conroe Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White
Notary Public Signature

E-FILED FOR RECORD
06/19/2014 9:45AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/19/2014



County Clerk
Montgomery County, Texas



RECORDING RETURN TO:

ROBERT D. BURTON, ESQ.
WINSTEAD PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: RBURTON@WINSTEAD.COM

DECLARANT REMOVAL AND APPOINTMENT OF DIRECTOR

**WATER CREST ON LAKE CONROE
COMMUNITY ASSOCIATION, INC.**

Montgomery County, Texas

DECLARANT: D.R. HORTON – TEXAS, LTD., a Texas limited partnership

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded under Document No.2014057828, in the Official Public Records of Montgomery County, Texas, as amended.

**WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
DECLARANT REMOVAL OF DIRECTOR AND APPOINTMENT OF DIRECTOR**

D.R. HORTON - TEXAS, LTD., a Texas limited partnership (the "Declarant") has caused to be recorded that certain Water Crest on Lake Conroe Master Covenant, recorded under Document No.2014057828, in the Official Public Records of Montgomery County, Texas, as amended (the "Declaration").

Declarant has the right to appoint and remove all Board members in accordance with the Declaration and Bylaws of the Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation, the association established pursuant to the Declaration (the "Association").

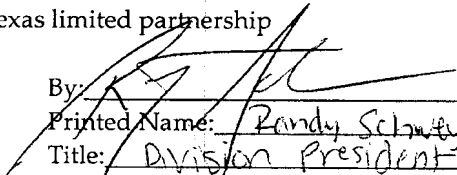
Declarant hereby removes Amanda White from the Board of Directors of the Association and appoints Leslie Carpenter to serve on the Board of Directors of the Association.

Declarant hereby appoints Leslie Carpenter as an officer of the Association, to hold the office of President of the Association.

EXECUTED TO BE EFFECTIVE as of the 18 day of JUNE, 2014.

DECLARANT:

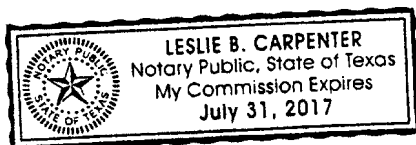
D. R. HORTON - TEXAS, LTD.,
a Texas limited partnership

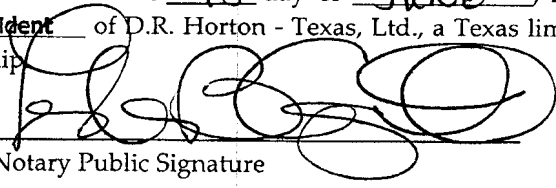
By: 
Printed Name: Randy Schweitzer
Title: Division President

STATE OF TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on this 18 day of JUNE, 2014, by Andrew Hendricks, Asst. Vice President of D.R. Horton - Texas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[seal]




Notary Public Signature

E-FILED FOR RECORD
06/19/2014 9:47AM

Mark Jumball

COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY

I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/19/2014



Mark Jumball

County Clerk
Montgomery County, Texas



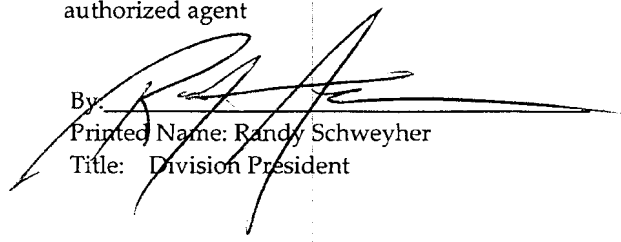
AFTER RECORDING RETURN TO:
Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

WATER CREST ON LAKE CONROE
COMMUNITY MANUAL

D. R. HORTON – TEXAS, LTD., a Texas limited partnership, as the Declarant under the Water Crest on Lake Conroe Master Covenant recorded under Document No. 2014057828, Official Public Records of Montgomery County, Texas, and the initial and sole member of Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation (the "Association"), certifies that the foregoing Community Manual was adopted as part of the initial project documentation for Water Crest on Lake Conroe.

IN WITNESS WHEREOF, the undersigned has executed this Community Manual on the 18 day of JUNE, 2014.

D. R. HORTON – TEXAS, LTD., a Texas limited partnership
By: D. R. HORTON, INC., a Delaware corporation, its
authorized agent

By: 
Printed Name: Randy Schweyher
Title: Division President

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY

This instrument was acknowledged before me this 18 day of JUNE, 2014 by Randy Schweyher, Division President of D. R. HORTON, INC., a Delaware corporation, authorized agent of D. R. HORTON – TEXAS, LTD., a Texas limited partnership, on behalf of said corporation and partnership.

(SEAL) 


Notary Public Signature

Cross-reference to Water Crest on Lake Conroe Master Covenant recorded under Document No. 2014057828, Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

WATER CREST ON LAKE CONROE

COMMUNITY MANUAL

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1.	CERTIFICATE OF FORMATION	ATTACHMENT 1
2.	BYLAWS	ATTACHMENT 2
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4.	ASSESSMENT COLLECTION POLICY	ATTACHMENT 4
5.	RECORDS INSPECTION, COPYING AND RETENTION POLICY	ATTACHMENT 5
6.	STATUTORY NOTICE OF POSTING AND RECORDATION OF ASSOCIATION GOVERNANCE DOCUMENTS	ATTACHMENT 6
7.	EMAIL REGISTRATION POLICY	ATTACHMENT 7

COMMUNITY MANUAL

for

WATER CREST ON LAKE CONROE

A Master Planned Community in Montgomery County

I. INTRODUCTION

More than a spot on the map or your destination at the end of the day, a community is a sense of place and belonging – it is your home. A community consists of people who share the same goals and interests as you and your family to make your home an extra-ordinary place to live, recreate and thrive. Water Crest on Lake Conroe is your Community.

D. R. Horton – Texas is the developer of Water Crest on Lake Conroe. The guiding principles for the Community have been set forth in the governing documents for Water Crest on Lake Conroe which include the Development Documents and the Association Documents (both defined below) and collectively referred to herein as the “Documents.” (the “**Documents**”). The Documents include such instruments as the Master Covenant (the “**Covenant**”), any applicable Notices of Applicability, any applicable Development Area Declaration (the “**DAD**”), the Design Guidelines, if any, and this Community Manual (collectively referred to as the “**Development Documents**”), all of which are recorded in the property records by the developer generally prior to the time that you purchased your property. The Development Documents contain covenants, conditions and restrictions which not only encumber your property, but also have a legal and binding effect on all Owners and Occupants in the Community, now or in the future.

Under the Development Documents, the developer is the “**Declarant**” who has reserved certain rights to facilitate the development, construction, and marketing of the Community, including its size, shape and composition, while the Community is being built-out (the “**Development Period**”). Furthermore, the Development Documents identify and set forth the obligations of Water Crest on Lake Conroe Community Association, Inc., the non-profit corporation created by the Declarant to exercise the authority and assume the powers described in the Covenant (the “**Association**”). Integral to the functioning of the Community, the Association’s roles include owning, operating and maintaining various Common Areas and Community amenities, as well as administering and enforcing all of the Documents.

Other specific Documents include such instruments as the Certificate of Formation and Bylaws which set forth the corporate governance structure of the Association as well as the various Rules, which include rules, regulations, policies and procedures outlining the operation of the Association and required standards for use of property, activities and conduct (the “**Association Documents**”). It is the Association Documents which are included within this Community Manual, as further set forth herein.

II. PURPOSE

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52919-101 06/02/2014

A successful community evolves when all community stakeholders work together to uphold the vision for the Community through the application and enforcement of the guiding principles and the standards set forth in all of the Documents. Declarant and the Association, as well as builders, owners, residents and visitors all have a role in ensuring the application and enforcement of the guiding principles and the standards of the Community. A reasonable balance must be achieved to uphold not only individual preferences in the Community, but also lend credence to those issues and concerns which have been determined to be in the best interests of the Community as a whole.

With these issues in mind and in furtherance of its obligation under Texas law to record all defined dedicatory instruments, the Declarant has developed this Community Manual as a compilation of all of the Association Documents currently in effect for the Community. The Community Manual does not include the Development Documents, which nonetheless bind you and all other Owners and Occupants of the Community. Rather, since all of the Association Documents must now be recorded in the property records as dedicatory instruments, this Community Manual allows you to access all of such documents in one place rather than as separately recorded instruments.

III. CONTENTS AND PROCESS

The initially recorded Community Manual contains the following Association Documents, the terms and provisions of each of which are applicable to or may be enforced against the Owners and Occupants within the Community as set forth therein: 1) the Certificate of Formation; 2) the Bylaws; 3) the Fine and Enforcement Policy; 4) the Assessment Collection Policy; 5) the Records Inspection, Copying and Retention Policy; 6) the Statutory Notice of Posting and Recordation of Association Governance Documents; and 7) the Email Registration Policy.

As the Association Documents are changed from time to time as determined by the Board or new Rules or other dedicatory instruments are adopted which require recordation in the property records, a Majority of the Board upon approval by the Declarant will adopt a Supplement to the Community Manual to include the documents which are being changed or added to the Community Manual and cause such Supplement to be recorded in the property records. If for any reason, a document is added to the Community Manual pursuant to a Supplement which has previously been recorded in the property records, the effective date of such document shall be the original date of recordation in the Official Public Records of Montgomery County, unless provided in the Supplement.

Capitalized terms used but not defined in this Community Manual shall have the meaning subscribed to such terms in the Covenant.

This Community Manual becomes effective when recorded.

ATTACHMENT 1

CERTIFICATE OF FORMATION

AUSTIN_1/715876v.3

52919-101 06/02/2014



Office of the Secretary of State

CERTIFICATE OF FILING OF

Water Crest on Lake Conroe Community Association, Inc.
File Number: 801929360

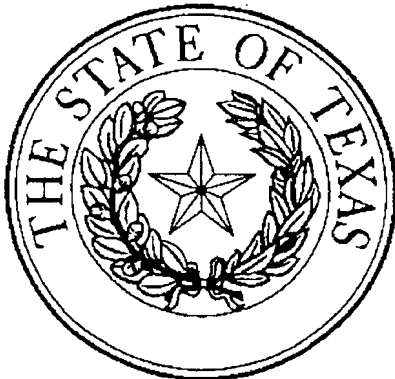
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

ACCORDINGLY, the undersigned, as Secretary of State, and by virtue of the authority vested in the secretary by law, hereby issues this certificate evidencing filing effective on the date shown below.

The issuance of this certificate does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/06/2014

Effective: 02/06/2014



NANDITA BERRY

Nandita Berry
Secretary of State

FILED
In the Office of the
Secretary of State of Texas

FEB 06 2014

Corporations Section

CERTIFICATE OF FORMATION

OF

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

The undersigned natural person, being of the age of eighteen (18) years or more, a citizen of the State of Texas, acting as incorporator of a nonprofit corporation under the Texas Business Organizations Code, does hereby adopt the following Certificate of Formation for such corporation:

ARTICLE I

NAME

The name of the corporation is: Water Crest on Lake Conroe Community Association, Inc. (hereinafter called the "Association").

ARTICLE II

NONPROFIT CORPORATION

The Association is a nonprofit corporation.

ARTICLE III

DURATION

The Association shall exist perpetually.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

The Association is organized in accordance with, and shall operate for nonprofit purposes pursuant to, the Texas Business Organizations Code, and does not contemplate pecuniary gain or profit to its members. The Association is formed for the purpose of exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association as set forth in that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time (the "Covenant"). Without limiting the generality of the foregoing, the Association is organized for the following general purposes:

- (a) to fix, levy, collect, and enforce payment by any lawful means all charges or assessments arising pursuant to the terms of the Covenant;
- (b) to pay all expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the Association's property; and
- (c) to have and to exercise any and all powers, rights, and privileges which a corporation organized under the Texas Business Organizations Code may now, or later, have or exercise.

The above statement of purposes shall be construed as a statement of both purposes and powers. The purposes and powers stated in each of the clauses above shall not be limited or restricted by reference to, or inference from, the terms and provisions of any other such clause, but shall be broadly construed as independent purposes and powers.

ARTICLE V

REGISTERED OFFICE; REGISTERED AGENT

The street address of the initial registered office of the Association is 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201-4234. The name of its initial registered agent at such address is CT Corporation Systems.

ARTICLE VI

MEMBERSHIP

Membership in the Association shall be dependent upon ownership of a qualifying property interest as defined and set forth in the Covenant. Any person or entity acquiring such a qualifying property interest shall automatically become a member of the Association, and such membership shall be appurtenant to, and shall run with, the property interest. The foregoing shall not be deemed or construed to include persons or entities holding an interest merely as security for performance of an obligation. Membership may not be severed from or in any way transferred, pledged, mortgaged, or alienated except together with the title to the qualifying property interest, and then only to the transferee of title to said property interest. Any attempt to make a prohibited severance, transfer, pledge, mortgage, or alienation shall be void.

ARTICLE VII

VOTING RIGHTS

Voting rights of the members of the Association shall be determined as set forth in the Covenant.

ARTICLE VIII

INCORPORATOR

The name and street address of the incorporator is:

<u>NAME</u>	<u>ADDRESS</u>
Robert D. Burton	401 Congress Avenue, Suite 2100 Austin, Texas 78701

ARTICLE IX

BOARD OF DIRECTORS

The affairs of the Association shall be managed by an initial Board of Directors consisting of three (3) individuals, who need not be members of the Association. The Board shall fulfill all of the functions of, and possess all powers granted to, Boards of Directors of nonprofit corporations pursuant to the Texas Business Organizations Code. The number of Directors of the Association may be changed by

amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of initial Directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Amanda White	400 Carriage Hills Blvd. Conroe, Texas 77384
Tu-Anh Cloteaux	400 Carriage Hills Blvd. Conroe, Texas 77384
Mark Hardy	400 Carriage Hills Blvd. Conroe, Texas 77384

All of the powers and prerogatives of the Association shall be exercised by the initial Board of Directors named above until the first annual meeting of the Association.

ARTICLE X

LIMITATION OF DIRECTOR LIABILITY

A director of the Association shall not be personally liable to the Association for monetary damages for any act or omission in his capacity as a director, except to the extent otherwise expressly provided by a statute of the State of Texas. Any repeal or modification of this Article shall be prospective only, and shall not adversely affect any limitation of the personal liability of a director of the Association existing at the time of the repeal or modification.

ARTICLE XI

INDEMNIFICATION

Each person who acts as a director, officer or committee member of the Association shall be indemnified by the Association against any costs, expenses and liabilities which may be imposed upon or reasonably incurred by him in connection with any civil or criminal action, suit or proceeding in which he may be named as a party defendant or in which he may be a witness by reason of his being or having been such director or officer or by reason of any action alleged to have been taken or omitted by him in either such capacity. Such indemnification shall be provided in the manner and under the terms, conditions and limitations set forth in the Bylaws of the Association.

ARTICLE XII

DISSOLUTION

The Association may be dissolved with the written and signed assent of not less than ninety percent (90%) of the total number of votes of the Association, as determined under Covenant. The foregoing sentence shall in no way be interpreted to mean ninety percent (90%) of a quorum as established pursuant to the Bylaws. The Neighborhood Delegate system of voting (as set forth in the Covenant) is not applicable to a dissolution as contemplated by this Article XII, it being understood and agreed that any such dissolution must be approved by a vote of the members, with each member casting their vote individually. Upon dissolution of the Association, other than incident to a merger or consolidation, the

assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

ARTICLE XIII

ACTION WITHOUT MEETING

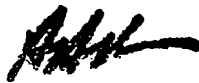
Any action required or permitted by law to be taken at a meeting of the members of the Association or Neighborhood Delegates may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by the members of the Association or Neighborhood Delegates holding at least the minimum number of votes necessary to authorize such action at a meeting if all the members of the Association or Neighborhood Delegates entitled to vote thereon were present. If the action is proposed by the Association, the Board shall provide each member of the Association or Neighborhood Delegate, as applicable, written notice at least ten (10) days in advance of the date the Board proposes to initiate securing consent as contemplated by this Article XIII. Consents obtained pursuant to this Article XIII shall be dated and signed within sixty (60) days after receipt of the earliest dated consent and delivered to the Association at its principal place of business in Texas. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the members of the Association or Neighborhood Delegates, as applicable, at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all members of the Association or Neighborhood Delegates entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

ARTICLE XIV

AMENDMENT

Amendment of this Certificate of Formation shall be by proposal submitted to the membership of the Association. Any such proposed amendment shall be adopted only upon an affirmative vote by the holders of a minimum of two-thirds (2/3) of the total number of votes of the Association, as determined under the Covenant. The foregoing sentence shall in no way be interpreted to mean two thirds (2/3) of a quorum as established pursuant to the Bylaws. The Neighborhood Delegate system of voting is not applicable to an amendment as contemplated by this Article XIV, it being understood and agreed that any amendment must be approved by a vote of the members, with each member casting their vote individually. In the case of any conflict between the Covenant and this Certificate of Formation, the Covenant shall control; and in the case of any conflict between this Certificate of Formation and the Bylaws of the Association, this Certificate of Formation shall control.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand, this 6 day of February 2014.



Robert D. Burton, Incorporator

ATTACHMENT 2

BYLAWS
OF
WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

ARTICLE I

INTRODUCTION

The name of the corporation is Water Crest on Lake Conroe Community Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located in Montgomery County, Texas, but meetings of Members and Directors may be held at such places within the State of Texas, County of Montgomery, as may be designated by the Board of Directors as provided in these Bylaws.

The Association is organized to be a nonprofit corporation.

Notwithstanding anything to the contrary in these Bylaws, a number of provisions are modified by the Declarant's reservations in that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas (the "Covenant"), including the number, qualification, appointment, removal, and replacement of Directors.

ARTICLE II

DEFINITIONS

Capitalized terms used but not defined in these Bylaws shall have the meaning subscribed to such terms in the Covenant.

ARTICLE III

MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 3.1. Membership. Each Owner of a Lot or Condominium Unit is a mandatory Member of the Association, as more fully set forth in the Covenant.

Section 3.2. Place of Meetings. Meetings of the Association shall be held where designated by the Board, either within the Development or as convenient as possible and practical.

Section 3.3. Annual Meetings. There shall be an annual meeting of the Members of the Association for the purposes of Association-wide elections or votes and for such other Association business at such reasonable place, date and time as set by the Board.

Section 3.4. Special Meetings. Special meetings of Members or Neighborhood Delegates may be called in accordance with Section 22.155 of the Texas Business Organizations Code or any successor statute.

Section 3.5. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of the Members or Neighborhood Delegates shall be delivered, either personally or by mail, to each Member or Neighborhood Delegate entitled to vote at such meeting or by publication in a

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
BYLAWS

newspaper of general circulation, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President, the Secretary, or the officers or persons calling the meeting. In the case of a special meeting or when otherwise required by statute or these Bylaws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member or Neighborhood Delegate at his address as it appears on the records of the Association, with postage prepaid.

Section 3.6. Waiver of Notice. Waiver of notice of a meeting of the Members or Neighborhood Delegates shall be deemed the equivalent of proper notice. Any Member or Neighborhood Delegate may, in writing, waive notice of any meeting of the Members or Neighborhood Delegates, either before or after such meeting. Attendance at a meeting by a Member or Neighborhood Delegate shall be deemed a waiver by such Member or Neighborhood Delegate of notice of the time, date, and place thereof, unless such Member or Neighborhood Delegate specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting by a Member or Neighborhood Delegate shall be deemed a waiver of notice of all business transacted at such meeting unless an objection by a Member or Neighborhood Delegate on the basis of lack of proper notice is raised before the business is put to a vote.

Section 3.7. Quorum. Except as provided in these Bylaws or in the Covenant, the presence of the Members or Neighborhood Delegates, as applicable, representing ten percent (10%) of the total votes in the Association shall constitute a quorum at all Association meetings.

Section 3.8. Conduct of Meetings. The President or any other person appointed by the Board shall preside over all Association meetings, and the Secretary, or the Secretary's designee, shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting.

Section 3.9. Voting. The voting rights of the Members and Neighborhood Delegates shall be as set forth in the Covenant, and such voting rights provisions are specifically incorporated by reference. Except as otherwise provided in the Covenant, action may be taken at any legally convened meeting of the Members or Neighborhood Delegates upon the affirmative vote of the Members or Neighborhood Delegates having a Majority of the total votes present at such meeting in person or proxy or by absentee ballot or electronic ballot, if such votes are considered present at the meeting as further set forth herein. Cumulative voting shall not be allowed. The person holding legal title to a Lot or Condominium Unit shall be entitled to cast the vote allocated to such Lot or Condominium Unit and not the person merely holding beneficial title to the same unless such right is expressly delegated to the beneficial Owner thereof in writing. **Other than representative voting by Neighborhood Delegates, any provision in the Association's governing documents that would disqualify an Owner from voting in an Association election of Board Members or on any matter concerning the rights or responsibilities of the Owner is void.**

Section 3.10. Methods of Voting: In Person; Proxies; Absentee Ballots; Electronically. Notwithstanding anything to the contrary in the Documents, Neighborhood Delegates may not vote by proxy but only in person or through their designated alternates; provided, any Neighborhood Delegate who is only entitled to cast the vote(s) for his own Lot(s) or Condominium Unit(s) pursuant to *Section 3.05* of the Covenant may cast such vote as provided herein until such time as the Board first calls for election

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of a Neighborhood Delegate to represent the Neighborhood where the Lot or Condominium Unit is located. On any matter as to which a Member is entitled individually to cast the vote for his Lot or Condominium Unit such vote may be cast or given: (a) in person or by proxy at a meeting of the Association or Neighborhood; (b) by absentee ballot; or (c) by electronic ballot. Any vote cast in an election or vote by a Member of the Association must be in writing and signed by the member. Electronic votes constitute written and signed ballots. In an Association-wide election, written and signed ballots are not required for uncontested races. Votes shall be cast as provided in this section:

(a) Proxies. Any Member may give a revocable written proxy in the form as prescribed by the Board from time to time to any person authorizing such person to cast the Member's vote on any matter. A Member's vote by proxy is subject to any limitations of Texas law relating to the use of general proxies and subject to any specific provision to the contrary in the Covenant or these Bylaws. No proxy shall be valid unless signed by the Member for which it is given or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Proxies shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall a proxy be valid more than eleven (11) months after the effective date of the proxy. Every proxy shall be revocable and shall automatically cease upon conveyance of the Lot or Condominium Unit for which it was given.

(b) Absentee and Electronic Ballots. An absentee or electronic ballot: (i) may be counted as a Member or Neighborhood Delegate, as applicable, present and voting for the purpose of establishing a quorum only for items appearing on the ballot; (ii) may not be counted, even if properly delivered, if the Member or Neighborhood Delegate, as applicable, attends any meeting to vote in person, so that any vote cast at a meeting by a Member or Neighborhood Delegate supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and (iii) may not be counted on the final vote of a proposal if the proposal was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(i) Absentee Ballots. No absentee ballot shall be valid unless it is in writing, signed by the Neighborhood Delegate or Member for which it is given or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Absentee ballots shall be valid only for the specific meeting for which given and for lawful adjournments of such meeting. In no event shall an absentee ballot be valid after the specific meeting or lawful adjournment of such meeting at which such ballot is counted or upon conveyance of the Lot or Condominium Unit for which it was given. Any solicitation for votes by absentee ballot must include:

- a. an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
- b. instructions for delivery of the completed absentee ballot, including the delivery location; and
- c. the following language: *"By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the*

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final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(ii) Electronic Ballots. "Electronic ballot" means a ballot: (a) given by email, facsimile or posting on a website; (b) for which the identity of the Neighborhood Delegate or Member submitting the ballot can be confirmed; and (c) for which the Neighborhood Delegate or Member may receive a receipt of the electronic transmission and receipt of the Neighborhood Delegate or Member's ballot. If an electronic ballot is posted on a website, a notice of the posting shall be sent to each Neighborhood Delegate or Member that contains instructions on obtaining access to the posting on the website.

Section 3.11. Tabulation of and Access to Ballots. A person who is a candidate in an Association election or who is otherwise the subject of an Association vote, or a person related to that person within the third degree by consanguinity or affinity may not tabulate or otherwise be given access to the ballots cast in that election or vote except such person may be given access to the ballots cast in the election or vote as part of a recount process. A person tabulating votes in an Association election or vote may not disclose to any other person how an individual voted.

Section 3.12. Recount of Votes. Any Member may, not later than the fifteenth (15th) day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either: (a) by certified mail, return receipt requested, or by delivery by the U.S. Postal Service with signature confirmation service to the Association's mailing address as reflected on the latest management certificate; or (b) in person to the Association's managing agent as reflected on the latest management certificate or to the address to which absentee and proxy ballots are mailed. The Member requesting the recount will be required to pay, in advance, expenses associated with the recount as estimated by the Association. Any recount must be performed on or before the thirtieth (30th) day after the date of receipt of a request and payment for a recount is submitted to the Association for a vote tabulator as set forth below.

(a) Vote Tabulator. At the expense of the Member requesting the recount, the Association shall retain for the purpose of performing the recount, the services of a person qualified to tabulate votes. The Association shall enter into a contract for the services of a person who: (i) is not a Member of the Association or related to a Member of the Association Board within the third degree by consanguinity or affinity; and (ii) is either a person agreed on by the Association and any person requesting a recount or is a current or former county judge, county elections administrator, justice of the peace or county voter registrar.

(b) Reimbursement for Recount Expenses. If the recount changes the results of the election, the Association shall reimburse the requesting Member for the cost of the recount to the extent such costs were previously paid by the Member to the Association. The Association shall provide the results of the recount to each Member who requested the recount.

(c) Board Action. Any action taken by the Board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

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Section 3.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members or Neighborhood Delegates, as applicable, may be taken without a meeting, without prior notice, and without a vote if written consent specifically authorizing the proposed action is signed by Members or Neighborhood Delegates, as applicable, holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members or Neighborhood Delegates entitled to vote thereon were present. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated, and delivered to the Association at its principal place of business in Texas. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members or Neighborhood Delegates at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members or Neighborhood Delegates entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

**ARTICLE IV
BOARD OF DIRECTORS**

Section 4.1. Authority; Number of Directors.

(a) The affairs of the Association shall be governed by a Board of Directors. The number of Directors shall be fixed by the Board of Directors from time to time. The initial Directors shall be three (3) in number and shall be those Directors named in the Certificate. The initial Directors shall serve until their successors are elected and qualified.

(b) In accordance with *Section 3.04* of the Covenant, i.e., no later than the 10th anniversary of the date the Covenant is recorded in the Official Public Records of Montgomery County, Texas or sooner as determined by Declarant, the Board must have held a meeting of Members of the Association (the "Initial Member Election Meeting") where the Members will elect one (1) Director, for a one (1) year term ("Initial Member Elected Director"). Declarant will continue to appoint and remove two-thirds (2/3) of the Board after the Initial Member Election Meeting until expiration or termination of the Development Period. Notwithstanding the foregoing, the Initial Member Elected Director's term will expire as of the date of the Member Election Meeting (defined below).

(c) At the expiration or termination of the Development Period, the Declarant will thereupon call a meeting of the Members of the Association where the Declarant appointed Directors will resign and the Members or Neighborhood Delegates, as applicable, will elect three (3) new directors (to replace all Declarant appointed Directors and the Initial Member Elected Director) (the "Member Election Meeting"), one (1) Director for a three (3) year term, one (1) Director for a two (2) year term, and one (1) Director for a one (1) year term (with the individual receiving the highest number of votes to serve the three (3) year term, the individual receiving the next highest number of votes to serve the two (2) year term, and the individual receiving the third highest number of votes to serve a one (1) year term). Notwithstanding the foregoing provision, if a Voting Group Designation is filed in accordance with the Covenant, such designation may establish a different number of Board members to be elected at the Member Election Meeting provided that in any event the number of Board members shall be no less than three (3) in number. The Voting Group Designation may also assign an initial term to each Board member position. A Voting Group Designation which establishes a different number of Board members and the initial terms of such Board members shall be deemed an amendment to the Bylaws. Upon expiration of the term of a Director elected by the Members or Neighborhood Delegates pursuant to this Section 4.1(c), his or her successor will be elected for a term of two (2) years.

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(d) A Director takes office upon the adjournment of the meeting or balloting at which he is elected or appointed and, absent death, ineligibility, resignation, or removal, will hold office until his successor is elected or appointed.

(e) Each Director, other than Directors appointed by Declarant, shall be a Member and resident, or in the case of corporate partnership or other entity ownership of a Lot or Condominium Unit, a duly authorized agent or representative of the corporate partnership or other entity Owner. The corporate partnership or other entity Owner shall be designated as the Director in all correspondence or other documentation setting forth the names of the Directors.

Section 4.2. Compensation. The Directors shall serve without compensation for such service.

Section 4.3. Designation of Voting Groups by Declarant. Declarant may (but is not obligated to) designate Voting Groups consisting of one or more Neighborhoods for the purpose of electing directors to the Board. If Neighborhood Delegates are elected, such Neighborhood Delegates within each Voting Group shall vote on a separate slate of candidates for election to the Board. The Declarant shall establish Voting Groups, if at all, not later than the date of expiration or termination of the Development Period by Recording a written instrument identifying each Voting Group by legal description or other means such that the Lots and Condominium Units within each Voting Group can easily be determined. Such designation may be amended from time to time by Declarant, acting alone, at any time prior to the expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Board will have the right by Recording an appropriate written instrument to amend any existing designation of Voting Groups, or to designate new Voting Groups, upon the vote of a Majority of the Board and approval of Neighborhood Delegates representing a Majority of the Neighborhoods. Until such time as Voting Groups are established, all of the Development shall constitute a single Voting Group. After a written instrument establishing Voting Groups has been Recorded, any and all portions of the Development which are not assigned to a specific Voting Group shall constitute a single Voting Group.

Section 4.4. Nominations to Board of Directors. Members may be nominated for election to the Board of Directors in either of the following ways:

(a) A Member who is not a Director and who desires to run for election to that position shall be deemed to have been nominated for election upon his filing with the Board of Directors a written petition of nomination; or

(b) A Director who is eligible to be re-elected shall be deemed to have been nominated for re-election to the position he holds by signifying his intention to seek reelection in a writing addressed to the Board of Directors.

Section 4.4. Removal of Directors for Cause. An elected Director may be removed, with or without cause, by the vote of Members holding a majority of the votes entitled to be cast in the Association. If a Director breaches such Director's duties hereunder or violates the terms of the Documents, such Director may be removed by a Majority vote of the remaining Directors.

Section 4.5. Vacancies on Board of Directors. At such time as Declarant's right to appoint and remove Directors has expired or been terminated, if the office of any elected Director shall become vacant

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by reason of death, resignation, or disability, the remaining Directors, at a special meeting duly called for this purpose, shall choose a successor who shall fill the unexpired term of the directorship being vacated. If there is a deadlock in the voting for a successor by the remaining Directors, the one Director with the longest continuous term on the Board shall select the successor. At the expiration of the term of his position on the Board of Directors, the successor Director shall be re-elected or his successor shall be elected in accordance with these Bylaws. Except with respect to Directors appointed by the Declarant, any Board Member whose term has expired or who has been removed from the Board must be elected by the Members or the Neighborhood Delegates, as applicable.

Section 4.6. Removal of Directors by Members. Subject to the right of Declarant to nominate and appoint Directors as set forth in *Section 4.1* of these Bylaws, an elected Director may be removed, with or without cause, by the Members or Neighborhood Delegates, as applicable, which elected such Director. In the event Voting Groups are established pursuant to the Covenant, only the Neighborhood Delegates within the Voting Group may vote to remove the Director elected from such Voting Group.

Section 4.7. Eligibility for Board Membership. With the exception of Board member positions appointed by the Declarant as permitted by the Covenant, the Association may not restrict an Owner's right to run for a position on the Board.

ARTICLE V MEETINGS OF DIRECTORS

Section 5.1. Definition of Board Meetings. A meeting of the Board means a deliberation between a quorum of the Board, or between a quorum of the Board and another person, during which Association business is considered and the Board takes formal action.

Section 5.2. Regular Meetings. Regular meetings of the Board shall be held annually or such other frequency as determined by the Board, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 5.3. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 5.4. Quorum. A Majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a Majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 5.5. Open Board Meetings. All regular and special Board meetings must be open to Owners. However, the Board has the right to adjourn a meeting and reconvene in closed executive session to consider actions involving: (a) personnel; (b) pending or threatened litigation; (c) contract negotiations; (d) enforcement actions; (e) confidential communications with the Association's attorney; (f) matters involving the invasion of privacy of individual Owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made by the Board in executive session must be summarized orally in general terms and placed in the minutes. The oral summary must include a general explanation of expenditures approved in executive session.

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Section 5.6. Location. Except if otherwise held by electronic or telephonic means, a Board meeting must be held in the county in which the Development is located or in a county adjacent to that county, as determined in the discretion of the Board.

Section 5.7. Record; Minutes. The Board shall keep a record of each regular or special Board meeting in the form of written minutes of the meeting. The Board shall make meeting records, including approved minutes, available to a Member for inspection and copying on the Member's written request to the Association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board.

Section 5.8. Notices. Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be: (a) mailed to each Member not later than the tenth (10th) day or earlier than the sixtieth (60th) day before the date of the meeting; or (b) provided at least seventy-two (72) hours before the start of the meeting by: (i) posting the notice in a conspicuous manner reasonably designed to provide notice to Members in a place located on the Association's common area or on any website maintained by the Association; and (ii) sending the notice by e-mail to each Member who has registered an e-mail address with the Association. It is the Member's duty to keep an updated e-mail address registered with the Association. The Board may establish a procedure for registration of email addresses, which procedure may be required for the purpose of receiving notice of Board meetings. If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner as set forth above within two (2) hours after adjourning the meeting being continued.

Section 5.9. Meeting without Prior Notice. The Board may meet by any method of communication, including electronic and telephonic, without prior notice to the Members if each Board member may hear and be heard, and may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board action. Any action taken without notice to Members must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board meeting. The Board may not, without prior notice to the Members pursuant to *Section 5.8* above consider or vote on: (a) fines; (b) damage assessments; (c) initiation of foreclosure actions; (d) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety; (e) increases in assessments; (f) levying of special assessments; (g) appeals from a denial of architectural control approval; or (h) a suspension of a right of a particular Owner before the Member has an opportunity to attend a Board meeting to present the Member's position, including any defense, on the issue.

Section 5.10. Telephone and Electronic Meetings. Any action permitted to be taken by the Board without prior notice to Owners may be taken by telephone or electronic methods by means of which all persons participating in the meeting can hear each other. Participation in such a meeting constitutes presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

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Section 5.11. Consent in Writing. Any action permitted to be taken by the Board by unanimous written consent occurs if all Directors individually or collectively consent in writing to such action. The written consent must be filed with the minutes of Board meetings. Action by written consent has the same force and effect as a unanimous vote of the Directors.

Section 5.12. Development Period. The provisions of this *Article V* do not apply to Board meetings during the Development Period (as defined in the Covenant) during which period the Board may take action by unanimous written consent in lieu of a meeting, except with respect to: (a) adopting or amending the Documents; (b) increasing the amount of regular assessments of the Association or adopting or increasing a special assessment; (c) electing non-developer Board members or establishing a process by which those members are elected; or (d) changing the voting rights of Members.

ARTICLE VI POWERS AND DUTIES OF THE BOARD

Section 6.1. Powers. The Board shall have power and duty to undertake any of the following actions, in addition to those actions to which the Association is authorized to take in accordance with the Covenant:

- (a) adopt and publish the Rules;
- (b) suspend the right of a Member to use of the Common Area during any period in which such Member shall be in default in the payment of any Assessment levied by the Association, or after notice and hearing, for any period during which an infraction of the Rules by such Member exists;
- (c) exercise for the Association all powers, duties and authority vested in or related to the Association and not reserved to the membership by other provisions of the Documents;
- (d) to enter into any contract or agreement with a municipal agency or utility company to provide electric utility service to all or any portion of the Development;
- (e) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;
- (f) employ such employees as they deem necessary, and to prescribe their duties;
- (g) as more fully provided in the Covenant, to:
 - (1) fix the amount of the Assessments against each Lot and/or Condominium Unit in advance of each annual assessment period and any other assessments provided by the Covenant; and
 - (2) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (h) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment);

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- (i) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (j) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (k) exercise such other and further powers or duties as provided in the Covenant or by law.

**ARTICLE VII
OFFICERS AND THEIR DUTIES**

Section 7.1. Enumeration of Offices. The officers of the Association shall be a President and a Vice-President, who shall at all times be members of the Board, a Secretary and a Treasurer, and such other officers as the Board may from time to time create by resolution.

Section 7.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 7.3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he resigns sooner, or shall be removed or otherwise disqualified to serve.

Section 7.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6. Vacancies. A vacancy in any office may be filled through appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to *Section 7.4*.

Section 7.8. Duties. The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) **Vice President.** The Vice President, if any, shall generally assist the President and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him by the President or the Board.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

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(d) Assistant Secretaries. Each Assistant Secretary shall generally assist the Secretary and shall have such powers and perform such duties and services as shall from time to time be prescribed or delegated to him or her by the Secretary, the President, the Board or any committee established by the Board.

(e) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper books of account in appropriate form such that they could be audited by a public accountant whenever ordered by the Board or the membership; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting, and deliver a copy of each to the Members.

Section 7.9. Execution of Instruments. Except when the Documents require execution of certain instruments by certain individuals, the Board may authorize any person to execute instruments on behalf of the Association, including without limitation checks from the Association's bank account. In the absence of Board designation, and unless otherwise provided herein, the President and the Secretary are the only persons authorized to execute instruments on behalf of the Association.

ARTICLE VIII

OTHER COMMITTEES OF THE BOARD OF DIRECTORS

The Board may, by resolution adopted by affirmative vote of a Majority of the number of Directors fixed by these Bylaws, designate two or more Directors (with such alternates, if any, as may be deemed desirable) to constitute another committee or committees for any purpose; provided, that any such other committee or committees shall have and may exercise only the power of recommending action to the Board of Directors and of carrying out and implementing any instructions or any policies, plans, programs and rules theretofore approved, authorized and adopted by the Board.

ARTICLE IX

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Documents shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE X

ASSESSMENTS

As more fully provided in the Covenant, each Member is obligated to pay to the Association Assessments which are secured by a continuing lien upon the property against which the Assessments are made. Assessments shall be due and payable in accordance with the Covenant.

ARTICLE XI

CORPORATE SEAL

The Association may, but shall have no obligation to, have a seal in a form adopted by the Board.

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**ARTICLE XII
AMENDMENTS**

Section 12.1. These Bylaws may be amended by: (i) the Declarant until expiration or termination of the Development Period; or (ii) a Majority vote of the Board of Directors with the advance written consent of the Declarant until expiration or termination of the Development Period.

**ARTICLE XIII
INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Association shall indemnify every Director and Officer and committee member of the Association against, and reimburse and advance to every Director and Officer for, all liabilities, costs and expenses' incurred in connection with such directorship or office and any actions taken or omitted in such capacity to the greatest extent permitted under the Texas Business Organizations Code and all other applicable laws at the time of such indemnification, reimbursement or advance payment; provided, however, no Director or Officer shall be indemnified for: (a) a breach of duty of loyalty to the Association or its Members; (b) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law; (c) a transaction from which such Director or Officer received an improper benefit, whether or not the benefit resulted from an action taken within the scope of directorship or office; or (d) an act or omission for which the liability of such Director or Officer is expressly provided for by statute.

**ARTICLE XIV
MISCELLANEOUS**

Section 14.1. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 14.2. Users of these Bylaws should also review statutes and court rulings that may modify or nullify provisions of this document or its enforcement, or may create rights or duties not anticipated by these Bylaws.

Section 14.3. In the case of any conflict between the Certificate and these Bylaws, the Certificate shall control; and in the case of any conflict between the Covenant and these Bylaws, the Covenant shall control. In the case of any conflict between these Bylaws and any provision of the applicable laws of the State of Texas, the conflicting aspect of the Bylaws provision is null and void, but all other provisions of these Bylaws remain in full force and effect.

Section 14.4. The effect of a general statement is not limited by the enumerations of specific matters similar to the general. The captions or articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. The singular is construed to mean the plural, when applicable, and the use of masculine or neuter pronouns includes the feminine.

Section 14.5. No restriction, condition, obligation, or covenant contained in these Bylaws may be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

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BYLAWS

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ATTACHMENT 3

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

FINE AND ENFORCEMENT POLICY

1. Background. Water Crest on Lake Conroe is subject to that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time ("**Covenant**"). In accordance with the Covenant, Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation (the "**Association**") was created to administer the terms and provisions of the Covenant. Unless the Covenant or applicable law expressly provides otherwise, the Association acts through a majority of its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Covenant, Certificate, Bylaws, Community Manual, the Design Guidelines (if adopted), any applicable Development Area Declaration, any applicable Notice of Applicability as each may be amended from time to time, and any rules and regulations promulgated by the Association pursuant to the Covenant or any Development Area Declaration, as adopted and amended from time to time (collectively, the "**Documents**"), including the obligation of Owners to pay assessments pursuant to the terms and provisions of the Covenant and the obligations of the Owners to compensate the Association for costs incurred by the Association for enforcing violations of the Documents.

The Board hereby adopts this Fine and Enforcement Policy to establish equitable policies and procedures for the levy of fines within the Association in compliance with the Chapter 209 of the Texas Property Code, titled the "Texas Residential Property Owners Protection Act," as it may be amended (the "**Act**"). To the extent any provision within this policy is in conflict the Act or any other applicable law, such provision shall be modified to comply with the applicable law.

Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Documents.

2. Policy. The Association uses fines to discourage violations of the Documents, and to encourage compliance when a violation occurs – not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Documents. The Association's use of fines does not interfere with its exercise of other rights and remedies for the same violation.
3. Owner's Liability. An Owner is liable for fines levied by the Association for violations of the Documents by the Owner and the relatives, guests, employees, and agents of the Owner and residents. Regardless of who commits the violation, the Association may direct all communications regarding the violation to the Owner.
4. Amount. The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. The amount and cumulative total of a

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fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Documents. If the Association allows fines to accumulate, the Association may establish a maximum amount for a particular fine, at which point the total fine will be capped.

5. Violation Notice. Before levying a fine, the Association will give the Owner a written violation notice via certified mail, return receipt requested, and an opportunity to be heard, if requested by the Owner. This requirement may not be waived. The Association's written violation notice will contain the following items: (1) the date the violation notice is prepared or mailed; (2) a description of the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due to the Association from the Owner; (3) a reference to the rule or provision that is being violated; (4) a description of the action required to cure the violation; (5) the timeframe in which the violation is required to be cured to avoid the fine or suspension; (6) the amount of the fine; (7) a statement that no later than the thirtieth (30th) day after receiving the notice, the Owner may request a hearing pursuant to Section 209.007 of the Texas Property Code, and further, if the hearing held pursuant to Section 209.007 of the Texas Property Code is to be held by a committee appointed by the Board, a statement notifying the Owner that he or she has the right to appeal the committee's decision to the Board by written notice to the Board; and (8) a statement informing the Owner that they may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. section *et seq*), if the Owner is serving on active military duty. The notice sent out pursuant to this paragraph is further subject to the following:
 - a. First Violation. If the Owner has not been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months, the notice will state those items set out in (1) – (8) above, along with a specific timeframe by which the violation must be cured to avoid the fine. The notice must state that any future violation of the same rule may result in the levy of a fine.
 - b. Repeat Violation – No Cure within 6 Months. If the Owner has been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months but commits the violation again, the notice will state those items set out in (1) - (3), (6) and (8) above, but will also state that because the Owner has been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months but has not cured the violation, then the Owner will be fined pursuant to the *Schedule of Fines* described below.
 - c. Continuous Violation. After an Owner has been notified of a violation as set forth herein and assessed fines in the amounts set forth in the *Schedule of Fines* described below, if the Owner has never cured the violation in response to either the notices or the fines, in its sole discretion, the Board may determine that such a circumstance is a continuous violation which warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board.
6. Violation Hearing. If the Owner is entitled to an opportunity to cure the violation, then the Owner has the right to submit a written request to the Association for a hearing before the Board

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or a committee appointed by the Board to discuss and verify the facts and resolve the matter. To request a hearing, the Owner must submit a written request (the "Request") to the Association's manager (or the Board if there is no manager) within thirty (30) days after receiving the violation notice. The Association must then hold the hearing requested no later than thirty (30) days after the Board receives the Request. The Board must notify the Owner of the date, time, and place of the hearing at least (10) days before the date of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. The Board or the Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties. Notwithstanding the foregoing, the Association may exercise its other rights and remedies as set forth in Section 209.007(d) and (e) of the Texas Property Code. Any hearing before the Board will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner shall attend the hearing in person, but may be represented by another person (i.e., attorney) during the hearing, upon advance written notice to the Board. If an Owner intends to make an audio recording of the hearing, such Owner's request for hearing shall include a statement noticing the Owner's intent to make an audio recording of the hearing, otherwise, no audio or video recording of the hearing may be made, unless otherwise approved by the Board. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, imposed. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied. Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the agenda attached hereto as Exhibit A.

7. Levy of Fine. Any fine levied shall be reflected on the Owner's periodic statements of account or delinquency notices.
8. Collection of Fines. The Association is not entitled to collect a fine from an Owner to whom it has not given notice and an opportunity to be heard, pursuant to Section 209.006 and Section 209.007 of the Texas Property Code. The Association may not foreclose its assessment lien on a debt consisting solely of fines.
9. Amendment of Policy. This policy may be revoked or amended from time to time by the Board. This policy will remain effective until the Association records an amendment to this policy in the county's official public records.

Schedule of Fines

The Board has adopted the following general schedule of fines. The number of notices set forth below does not mean that the Board is required to provide each notice prior to exercising additional remedies as set forth in the Documents. The Board may elect to pursue such additional remedies at any time in accordance with applicable law. The Board also reserves the right to set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effect of the violation:

FINES:

New Violation:

Fine Amount:

Notice of violation and Right to Cure

\$25.00 (may be avoided if Owner cures the violation by the time specified in the notice)

Repeat Violation:

1st Notice (No Right to Cure)

\$50.00

2nd Notice (No Right to Cure)

\$75.00

3rd Notice (No Right to Cure)

\$100.00

4th Notice (No Right to Cure)

\$125.00

Continuous Violation:

Continuous Violation Notice

Amount TBD

EXHIBIT A

HEARING BEFORE THE BOARD

Note: An individual will act as the presiding hearing officer. The hearing officer will provide introductory remarks and administer the hearing agenda.

I. Introduction:

Hearing Officer. The Board has convened for the purpose of providing [Owner] an opportunity to be heard regarding a notice of violation of the Documents sent by the Association.

The hearing is being conducted as required by Section 209.007(a) of the Texas Property Code, and is an opportunity for [Owner] to discuss, verify facts, and attempt to resolve the matter at issue. The Board may be able to resolve the dispute at the hearing or the Board may elect to take the matter under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within fifteen (15) days.

II. Presentation of Facts:

Hearing Officer. This portion of the hearing is to permit a representative of the Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines or penalties. After the Association's representative has finished his presentation, the Owner or its representative will be given the opportunity to present photographs or other material relevant to the violation, fines or penalties. The Board may ask questions during either party's presentation. It is requested that questions by [Owner] be held until completion of the presentation by the Association's representative.

[Presentations]

III. Discussion:

Hearing Officer. This portion of the hearing is to permit the Board and [Owner] to discuss factual disputes relevant to the violation. Discussion regarding any fine or penalty is also appropriate. Discussion should be productive and designed to seek, if possible, a mutually agreed upon resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.

IV. Resolution:

Hearing Officer. This portion of the hearing is to permit discussion between the Board and [Owner] regarding the final terms of a mutually agreed upon resolution, if such resolution was agreed upon during the discussion phase of the hearing. If no mutually agreed upon resolution was reached, the Hearing Officer may: (i) request that the Board enter into executive session to discuss the matter; (ii) request that the Board take the matter under advisement and adjourn the hearing; or (iii) adjourn the hearing.

ATTACHMENT 4

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
ASSESSMENT COLLECTION POLICY

Water Crest on Lake Conroe is a community (the "**Community**") created by and subject to the Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, and any amendments or supplements thereto ("**Covenant**"). The operation of the Community is vested in Water Crest on Lake Conroe Community Association, Inc. (the "**Association**"), acting through its board of directors (the "**Board**"). The Association is empowered to enforce the covenants, conditions and restrictions of the Covenant, Certificate, Bylaws, Community Manual, the Design Guidelines (if adopted), any applicable Development Area Declaration, any applicable Notice of Applicability, and any rules and regulations promulgated by the Association pursuant to the Covenant or any Development Area Declaration, as adopted and amended from time to time (collectively, the "**Documents**"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Documents.

The Board hereby adopts this Assessment Collection Policy to establish equitable policies and procedures for the collection of Assessments levied pursuant to the Documents. Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Documents.

Section 1. DELINQUENCIES, LATE CHARGES & INTEREST

- 1-A. Due Date. An Owner will timely and fully pay Assessments. Regular Assessments are assessed annually and are due and payable on the first calendar day of the month at the beginning of the fiscal year, or in such other manner as the Board may designate in its sole and absolute discretion.
- 1-B. Delinquent. Any Assessment that is not fully paid when due is delinquent. When the account of an Owner becomes delinquent, it remains delinquent until paid in full — including collection costs, interest and late fees.
- 1-C. Late Fees & Interest. If the Association does not receive full payment of an Assessment by 5:00 p.m. on the due date established by the Board, the Association may levy a late fee of \$25 per month and/or interest at the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest rate, then at the rate of 1 and 1/2% per month) until paid in full.
- 1-D. Liability for Collection Costs. The defaulting Owner is liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, court costs, filing fees, and other reasonable costs and attorney's fees incurred by the Association in collecting the delinquency.
- 1-E. Insufficient Funds. The Association may levy a charge of \$25 for any check returned to the Association marked "not sufficient funds" or the equivalent.
- 1-F. Waiver. Properly levied collection costs, late fees, and interest may only be waived by a Majority of the Board.

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Section 2. INSTALLMENTS & ACCELERATION

If an Assessment, other than a Regular Assessment, is payable in installments, and if an Owner defaults in the payment of any installment, the Association may declare the entire Assessment in default and accelerate the due date on all remaining installments of the Assessment. An Assessment, other than a Regular Assessment, payable in installments may be accelerated only after the Association gives the Owner at least fifteen (15) days prior notice of the default and the Association's intent to accelerate the unpaid balance if the default is not timely cured. Following acceleration of the indebtedness, the Association has no duty to reinstate the installment program upon partial payment by the Owner.

Section 3. PAYMENTS

3-A. Application of Payments. After the Association notifies the Owner of a delinquency and the Owner's liability for late fees or interest, and collection costs, any payment received by the Association shall be applied in the following order, starting with the oldest charge in each category, until that category is fully paid, regardless of the amount of payment, notations on checks, and the date the obligations arose:

- (1) Delinquent assessments
- (2) Current assessments
- (3) Attorney fees and costs associated with delinquent assessments
- (4) Other attorney's fees
- (5) Fines
- (6) Any other amount

3-B. Payment Plans. The Association shall offer a payment plan to a delinquent Owner with a minimum term of at least three (3) months and a maximum term of eighteen (18) months from the date the payment plan is requested for which the Owner may be charged reasonable administrative costs and interest. The Association will determine the actual term of each payment plan offered to an Owner. An Owner is not entitled to a payment plan if the Owner has defaulted on a previous payment plan in the last two (2) years. If an Owner is in default at the time the Owner submits a payment, the Association is not required to follow the application of payments schedule set forth in Paragraph 3-A.

3-C. Form of Payment. The Association may require that payment of delinquent Assessments be made only in the form of cash, cashier's check, or certified funds.

3-D. Partial and Conditioned Payment. The Association may refuse to accept partial payment (i.e., less than the full amount due and payable) and payments to which the payer attaches conditions or directions contrary to the Board's policy for applying payments. The Association's endorsement and deposit of a payment does not constitute acceptance. Instead, acceptance by the Association occurs when the Association posts the payment to the Owner's account. If the Association does not accept the payment at that time, it will promptly refund the payment to the payer. A payment that is not refunded to the payer within thirty (30) days after being deposited by the Association may be deemed accepted as to payment, but not as to words of limitation or

instruction accompanying the payment. The acceptance by the Association of partial payment of delinquent Assessments does not waive the Association's right to pursue or to continue pursuing its remedies for payment in full of all outstanding obligations.

- 3-E. Notice of Payment. If the Association receives full payment of the delinquency after Recording a notice of lien, the Association will cause a release of notice of lien to be publicly Recorded, a copy of which will be sent to the Owner. The Association may require the Owner to prepay the cost of preparing and Recording the release.
- 3-F. Correction of Credit Report. If the Association receives full payment of the delinquency after reporting the defaulting Owner to a credit reporting service, the Association will report receipt of payment to the credit reporting service.

Section 4. LIABILITY FOR COLLECTION COSTS

- 4-A. Collection Costs. The defaulting Owner may be liable to the Association for the cost of title reports, credit reports, certified mail, long distance calls, filing fees, and other reasonable costs and attorney's fees incurred in the collection of the delinquency.

Section 5. COLLECTION PROCEDURES

- 5-A. Delegation of Collection Procedures. From time to time, the Association may delegate some or all of the collection procedures, as the Board in its sole discretion deems appropriate, to the Association's Manager, an attorney, or a debt collector.
- 5-B. Delinquency Notices. If the Association has not received full payment of an Assessment by the due date, the Association may send written notice of nonpayment to the defaulting Owner, by certified mail, stating: a) the amount delinquent and the total amount of the payment required to make the account current, (b) the options the Owner has to avoid having the account turned over to a collection agent, as such term is defined in Texas Property Code Section 209.0064, including information regarding availability of a payment plan through the Association, and (c) that the Owner has thirty (30) for the Owner to cure the delinquency before further collection action is taken. The Association's delinquency-related correspondence may state that if full payment is not timely received, the Association may pursue any or all of the Association's remedies, at the sole cost and expense of the defaulting Owner.
- 5-C. Verification of Owner Information. The Association may obtain a title report to determine the names of the Owners and the identity of other lien-holders, including the mortgage company.
- 5-D. Collection Agency. The Board may employ or assign the debt to one or more collection agencies.
- 5-E. Notification of Mortgage Lender. The Association may notify the Mortgage lender of the default obligations.

- 5-F. Notification of Credit Bureau. The Association may report the defaulting Owner to one or more credit reporting services.
- 5-G. Collection by Attorney. If the Owner's account remains delinquent for a period of ninety (90) days, the Manager of the Association or the Board of the Association shall refer the delinquent account to the Association's attorney for collection. In the event an account is referred to the Association's attorney, the Owner will be liable to the Association for its legal fees and expenses. Upon referral of a delinquent account to the Association's attorney, the Association's attorney will provide the following notices and take the following actions unless otherwise directed by the Board:
- (1) Initial Notice: Preparation of the Initial Notice of Demand for Payment Letter. If the account is not paid in full within 30 days (unless such notice has previously been provided by the Association), then
 - (2) Lien Notice: Preparation of the Lien Notice and Demand for Payment Letter and record a Notice of Unpaid Assessment Lien. If the account is not paid in full within 30 days, then
 - (3) Final Notice: Preparation of the Final Notice of Demand for Payment Letter and Intent to Foreclose and Notice of Intent to Foreclose to Lender. If the account is not paid in full within 30 days, then
 - (4) Foreclosure of Lien: Only upon specific approval by a majority of the Board.
- 5-H. Notice of Lien. The Association's attorney may cause a notice of the Association's Assessment lien against the Owner's home to be publicly Recorded. In that event, a copy of the notice will be sent to the defaulting Owner, and may also be sent to the Owner's Mortgagee.
- 5-I. Cancellation of Debt. If the Board deems the debt to be uncollectible, the Board may elect to cancel the debt on the books of the Association, in which case the Association may report the full amount of the forgiven indebtedness to the Internal Revenue Service as income to the defaulting Owner.
- 5-J. Suspension of Use of Certain Facilities or Services. The Board may suspend the use of the Common Area amenities by an Owner, or his Occupant, whose account with the Association is delinquent for at least thirty (30) days.

Section 6. GENERAL PROVISIONS

- 6-A. Independent Judgment. Notwithstanding the contents of this detailed policy, the officers, directors, Manager, and attorney of the Association may exercise their independent, collective, and respective judgment in applying this policy.

- 6-B. Other Rights. This policy is in addition to and does not detract from the rights of the Association to collect Assessments under the Documents and the laws of the State of Texas.
- 6-C. Limitations of Interest. The Association, and its officers, directors, Managers, and attorneys, intend to conform strictly to the applicable usury laws of the State of Texas. Notwithstanding anything to the contrary in the Documents or any other document or agreement executed or made in connection with this policy, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law. If from any circumstances whatsoever, the Association ever receives, collects, or applies as interest a sum in excess of the maximum rate permitted by law, the excess amount will be applied to the reduction of unpaid Assessments, or reimbursed to the Owner if those Assessments are paid in full.
- 6-D. Notices. Unless the Documents, applicable law, or this policy provide otherwise, any notice or other written communication given to an Owner pursuant to this policy will be deemed delivered to the Owner upon depositing same with the U.S. Postal Service, addressed to the Owner at the most recent address shown on the Association's records, or on personal delivery to the Owner. If the Association's records show that an Owner's property is owned by two (2) or more persons, notice to one co-Owner is deemed notice to all co-Owners. Similarly, notice to one Occupant is deemed notice to all Occupants. Written communications to the Association, pursuant to this policy, will be deemed given on actual receipt by the Association's president, secretary, managing agent, or attorney.
- 6-E. Amendment of Policy. This policy may be amended from time to time by the Board.

ATTACHMENT 5

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
RECORDS INSPECTION, COPYING AND RETENTION POLICY

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

Note: Texas statutes presently render null and void any restriction in the Covenant which restricts or prohibits the inspection, copying and/or retention of association records and files in violation of the controlling provisions of the Texas Property Code or any other applicable state law. The Board has adopted this policy in lieu of any express prohibition or any provision regulating such matters which conflict with Texas law, as set forth in the Covenant.

1. **Written Form.** The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

2. **Request in Writing; Pay Estimated Costs In Advance.** An Owner (or an individual identified as an Owner's agent, attorney or certified public accountant, provided the designation is in writing and delivered to the Association) may submit a written request via certified mail to the Association's mailing address or authorized representative listed in the management certificate to access the Association's records. The written request must include sufficient detail describing the books and records requested and whether the Owner desires to inspect or copy the records. Upon receipt of a written request, the Association may estimate the costs associated with responding to each request, which costs may not exceed the costs allowed pursuant to Texas Administrative Code Section 70.3, as may be amended from time to time (a current copy of which is attached hereto). Before providing the requested records, the Association will require that the Owner remit such estimated amount to the Association. The Association will provide a final invoice to the Owner on or before the 30th business day after the records are provided by the Association. If the final invoice includes additional amounts due from the requesting party, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Owner, may be added to the Owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the Owner is entitled to a refund, and the refund shall be issued to the Owner not later than the 30th business day after the date the final invoice is sent to the Owner.

3. **Period of Inspection.** Within ten (10) business days from receipt of the written request, the Association must either: (1) provide the copies to the Owner; (2) provide available inspection dates; or (3) provide written notice that the Association cannot produce the documents within the ten (10) business days along with either: (i) another date within an additional fifteen (15) business days on which the records may either be inspected or by which the copies will be sent to the Owner; or (ii) a notice that after a diligent search, the requested records are missing and cannot be located.

4. **Records Retention.** The Association shall keep the following records for at least the time periods stated below:

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- a. **PERMANENT:** The Articles of Incorporation or the Certificate of Formation, the Bylaws and the Covenant, any and all other governing documents, guidelines, rules, regulations and policies and all amendments thereto recorded in the property records to be effective against any Owner and/or Member of the Association.
- b. **FOUR (4) YEARS:** Contracts with a term of more than one (1) year between the Association and a third party. The four (4) year retention term begins upon expiration of the contract term.
- c. **FIVE (5) YEARS:** Account records of each Owner. Account records include debit and credit entries associated with amounts due and payable by the Owner to the Association, and written or electronic records related to the Owner and produced by the Association in the ordinary course of business.
- d. **SEVEN (7) YEARS:** Minutes of all meetings of the Board and the Owners.
- e. **SEVEN (7) YEARS:** Financial books and records produced in the ordinary course of business, tax returns and audits of the Association.
- f. **GENERAL RETENTION INSTRUCTIONS:** "Permanent" means records which are not to be destroyed. Except for contracts with a term of one (1) year or more (See item 4.b. above), a retention period starts on the last day of the year in which the record is created and ends on the last day of the year of the retention period. For example, if a record is created on June 14, 2014, and the retention period is five (5) years, the retention period begins on December 31, 2014 and ends on December 31, 2019. If the retention period for a record has elapsed and the record will be destroyed, the record should be shredded or otherwise safely and completely destroyed. Electronic files should be destroyed to ensure that data cannot be reconstructed from the storage mechanism on which the record resides.

5. **Confidential Records.** As determined in the discretion of the Board, certain Association records may be kept confidential such as personnel files, Owner account or other personal information (except addresses) unless the Owner requesting the records provides a court order or written authorization from the person whose records are sought.

6. **Attorney Files.** Attorney's files and records relating to the Association (excluding invoices requested by an Owner pursuant to Texas Property Code Section 209.008(d)), are not records of the Association and are not: (a) subject to inspection by the Owner; or (b) subject to production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document. The Association is not required under any circumstance to produce a

document for inspection or copying that constitutes attorney work product or that is privileged as an attorney-client communication.

7. *Presence of Board Member or Manager; No Removal.* At the discretion of the Board or the Association's Manager, certain records may only be inspected in the presence of a Board member or employee of the Association's Manager. No original records may be removed from the office without the express written consent of the Board.

TEXAS ADMINISTRATIVE CODE
TITLE 1, PART 3, CHAPTER 70
RULE §70.3 - CHARGES FOR PROVIDING COPIES OF PUBLIC INFORMATION

(a) The charges in this section to recover costs associated with providing copies of public information are based on estimated average costs to governmental bodies across the state. When actual costs are 25% higher than those used in these rules, governmental bodies other than agencies of the state, may request an exemption in accordance with §70.4 of this title (relating to Requesting an Exemption).

(b) Copy charge.

(1) Standard paper copy. The charge for standard paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.

(2) Nonstandard copy. The charges in this subsection are to cover the materials onto which information is copied and do not reflect any additional charges, including labor, that may be associated with a particular request. The charges for nonstandard copies are:

- (A) Diskette--\$1.00;
- (B) Magnetic tape--actual cost;
- (C) Data cartridge--actual cost;
- (D) Tape cartridge--actual cost;
- (E) Rewritable CD (CD-RW)--\$1.00;
- (F) Non-rewritable CD (CD-R)--\$1.00;
- (G) Digital video disc (DVD)--\$3.00;
- (H) JAZ drive--actual cost;
- (I) Other electronic media--actual cost;
- (J) VHS video cassette--\$2.50;
- (K) Audio cassette--\$1.00;
- (L) Oversize paper copy (e.g.: 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper--See also §70.9 of this title)--\$.50;
- (M) Specialty paper (e.g.: Mylar, blueprint, blueline, map, photographic--actual cost.

(c) Labor charge for programming. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the governmental body may charge for the programmer's time.

(1) The hourly charge for a programmer is \$28.50 an hour. Only programming services shall be charged at this hourly rate.

(2) Governmental bodies that do not have in-house programming capabilities shall comply with requests in accordance with §552.231 of the Texas Government Code.

(3) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of §552.261(b) of the Texas Government Code.

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

(d) Labor charge for locating, compiling, manipulating data, and reproducing public information.

(1) The charge for labor costs incurred in processing a request for public information is \$15 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

(2) A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in:

(A) Two or more separate buildings that are not physically connected with each other; or

(B) A remote storage facility.

(3) A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(A) To determine whether the governmental body will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or

(B) To research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.

(4) When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(5) If the charge for providing a copy of public information includes costs of labor, a governmental body shall comply with the requirements of Texas Government Code, Chapter 552, §552.261(b).

(6) For purposes of paragraph (2)(A) of this subsection, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

(e) Overhead charge.

(1) Whenever any labor charge is applicable to a request, a governmental body may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If a governmental body chooses to recover such costs, a charge shall be made in accordance with the methodology described in paragraph (3) of this subsection. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

(2) An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(3) The overhead charge shall be computed at 20% of the charge made to cover any labor costs associated with a particular request. Example: if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, \$15.00 x .20 = \$3.00;

or Programming labor charge, $\$28.50 \times .20 = \5.70 . If a request requires one hour of labor charge for locating, compiling, and reproducing information ($\$15.00$ per hour); and one hour of programming labor charge ($\$28.50$ per hour), the combined overhead would be: $\$15.00 + \$28.50 = \$43.50 \times .20 = \8.70 .

(f) Microfiche and microfilm charge.

(1) If a governmental body already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the governmental body should make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction. The Texas State Library and Archives Commission has the capacity to reproduce microfiche and microfilm for governmental bodies. Governmental bodies that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.

(2) If only a master copy of information in microfilm is maintained, the charge is \$.10 per page for standard size paper copies, plus any applicable labor and overhead charge for more than 50 copies.

(g) Remote document retrieval charge.

(1) Due to limited on-site capacity of storage documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by governmental bodies to store current records on-site. State agencies are encouraged to store inactive or non-current records with the Texas State Library and Archives Commission. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.

(2) If a governmental body has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the governmental body, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed according to subsection (d)(1) of this section.

(h) Computer resource charge.

(1) The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.

(2) These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.

(3) The charges in this subsection are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each governmental body using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s), and set its charge accordingly. Type of System--Rate: mainframe--\$10

per CPU minute; Midsize--\$1.50 per CPU minute; Client/Server--\$2.20 per clock hour; PC or LAN--\$1.00 per clock hour.

(4) The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is set forth in subsection (d) of this section. No charge should be made for computer print-out time. Example: If a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $\$10 / 3 = \3.33 ; or $\$10 / 60 \times 20 = \3.33 .

(5) A governmental body that does not have in-house computer capabilities shall comply with requests in accordance with the §552.231 of the Texas Government Code.

(i) Miscellaneous supplies. The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

(j) Postal and shipping charges. Governmental bodies may add any related postal or shipping expenses which are necessary to transmit the reproduced information to the requesting party.

(k) Sales tax. Pursuant to Office of the Comptroller of Public Accounts' rules sales tax shall not be added on charges for public information (34 TAC, Part 1, Chapter 3, Subchapter O, §3.341 and §3.342).

(l) Miscellaneous charges: A governmental body that accepts payment by credit card for copies of public information and that is charged a "transaction fee" by the credit card company may recover that fee.

(m) These charges are subject to periodic reevaluation and update.

Source Note: The provisions of this §70.3 adopted to be effective September 18, 1996, 21 TexReg 8587; amended to be effective February 20, 1997, 22 TexReg 1625; amended to be effective December 3, 1997, 22 TexReg 11651; amended to be effective December 21, 1999, 24 TexReg 11255; amended to be effective January 16, 2003, 28 TexReg 439; amended to be effective February 11, 2004, 29 TexReg 1189; transferred effective September 1, 2005, as published in the Texas Register September 29, 2006, 31 TexReg 8251; amended to be effective February 22, 2007, 32 TexReg 614

ATTACHMENT 6

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
STATUTORY NOTICE OF POSTING AND RECORDATION OF
ASSOCIATION GOVERNING DOCUMENTS

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time (the "Covenant").

1. Dedictory Instruments. As set forth in Texas Property Code Section 202.001, "dedictory instrument" means each document governing the establishment, maintenance or operation of a residential subdivision, planned unit development, condominium or townhouse regime, or any similar planned development. The term includes the Covenant or any similar instrument subjecting real property to: (a) restrictive covenants, bylaws, or similar instruments governing the administration or operation of a property owners' association; (b) properly adopted rules and regulations of the property owners' association; or (c) all lawful amendments to the covenants, bylaws, instruments, rules, or regulations. The term "dedictory instrument" is referred to in this notice and the Covenant as the "Documents."

2. Recordation of All Documents. The Association shall file all of the Documents in the real property records of each county in which the property to which the Documents relate is located. Any dedictory instrument comprising one of the Documents of the Association has no effect until the instrument is filed in accordance with this provision, as set forth in Texas Property Code Section 202.006.

3. Online Posting of Documents. The Association shall make all of the Recorded Documents relating to the Association or Development available on a website if the Association, or a management company on behalf of the Association, maintains a publicly accessible website.

ATTACHMENT 7

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
EMAIL REGISTRATION POLICY

Terms used but not defined in this policy will have the meaning subscribed to such terms in that certain Water Crest on Lake Conroe Master Covenant recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

1. **Purpose.** The purpose of this Email Registration Policy is to facilitate proper notice of annual and special meetings of members of the Association pursuant to Section 209.0051(e) of the Texas Property Code.
2. **Email Registration.** Should the owner wish to receive any and all email notifications of annual and special meetings of members of the Association, it is the owner's sole responsibility to register his/her email address with the Association and to continue to keep the registered email address updated and current with the Association. In order to register an email address, the owner must provide their name, address, phone number and email address through the method provided on the Association's website, if any, and/or to the official contact information provided by the Association for the community manager.
3. **Failure to Register.** An owner may not receive email notification or communication of annual or special meetings of members of the Association should the owner fail to register his/her email address with the Association and/or properly and timely maintain an accurate email address with the Association. Correspondence to the Association and/or Association manager from an email address or by any method other than the method described in No. 2 above will not be considered sufficient to register such email address with the Association.
4. **Amendment.** The Association may, from time to time, modify, amend, or supplement this Policy or any other rules regarding email registration.

E-FILED FOR RECORD
06/19/2014 9:48AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/19/2014



County Clerk
Montgomery County, Texas

AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.

Winstead, PC

401 Congress Ave., Suite 2100

Austin, Texas 78701

Email: rburton@winstead.com



WATER CREST ON LAKE CONROE

DEVELOPMENT AREA DECLARATION

[RESIDENTIAL]

Declarant: D. R. HORTON – TEXAS, LTD., a Texas limited partnership

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828 in the Official Public Records of Montgomery County, Texas.

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52919-101 05/12/2014

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**DEVELOPMENT AREA DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

[WATER CREST ON LAKE CONROE, RESIDENTIAL]

This Development Area Declaration for Water Crest on Lake Conroe, [Residential] (the "Development Area Declaration") is made by D. R. HORTON – TEXAS, LTD., a Texas limited partnership (the "Declarant"), and is as follows:

RECITALS

A. Declarant previously recorded that certain Water Crest on Lake Conroe Master Covenant, recorded as Document No. _____, in the Official Public Records of Montgomery County, Texas (the "Covenant").

B. Pursuant to the Covenant, Declarant served notice that portions of the Property may be made subject to one or more Development Area Declarations upon the filing of one or more Notices of Applicability in accordance with *Section 9.05* of the Covenant, and once such Notices of Applicability have been filed, the portions of the Property described therein will constitute the Development Area and will be governed by and fully subject to this Development Area Declaration in addition to the Covenant.

A Development Area is a portion of Water Crest on Lake Conroe which is subject to the terms and provisions of the Covenant. A Development Area Declaration includes specific restrictions which apply to the Development Area, in addition to the terms and provisions of the Covenant.

C. Upon the further Recording of one or more Notices of Applicability, portions of the Property identified in such notice or notices will be subject to the terms and provisions of this Development Area Declaration. The Property made subject to the terms and provisions of this Development Area Declaration will be referred to herein as the "Development Area".

NOW, THEREFORE, it is hereby declared: (i) those portions of the Property as and when made subject to this Development Area Declaration by the filing of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; and (ii) each contract or deed conveying those portions of the Property which are made subject to this Development Area Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed;

and (iii) that this Development Area Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Covenant.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Development Area Declaration will have the meanings hereinafter specified:

“Solar Energy Device” means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

Any other capitalized terms used but not defined in this Development Area Declaration shall have the meaning subscribed to such terms in the Covenant.

ARTICLE 2 USE RESTRICTIONS

All of the Development Area will be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

2.01 **Single-Family Use Restrictions.** The Development Area shall be used solely for single family residential purposes. The Development Area may not be used for any other purposes without the prior written consent of the Declarant, which consent may be withheld by the Declarant in its sole and absolute discretion.

No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Development Area, except an Owner or Occupant may conduct business activities within a residence so long as: (i) such activity complies with all Applicable Law; (ii) participation in the business activity is limited to Owner(s) or Occupant(s) of a residence; (iii) the existence or operation of the business activity is not apparent or detectable by sight, i.e., no sign may be erected advertising the business within the Development Area, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Development Area; (v) the business does not, in the Board’s judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Development Area which is noticeably greater than that which is typical of residences in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Development Area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of

the Development Area as may be determined in the sole discretion of the Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the residence nor the Lot will be considered open to the public. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

Leasing of a residence shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

2.02 Subdividing. No Lot shall be further divided or subdivided, nor may any easements or other interests therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easements or other interests less than the whole, all without the approval of the Water Crest on Lake Conroe Reviewer.

2.03 Hazardous Activities. No activities may be conducted on or within the Development Area and no Improvements may be constructed on or within any portion of the Development Area which, in the opinion of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Development Area unless discharged in conjunction with an event approved in advance by the Water Crest on Lake Conroe Reviewer and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Development Area may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.04 Insurance Rates. Nothing shall be done or kept on the Development Area which would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area or the Special Common Area, or the Improvements located thereon, without the prior written approval of the Board.

2.05 Noise. No exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used, or placed on any portion of the Development Area. No noise or other nuisance shall be permitted to exist or

operate upon any portion of the Development Area as to be offensive or detrimental to any other portion of the Development Area or to its Occupants. Without limiting the generality of the foregoing, if any noise or nuisance emanates from any Improvement on any Lot, the Association may (but shall not be obligated to) enter any such Improvement and take such reasonable actions necessary to terminate such noise (including silencing any burglar or break-in alarm).

2.06 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained, or cared for on or within the Development Area (as used in this paragraph, the term "domestic household pet" shall not mean or include non-traditional pets such as pot-bellied pigs, miniature horses, chickens, exotic snakes or lizards, ferrets, monkeys, or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner or Occupant may keep on a Lot more than three (3) cats and dogs, in the aggregate. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Development Area other than within the residence, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Development Area. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Development Area, and no kennels or breeding operation will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside areas. All pet waste will be removed and appropriately disposed of by the owner of the pet. All pets must be registered, licensed and inoculated as required by Applicable Law. All pets not confined to a residence must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Development Area.

2.07 Rentals. Nothing in this Development Area Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all rentals must be for terms of at least six (6) months. All leases shall be in writing. The Owner must provide to its lessee copies of the Documents. Notice of any lease, together with such additional information as may be required by the Board, will be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease.

2.08 Rubbish and Debris. As determined by the Water Crest on Lake Conroe Reviewer no rubbish or debris of any kind may be placed or permitted to accumulate on or

within the Development Area, and no odors will be permitted to arise therefrom so as to render all or any portion of the Development Area unsanitary, unsightly, offensive, or detrimental to any other property or Occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

2.09 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

- (a) inside the garage of the single-family residence constructed on the Lot; or
- (b) behind the single-family residence or fence constructed on the Lot in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Lot.

The Water Crest on Lake Conroe Reviewer shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

2.10 Drainage. There shall be no interference with the established drainage patterns or detention areas over any of the Development Area, including the Lots, except by Declarant, unless adequate provision is made for proper drainage, and such provision is approved in advance by the Water Crest on Lake Conroe Reviewer. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

2.11 Maintenance. The Owners of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. The Board, in its sole discretion, shall determine whether a violation of the maintenance obligations set forth in this *Section 2.11* has occurred. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner, as determined by the Board, in its sole discretion:

- (i) Prompt removal of all litter, trash, refuse, and wastes.
- (ii) Lawn mowing.
- (iii) Tree and shrub pruning.
- (iv) Watering.

- (v) Keeping exterior lighting and mechanical facilities in working order.
- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (vii) Keeping planting beds free of turf grass.
- (viii) Keeping sidewalks and driveways in good repair.
- (ix) Complying with Applicable Law.
- (x) Repainting of Improvements.
- (xi) Repair of exterior damage, and wear and tear to Improvements.

2.12 **Street Landscape Area-Owner's Obligation to Maintain Landscaping.** Each Owner will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the curb of any adjacent right-of-way, street or alley (the "ST Landscape Area") unless the responsibility for maintaining the ST Landscape Area is performed by the Association.

2.13 **Antennae.** Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, nor any solar energy system, may be erected, maintained or placed on a Lot without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that:

- (i) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or
- (ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
- (iii) an antenna that is designed to receive television broadcast signals;

(collectively, (i) through (iii) are referred to herein as the "Permitted Antennas") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Water Crest on Lake Conroe Reviewer consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will have the right, but not the obligation, to erect an aerial, satellite dish,

or other apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development.

2.14 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and may not encroach upon any street, Common Area, Special Common Area, or any other portion of the Development Area. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Development Area, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Water Crest on Lake Conroe Reviewer are as follows:

(i) attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

The Water Crest on Lake Conroe Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, e.g., DirecTV or Dish satellite dishes, are permitted, HOWEVER, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Water Crest on Lake Conroe Reviewer from time to time. Please contact the Water Crest on Lake Conroe Reviewer for the current rules regarding installation and placement.

2.15 Signs. Unless otherwise prohibited by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the Water Crest on Lake Conroe Reviewer except for:

(i) signs which are permitted pursuant to the Design Guidelines or Rules;

(ii) signs which are part of Declarant or Homebuilder's overall marketing, sale, or construction plans or activities for the Development Area;

(iii) one (1) temporary "For Sale" sign placed on the Lot. The sign must be professionally made and shall be limited to a maximum face area of five

(5) square feet on each visible side and, if free standing, is mounted on a single or frame post. The overall height of the sign from finished grade at the spot where the sign is located may not exceed four (4) feet. The sign must be removed within two (2) business days following the sale or lease of the Lot;

(iv) political signs may be erected provided the sign: (a) is erected no earlier than the 90th day before the date of the election to which the sign relates; (b) is removed no later than the 10th day after the date of the election to which the sign relates; and (c) is ground-mounted. Only one sign may be erected for each candidate or ballot item. In addition, signs which include any of the components or characteristics described in Section 202.009(c) of the Texas Property Code are prohibited;

(v) a religious item on the entry door or door frame of a residence (which may not extend beyond the outer edge of the door frame), provided that the size of the item(s), individually or in combination with other religious items on the entry door or door frame of the residence, does not exceed twenty-five (25) square inches;

(vi) permits as may be required by legal proceedings; and

(vii) permits as may be required by any governmental entity;

An Owner or Occupant will be permitted to post a "no soliciting" and "security warning" sign near or on the front door to their residence, provided, that the sign may not exceed twenty-five (25) square inches.

For Lease and For Rent signs are expressly prohibited.

2.16 Flags – Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university ("**Permitted Flag**") and is permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("**Permitted Flagpole**"). Only two (2) permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Water Crest on Lake Conroe Reviewer. Approval by the Water Crest on Lake Conroe Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot ("**Freestanding Flagpole**").

2.17 Flags – Installation and Display. Unless otherwise approved in advance and in writing by the Water Crest on Lake Conroe Reviewer, Permitted Flags, Permitted Flagpoles and

Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

- (i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;
- (ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height
- (iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');
- (iv) With the exception of flags displayed on Common Area or Special Common Area and any Lot which is being used for marketing purposes by a Homebuilder, the flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;
- (v) The display of a flag, or the location and construction of the flagpole must comply with Applicable Law, easements and setbacks of record;
- (vi) Any Permitted Flagpole and Freestanding Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction thereof and harmonious with the dwelling;
- (vii) Any Permitted Flag, Permitted Flagpole, and Freestanding Flagpole must be maintained in good condition and any deteriorated Permitted Flag or deteriorated or structurally unsafe Permitted Flagpole or Freestanding Flagpole must be repaired, replaced or removed;
- (viii) A Permitted Flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which shall not be aimed towards or directly affect any neighboring Lot; and
- (ix) Any external halyard of a Permitted Flagpole or Freestanding Flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the Permitted Flagpole or Freestanding Flagpole.

2.18 Tanks. The Water Crest on Lake Conroe Reviewer must approve any tank used or proposed in connection with a residence, including tanks for storage of fuel, water, oil, or liquid petroleum gas (LPG), and including swimming pool filter tanks. No elevated tanks of

any kind may be erected, placed or permitted on any Lot within the Development Area without the advance written approval of the Water Crest on Lake Conroe Reviewer. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Water Crest on Lake Conroe Reviewer. This provision will not apply to a tank used to operate a standard residential gas grills.

2.19 Temporary Structures. No tent, shack, or other temporary building, Improvement, or structure shall be placed upon the Development Area without the prior written approval of the Water Crest on Lake Conroe Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant, approval to include the nature, size, duration, and location of such structure.

2.20 Outside Storage Buildings. Outside storage buildings located in a fenced rear yard of a Lot within the Development Area are allowed with the prior written approval of the Water Crest on Lake Conroe Reviewer. One (1) permanent storage building will be permitted if: (1) the surface area of the pad on which the storage building is constructed is no more than eighty (80) square feet; (ii) the height of the storage building measured from the surface of the Lot, is no more than seven (7) feet; (iii) the exterior of the storage building is constructed of the same or substantially similar materials and of the same color as the principal residential structure constructed on the Lot within the Development Area; (iv) the roof of the storage building is the same material and the color as the roof of the principal residential structure constructed on the Lot within the Development Area; and (v) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation.

2.21 Unightly Articles; Vehicles. No article deemed to be unsightly by the Board will be permitted to remain on any Lot so as to be visible from adjoining property or from 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, all-terrain vehicles and garden maintenance equipment shall be kept at all times except when in actual use, in enclosed structures or screened from view and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Development Area except within enclosed structures or appropriately screened from view. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) which are inoperable or do not have a current license tag shall

be permitted to remain visible on any Lot or to be parked on any roadway within the Development Area.

No garage may be permanently enclosed or otherwise used for habitation unless approved in advance by the Water Crest on Lake Conroe Reviewer.

2.22 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes, travel trailers or recreational vehicles shall be parked or placed on any street, right of way, Lot or used as a residence, either temporary or permanent, at any time. However, such vehicles may be parked temporarily for a period not to exceed seventy-two (72) consecutive hours during each two (2) month period. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Water Crest on Lake Conroe Reviewer shall be permitted.

2.23 Basketball Goals; Permanent and Portable. Portable basketball goals may be used in unfenced yards and on private driveways in Water Crest on Lake Conroe Reviewer during periods of active play, if the portable goals are removed from sight when not in use. Portable basketball goals must be maintained in good condition and repair, and may not be placed in any ROW. If determined unsightly by the Water Crest on Lake Conroe Reviewer or placed in the ROW, the Association may cause the basketball goals to Water Crest on Lake Conroe Reviewer be removed without liability for damage to said equipment. Basketball goals may not be permanently installed on a Lot.

2.24 Liability of Owners for Damage to Common Area. No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area or the Special Common Area without the prior written approval of the Board. Each Owner shall be liable to the Association for any and all damages to: (i) the Common Area, the Special Common Area, and any Improvements constructed thereon; or (ii) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damages were caused by the neglect, misuse or negligence of such Owner or Owner's family, or by any tenant or other Occupant of such Owner's Lot, or any guest or invitee of such Owner or Occupant. The full cost of all repairs of such damage shall be an Individual Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectable in the same manner as provided in *Section 5.12* of the Covenant.

2.25 Shared Fences Between Lots. The concept of shared fences is intended to be more space-efficient, material efficient, and cost-efficient than each Owner separately fencing his own Lot, with two fences abutting. Sharing fences requires cooperation and flexibility by and between Owners of adjoining Lots. A fence located on or near the dividing line between two Lots and intended to benefit both Lots is subject to the terms of this *Section 2.25* and constitutes a "Party Wall". To the extent not inconsistent with the provisions of this *Section 2.25*,

shared fences are subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

(a) Encroachments & Easement. If the fence is on one Lot or another due to an error in construction, the fence is nevertheless deemed to be on the dividing line for purposes of this Section. Each Lot sharing a fence is subject to an easement for the existence and continuance of any encroachment by the fence as a result of construction, repair, shifting, settlement, or movement in any portion of the fence, so that the encroachment may remain undisturbed as long as the fence stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the fence.

(b) Right to Repair. If the fence is damaged or destroyed from any cause, the Owner of either lot may repair or rebuild the fence to its previous condition, and the owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt fence.

(c) Right of Access. The Owner of the Lot on each side of the fence hereby grants to the Owner of the Lot on the other side of the fence a reciprocal access easement for maintenance, repair, replacement, or reconstruction of the fence, as appropriate and necessary to effect the purposes and provisions of this Section.

(d) Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the fence, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the fence, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the fence, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Montgomery County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

(e) Alterations. The Owner of a Lot sharing a fence may not cut openings in the fence or alter or change the fence in any manner that affects the use, condition, or appearance of the fence to the other Lot, without the prior written consent of the Owner of the other Lot. Unless both Owners reach a mutual decision to the contrary, the fence will always remain in the same location as where initially erected.

2.26 Retaining Walls. As originally constructed, retaining walls within Water Crest on Lake Conroe may be located wholly or partly (a) within an individual Lot, (b) on or near the

boundary between two residential Lots, (c) on or near the boundary between a residential Lot and a Common Area, or (d) on or near the boundary between a residential Lot or Common Area and real property outside the Development or the Property. For the retaining walls located on or near boundaries, each configuration may present different issues for the Owners on each side of the boundary. The terms and provisions relating to use, maintenance, repair and/or reconstruction of retaining walls are set forth below in the Retaining Wall Supplement, attached and incorporated herewith as Appendix A-1 to this Development Area Declaration, and in the Retaining Wall Maintenance Specifications, attached and incorporated herewith as Appendix A-2 to this Development Area Declaration. To the extent not inconsistent with the provisions of the Retaining Wall Supplement and the Retaining Wall Maintenance Specifications, retaining walls on or near boundaries between two tracts of land are subject to the general rules of law regarding party and retaining walls, and the corresponding liability for property damage due to negligence, willful acts, or omissions.

2.27 Playscapes and Sports Courts. Playscapes and sport courts are permissible at the sole discretion of the Water Crest on Lake Conroe Reviewer. If allowed, these facilities must be properly sited and screened so as to minimize the visual and audio impact of the facility on adjacent properties. Sport Courts may not be lighted or enclosed with netting. Tennis courts are not permitted.

2.28 Decorations and Lighting. Unless otherwise permitted by *Section 2.15(v)*, no decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence or on the front yard or on any other portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the Water Crest on Lake Conroe Reviewer. Customary seasonal decorations for holidays are permitted without approval by the Water Crest on Lake Conroe Reviewer but shall be removed within thirty (30) days of the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding residences or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any street unless otherwise approved by the Water Crest on Lake Conroe Reviewer.

2.29 Water Quality Facilities, Drainage Facilities, Drainage Ponds. The Property may include one or more water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Property and are inspected, maintained and administered by the Montgomery County MUD #126 in accordance with all Applicable Laws. Access to these facilities and ponds is limited to persons engaged by the Association or the Montgomery County MUD #126 to periodically maintain such facilities. Each Owner is advised that the water quality facilities, sedimentation, drainage and detention facilities and ponds are an active utility feature integral to the proper operation of the Property and may periodically hold standing water. Each Owner is advised that entry into the water quality

facilities, sedimentation, drainage and detention facilities or ponds may result in injury and is a violation of the Rules.

2.30 Compliance with Documents. Each Owner, his or her family, the Owner's tenants, guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Documents as the same may be amended from time to time. Failure to comply with any of the Documents shall constitute a violation of the Documents and may result in a fine against the Owner in accordance with *Section 5.14* of the Covenant, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Board on behalf of the Association, the Water Crest on Lake Conroe Reviewer or by an aggrieved Owner. Without limiting any rights or powers of the Association, the Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the provisions of Documents, and the Owner whose violation has been so remedied shall be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) shall be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot shall be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **Each such Owner shall indemnify and hold harmless the Association and its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this *Section 2.30* (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or willful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.**

2.31 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of the Documents. Any Owner acquiring a Lot in reliance on one or more of the Documents shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

ARTICLE 3 CONSTRUCTION RESTRICTIONS

3.01 Construction of Improvements. Unless prosecuted by the Declarant, no Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon

any portion of the Development Area unless approved in advance and in writing by the Water Crest on Lake Conroe Reviewer in accordance with *Article 6* of the Covenant.

3.02 Garages. Each residence constructed upon a Lot shall have a private garage for not less than two (2) automobiles and off-street parking for a minimum of two (2) automobiles. The location, orientation and opening of each garage to be located on a Lot shall be approved in advance of construction by the Water Crest on Lake Conroe Reviewer. No garage may be permanently enclosed or otherwise used for habitation.

3.03 Fences; Sidewalks. All fences and walls shall comply with all Applicable Law. Unless otherwise approved by the Water Crest on Lake Conroe Reviewer, no fence, wall or hedge will be erected or maintained on any Lot within the Development Area nearer to the street than the front elevation of the residence constructed on the Lot, except for fences erected in conjunction with the model homes or sales offices. The Water Crest on Lake Conroe Reviewer will have the sole discretion to determine the front elevation of the residence for the purpose of this *Section 3.03*. All perimeter fences (except for those heretofore or hereinafter installed by Declarant) must be approved in advance by the Water Crest on Lake Conroe Reviewer. No chain link or agricultural fences may be installed or maintained on a Lot within the Development Area. If required by the Plat, the Owner of each Lot within the Development Area shall construct, at such Owner's sole cost and expense and prior to occupying any Improvement, a sidewalk on such Owner's Lot within the Development Area, located and designed in conformance with the Plat.

3.04 Landscaping. All open, unpaved space within the Development Area must be landscaped and maintained in a manner deemed appropriate by the Water Crest on Lake Conroe Reviewer. The yard may be sodded with grasses approved by the Water Crest on Lake Conroe Reviewer. The installation of native and/or xeriscaping shrubs is encouraged.

3.05 Building Restrictions. Within the Development Area, all building materials must be approved in advance by the Water Crest on Lake Conroe Reviewer and only new building materials shall be used for constructing any Improvements. All projections from a residence or other structure, including but not limited to chimney flues, vents, gutters, downspouts, utility boxes, porches, railings and exterior stairways must, unless otherwise approved by the Water Crest on Lake Conroe Reviewer match the color of the surface from which they project. No highly reflective finishes (other than glass, which may not be mirrored) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including, without limitation, the exterior surfaces of any Improvements.

3.06 Construction Activities. The Documents will not be construed or applied so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant or a Homebuilder) upon or within the Development Area. Specifically, no such construction activities will be deemed to constitute a

nuisance or a violation of the Documents by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Water Crest on Lake Conroe Reviewer in its sole and reasonable judgment, the Water Crest on Lake Conroe Reviewer will have the authority to seek an injunction to stop such construction. In addition, if during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Water Crest on Lake Conroe Reviewer may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all reasonable expenses incurred in connection therewith.

3.07 Roofing. The roofs of all buildings shall be constructed or covered with fiberglass or dimensional shingles of a weathered wood color or other color approved by the Water Crest on Lake Conroe Reviewer. Any other type of roofing material shall be permitted only with the advance written approval of the Water Crest on Lake Conroe Reviewer. In addition, roofs of buildings may constructed with "**Energy Efficiency Roofing**" with the advance written approval of the Water Crest on Lake Conroe Reviewer. For the purpose of this *Section 3.07*, "**Energy Efficiency Roofing**" means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities. The Water Crest on Lake Conroe Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the community; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth the Documents. In conjunction with any such approval process, the Owner should submit information which will enable the Water Crest on Lake Conroe Reviewer to confirm the criteria set forth in this *Section 3.07*. Any other type of roofing material shall be permitted only with the advance written approval of the Water Crest on Lake Conroe Reviewer.

3.08 Swimming Pools. Any swimming pool constructed on a Lot must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all Applicable Law and be approved in advance by the Water Crest on Lake Conroe Reviewer. Nothing in this *Section 3.08* is intended or shall be construed to limit or affect an Owner's obligation to comply with any Applicable Law concerning swimming pool enclosure requirements. Unless otherwise approved in advance by the Water Crest on Lake Conroe Reviewer, above-ground or temporary swimming pools are not permitted on a Lot.

3.09 Compliance with Setbacks. No residence or any other permanent structure or Improvement may be constructed on any Lot nearer to a street than the minimum building setback lines shown on the Plat and no building shall be located on any utility easements. The Water Crest on Lake Conroe Reviewer may require additional setbacks in conjunction with the review and approval of proposed Improvements in accordance with *Article 6* of the Covenant.

3.10 Solar Energy Device. During the Development Period this *Section 3.10* does not apply and the Declarant must approve in advance and in writing the installation of any Solar Energy Device, as such is defined in *Article 1*. Until expiration or termination of the Development Period, the Declarant may prohibit the installation of any Solar Energy Device. After expiration or termination of the Development Period, Solar Energy Devices may be installed with the advance written approval of the Water Crest on Lake Conroe Reviewer.

(a) **Application.** To obtain Water Crest on Lake Conroe Reviewer approval of a Solar Energy Device, the Owner shall provide the Water Crest on Lake Conroe Reviewer with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "**Solar Application**"). A Solar Application may only be submitted by an Owner. The Solar Application shall be submitted in accordance with the provisions of *Article 6* of the Covenant.

(b) **Approval Process.** The Water Crest on Lake Conroe Reviewer will review the Solar Application in accordance with the terms and provisions of *Article 6* of the Covenant. The Water Crest on Lake Conroe Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 3.10(c)* below **UNLESS** the Water Crest on Lake Conroe Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 3.10(c)*, will create a condition that substantially interferes with the use and enjoyment of property within the Development by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The Water Crest on Lake Conroe Reviewer's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

(c) **Approval Conditions.** Unless otherwise approved in advance and in writing by the Water Crest on Lake Conroe Reviewer each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the residence located on the Owner's Lot, entirely within a fenced area of the Owner's Lot, or entirely within a fenced patio located on the Owner's Lot. If the Solar Energy Device will be located on the roof of the residence, the Water Crest on Lake Conroe Reviewer may designate the location for placement unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than 10 percent above the energy production of the Solar Energy Device if installed in the location designated by the Water Crest on Lake Conroe Reviewer. If the Owner desires to contest the alternate location proposed by the Water Crest on Lake Conroe Reviewer the Owner should submit information to the Water Crest on Lake Conroe Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be located in the fenced area of the Owner's Lot or patio, no portion of the Solar Energy Device may extend above the fence line.

(ii) If the Solar Energy Device is mounted on the roof of the principal residence located on the Owner's Lot, then: (A) the Solar Energy Device may not extend higher than or beyond the roofline; (B) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

3.11 Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "Rainwater Harvesting System") may be installed with the advance written approval of the Water Crest on Lake Conroe Reviewer.

(a) Application. To obtain Water Crest on Lake Conroe Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the Water Crest on Lake Conroe Reviewer with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the "Rain System Application"). A Rain System Application may only be submitted by an Owner.

(b) Approval Process. The decision of the Water Crest on Lake Conroe Reviewer will be made in accordance with *Article 6* of the Covenant. Any proposal to install a Rainwater Harvesting System on property owned by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this policy when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Water Crest on Lake Conroe Reviewer each Rain System Application and each Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

(i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the Water Crest on Lake Conroe Reviewer.

(ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.

(iii) The Rainwater Harvesting System is in no event located between the front of the residence constructed on the Owner's Lot and any adjoining or adjacent street.

(iv) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the Water Crest on Lake Conroe Reviewer.

(v) If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Water Crest on Lake Conroe Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 3.11(d)* for additional guidance.

(d) Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Water Crest on Lake Conroe Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, the application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, common area, or another Owner's Lot. When reviewing a Rain System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, any additional requirements imposed by the Water Crest on Lake Conroe Reviewer to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the Water Crest on Lake Conroe Reviewer.

3.12 **Xeriscaping.** As part of the installation and maintenance of landscaping on an Owner's Lot, an Owner may submit plans for and install drought tolerant landscaping ("Xeriscaping") upon written approval by the Water Crest on Lake Conroe Reviewer. All Owners implementing Xeriscaping shall comply with the following:

(a) **Application.** Approval by the Water Crest on Lake Conroe Reviewer is required prior to installing Xeriscaping. To obtain the approval of the Water Crest on Lake Conroe Reviewer for Xeriscaping, the Owner shall provide the Water Crest on Lake Conroe Reviewer with the following information: (i) the proposed site location of the Xeriscaping on the Owner's Lot; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered with gravel, rocks and cacti (the "**Xeriscaping Application**"). A Xeriscaping Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The Water Crest on Lake Conroe Reviewer is not responsible for: (i) errors or omissions in the Xeriscaping Application submitted to the Water Crest on Lake Conroe Reviewer for approval; (ii) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (iii) the compliance of an approved application with Applicable Law.

(b) **Approval Conditions.** Unless otherwise approved in advance and in writing by the Water Crest on Lake Conroe Reviewer each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

(i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the Water Crest on Lake Conroe Reviewer. For purposes of this Section 3.12, "aesthetically compatible" shall mean overall and long-term aesthetic compatibility within the community. For example, an Owner's Lot plan may be denied if the Water Crest on Lake Conroe Reviewer determines that: a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner's Lot.

(ii) No Owners shall install gravel, rocks or cacti that in the aggregate encompass over ten percent (10%) of such Owner's front yard or ten percent (10%) of such Owner's back yard.

(iii) The Xeriscaping must not attract diseases and insects that are harmful to the existing landscaping on neighboring Lots, as reasonably determined by the Water Crest on Lake Conroe Reviewer.

(c) Process. The decision of the Water Crest on Lake Conroe Reviewer will be made within a reasonable time, or within the time period otherwise required by the principal deed restrictions which govern the review and approval of improvements. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association or property owned in common by members of the Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this *Section 3.12* when considering any such request.

(d) Approval. Each Owner is advised that if the Xeriscaping Application is approved by the Water Crest on Lake Conroe Reviewer installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the Water Crest on Lake Conroe Reviewer may require the Owner to: (i) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (ii) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Covenant and may subject the Owner to fines and penalties. Any requirement imposed by the Water Crest on Lake Conroe Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner's sole cost and expense.

ARTICLE 4 DEVELOPMENT

4.01 Notice of Applicability. Upon Recording, this Development Area Declaration serves to provide notice that at any time, and from time to time, Declarant, and Declarant only, may subject all or any portion of the Property to the terms, covenants, conditions, restrictions and obligations of this Development Area Declaration. This Development Area Declaration will apply to and burden a portion or portions of the Property upon the filing of a Notice of Applicability in accordance with *Section 9.05* of the Covenant describing such Property by a legally sufficient description and expressly providing that such Property will be subject to the terms, covenants conditions, restrictions and obligations of this Development Area Declaration.

To add land to the Development Area, Declarant will be required only to Record a Notice of Applicability filed pursuant to *Section 9.05* of the Covenant containing the following provisions:

- (a) A reference to this Development Area Declaration, which will include the recordation information thereof;
- (b) A statement that such land will be considered a part of the Development Area for purposes of this Development Area Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Development Area Declaration will apply to the added land; and
- (c) A legal description of the added land.

4.02 Withdrawal of Land. Declarant may, at any time and from time to time, reduce or withdraw land from the Development Area and remove and exclude from the burden of this Development Area Declaration any portion of the Development Area. Upon any such withdrawal this Development Area Declaration and the covenants, conditions, restrictions and obligations set forth herein will no longer apply to the portion of the Development Area withdrawn. To withdraw lands from the Development Area hereunder, Declarant will be required only to Record a notice of withdrawal of land containing the following provisions:

- (A) A reference to this Development Area Declaration, which will include the recordation information thereof;
- (B) A statement that the provisions of this Development Area Declaration will no longer apply to the withdrawn land; and
- (C) A legal description of the withdrawn land.

4.03 Assignment of Declarant's Rights. Notwithstanding any provision in this Development Area Declaration to the contrary, Declarant may, by written instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Development Area Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity in any of its privileges, exemptions, rights, and duties hereunder.

ARTICLE 5 GENERAL PROVISIONS

5.01 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Development Area Declaration will run with and bind the portion of the Development Area described in such notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal

representatives, heirs, successors, and assigns, for a term beginning on the date this Development Area Declaration is Recorded, and continuing through and including January 1, 2064, after which time this Development Area Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose, written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the Recording of a certified copy of such resolution. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to an amendment as contemplated in this *Section 5.01*, it being understood and agreed that any change must be approved by a vote of the Members, with each Member casting their vote individually. Notwithstanding any provision in this *Section 5.01* to the contrary, if any provision of this Development Area Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living, as of the date of the Recording of this document, descendants of Elizabeth II, Queen of England.

5.02 Eminent Domain. In the event it becomes necessary for any public authority to acquire all or any part of the Common Area or the Special Common Area for any public purpose during the period this Development Area Declaration is in effect, the Water Crest on Lake Conroe Reviewer is hereby authorized to negotiate with such public authority for such acquisition and to execute instruments necessary for that purpose. Should acquisitions by eminent domain become necessary, only the Water Crest on Lake Conroe Reviewer need be made a party, and in any event the proceeds received will be held by the Association for the benefit of the Owners. In the event any proceeds attributable to acquisition of Common Area or the Special Common Area are paid to Owners, such payments will be allocated on the basis of Assessment Units and paid jointly to the Owners and the holders of Mortgages or deeds of trust on the respective Lot.

5.03 Amendment. This Development Area Declaration may be amended or terminated by the Recording of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence shall in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to an amendment as contemplated in this *Section 5.03*, it being understood and

agreed that any such amendment must be approved by a vote of the Members, with each Member casting their vote individually. No amendment will be effective without the written consent of Declarant during the Development Period. Specifically, and not by way of limitation, Declarant may unilaterally amend this Development Area Declaration: (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot or Condominium Unit; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots or Condominium Units; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development.

5.04 Enforcement and Nonwaiver. Except as otherwise provided herein, any Owner of Lot, at such Owner's own expense, Declarant and the Association will have the right to enforce all of the provisions of this Development Area Declaration. The Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Development Area Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Development Area is hereby declared to be a violation of this Development Area Declaration and subject to all of the enforcement procedures set forth herein. The failure to enforce any provision of the Documents at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Documents.

5.05 Higher Authority. The terms and provisions of this Development Area Declaration are subordinate to Applicable Law. Generally, the terms and provisions of this Development Area Declaration are enforceable to the extent they do not violate or conflict with Applicable Law.

5.06 Severability. If any provision of this Development Area Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Development Area Declaration, or, to the extent permitted by applicable law, the validity of such provision as applied to any other person or entity.

5.07 Conflicts. If there is any conflict between the provisions of the Covenant, this Development Area Declaration, or any Rules adopted pursuant to the terms of such documents, the provisions of the Covenant, then the Development Area Declaration, then the Rules, in that order, will govern.

5.08 **Gender.** Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

5.09 **Acceptance by Owners.** Each Owner of a Lot, Condominium Unit, or other real property interest in the Development Area, by the acceptance of a deed of conveyance, and each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Development Area Declaration or to whom this Development Area Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land, and will bind any person having at any time any interest or estate in the Development Area, and will inure to the benefit of each Owner in like manner as though the provisions of this Development Area Declaration were recited and stipulated at length in each and every deed of conveyance.

5.10 **Notices.** Any notice permitted or required to be given by this Development Area Declaration must be in writing and may be delivered either personally or by mail, or as otherwise required by Applicable Law. If delivery is made by mail, it will be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person in writing to the Association for the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

5.11 **Interpretation.** The provisions of this Development Area Declaration will be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Development Area, provided, however, that the provisions of this Development Area Declaration will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Development Area. This Development Area Declaration will be construed and governed under the laws of the State of Texas.

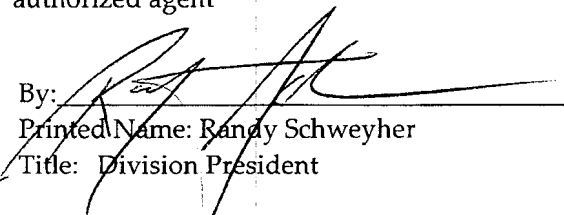
[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective the 18 day of JUNE, 2014.

DECLARANT:

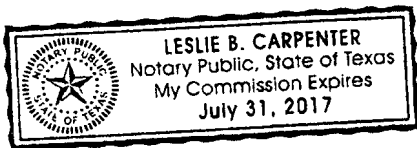
D. R. HORTON – TEXAS, LTD., a Texas limited partnership

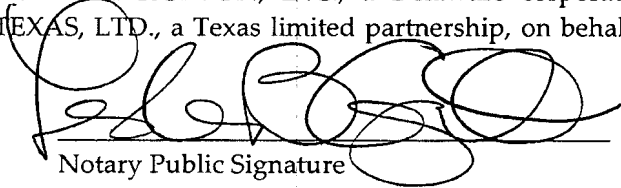
By: D. R. HORTON, INC., a Delaware corporation, its authorized agent

By: 
Printed Name: Randy Schweyher
Title: Division President

THE STATE OF TEXAS §
COUNTY OF Montgomery

This instrument was acknowledged before me this 18 day of JUNE, 2014 by Randy Schweyher, Division President of D. R. HORTON, INC., a Delaware corporation, authorized agent of D. R. HORTON – TEXAS, LTD., a Texas limited partnership, on behalf of said corporation and partnership.




Notary Public Signature

APPENDIX A-1

RETAINING WALL SUPPLEMENT

SECTION 1. GENERAL. Retaining walls are used to stabilize soil, modify slopes, level sites, and adjust for grade or elevation differences between adjoining parcels of land, such as between two Lots. As used in this Supplement, "parcel" means any piece of real property that contains, abuts, or is benefitted by a retaining wall, such as a residential Lot or common area.

1.1. Definitions Based on Location. As originally constructed, retaining walls within the Development or the Property may be located (a) wholly within an individual Lot and not near or along a boundary of the Lot (an "**Internal Wall**"), (b) on or along the boundary between two residential Lots or between a residential Lot and a common area (a "**Shared Boundary Wall**"), or (c) on or along the boundary between a Water Crest on Lake Conroe parcel and either a public street or a parcel of land that is not subject to the Development Area Declaration (a "**Perimeter Wall**"). Internal Walls, Shared Boundary Walls, and Perimeter Walls may be referred to, collectively and individually, as "retaining walls."

1.2. Definitions Based on Elevation. In its relation to the retaining wall, the parcel having the higher elevation is referred to as the "Higher Parcel," and the parcel having the lower elevation is referred to as the "Lower Parcel."

1.3. Deemed Benefit. A Shared Boundary Wall is hereby deemed to benefit the parcel on each side of the wall ~ to be mutually beneficial ~ even though the wall may be entirely within the legal boundaries of only one of the parcels. Accordingly, the Owner of each parcel has an interest in, and an obligation for, the Shared Boundary Wall. Although a Perimeter Wall also benefits the parcel on each side of the wall, this Supplement cannot create an obligation for the parcel that is not subject to the Development Area Declaration.

1.4. Applicability. In addition to applying to Owners of residential Lots with or benefitted by retaining walls, this Supplement also applies to the Association as the Owner of a Common Area with or benefitted by a retaining wall. Although Perimeter Walls on and within the boundaries of Water Crest on Lake Conroe are subject to this Supplement, the parcel on the other side of a Perimeter Wall and the Owner of that parcel are not subject to the Documents, including but not limited to this Supplement.

1.5. Rule of Law. To the extent not inconsistent with the provisions of this Supplement, a retaining wall is subject to the general rules of law regarding party walls, retaining walls, and liability for property damage due to negligence, willful acts, or omissions.

1.6. Materials. Unless the Water Crest on Lake Conroe Reviewer grants a variance, the material used to repair or reconstruct an existing retaining wall must substantially match the original retaining wall in quality and appearance. If the repair or reconstruction is on a

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segment of a continuous wall, an effort must be made to blend the work with the continuous wall of which it is part. The surfaces of new retaining walls that are visible from a street, Common Area, or adjacent parcel must be made of stone or other masonry material approved in writing by the Water Crest on Lake Conroe Reviewer. Wood, including railroad ties, may not be used for retaining walls.

SECTION 2. ALLOCATION OF RESPONSIBILITY. This Section addresses the responsibility for maintaining a retaining wall, depending on its location.

2.1. Continuous Retaining Walls. A "continuous" retaining wall is one that extends ~ on either side ~ beyond the boundaries of a particular parcel, thereby serving two or more parcels on at least one side of the wall. In applying this Supplement to a continuous retaining wall, each parcel Owner is responsible for only the segment of the continuous retaining wall that abuts the Owner's parcel. Owners of parcels with segments of a continuous retaining wall may be required to cooperate in performing maintenance, repair, and reconstruction ~ if and when needed.

2.2. Owner of a Higher Parcel with a Perimeter Wall. This Section contravenes a possible common misperception that a retaining wall on the perimeter of a subdivision is automatically a "common area" and the responsibility of the Association. Unless a publicly recorded document to which Declarant or the Association is a party specifically assigns Perimeter Wall responsibility, the Owner of a Higher Parcel with a Perimeter Wall is responsible for the Perimeter Wall. If the Higher Parcel is a residential Lot, the Owner of the residential Lot is responsible. If the Higher Parcel is a Common Area, the Association is responsible.

2.3. Owner of a Parcel with an Internal Retaining Wall. A retaining wall that is entirely within the boundaries of a parcel and not on or near a boundary between two parcels is solely the responsibility of the parcel Owner, who acts as Owner of the Higher Parcel and as Owner of the Lower Parcel for purposes of keeping the retaining wall in good repair.

NOTICE

Individual home Owners may be responsible for portions of retaining walls on the perimeter of Water Crest on Lake Conroe, along public streets, and around Common Areas.

2.4. Owner of the Higher Parcel. The Owner of the Higher Parcel is solely responsible for all aspects of the retaining wall, except what is identified below for the Owner of the Lower Parcel. This allocation of responsibility is warranted because the Owner of the Higher Parcel has more control over the conditions that affect the stability and structural integrity of the retaining wall. Regarding a Shared Boundary Wall between a residential Lot and a Common Area, this Section's allocation of responsibility may contravene a possible

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common misperception that a retaining wall bordering a common area is automatically the responsibility of the Association. If the Common Area is the Higher Parcel, the Association is responsible. However, if the residential Lot is the Higher Parcel, the Owner of the residential Lot is responsible. Specifically, the Owner of the Higher Parcel, at the Owner's sole cost and expense, has the following retaining wall responsibilities:

- a. From time to time, as conditions warrant, perform the Maintenance Guidelines published in the Retaining Wall Maintenance Specifications for Water Crest on Lake Conroe.
- b. From time to time, as needed, perform the Routine Repairs published in the Retaining Wall Maintenance Specifications for Water Crest on Lake Conroe.
- c. Obtain and maintain property insurance on the retaining wall to the extent such insurance is reasonably available.

2.5. Owner of the Lower Parcel. The Owner of a Lower Parcel has the following retaining wall responsibilities, at the Owner's sole cost and expense:

- a. Maintain the grounds up to the retaining wall, even if the retaining wall is inside the boundaries of the Higher Parcel.
- b. Provide access to the Owner of the Higher Parcel for purposes of periodic inspection, repair, and replacement of the retaining wall.
- c. Prevent or refrain from taking any action on the Lower Parcel that may damage the retaining wall.
- d. Report to the Owner of the Higher Parcel any condition or change of condition that may have an adverse effect on the retaining wall, if the condition is known to the Owner of the Lower Parcel.

2.6. Allocations Varied by Agreement. Nothing in this Section may be construed to prevent the Owners of parcels that share a retaining wall from agreeing in writing to a different allocation of responsibilities between themselves. Such an agreement is not binding on a subsequent Owners of either parcel unless the agreement is in the form of a deed restrictions or mutual covenant, signed by the Owners of both parcels, and recorded in the Real Property Records of Montgomery County, Texas. In the absence of such an agreement, the above allocations apply.

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SECTION 3. SHARED BOUNDARY WALLS.

3.1. Encroachments & Easement. If the retaining wall is on one parcel or another due to an error in construction, the retaining wall is nevertheless deemed to be on the dividing line for purposes of this Section. The Owner of the parcel on each side of the retaining wall hereby grants to the Owner of the parcel on the other side of the retaining wall the following easements across his parcel:

a. A reciprocal access easement for maintenance, repair, replacement, or reconstruction of the retaining wall, as appropriate and necessary to effect the purposes and provisions of this Supplement.

b. An easement for the existence and continuance of any encroachment by the retaining wall as a result of construction, repair, shifting, settlement, or movement in any portion of the retaining wall, so that the encroachment may remain undisturbed as long as the retaining wall stands.

3.2. Use by Higher and Lower Parcel Owners. The Owner of the Higher Parcel hereby grants to the Owner of the Lower Parcel a non-exclusive and perpetual right and easement of enjoyment and use over (1) the exterior surface of the retaining wall for use as a perimeter wall or fence of the Lower Parcel, and (2) any lower portion of the Higher Parcel that is contiguous to the Lower Parcel and appears to be part of it. The Owner of the Lower Parcel hereby grants to the Owner of the Higher Parcel a non-exclusive and perpetual right and easement of enjoyment and use over any elevated portion of the Lower Parcel that is contiguous to the Higher Parcel and appears to be part of it.

3.3. Additional Fences in Connection with Retaining Wall. The Owner of either the Higher Parcel or the Lower Parcel may construct a fence in connection with the retaining wall. The Owner of the Higher Parcel may construct or install a fence inside the retaining wall on the elevated surface of the Higher Parcel, or, with the prior approval of the Lower Parcel Owner, on the retaining wall itself. The Owner of the Lower Parcel may construct or install a fence on his Lot, provided the fence does not interfere with his duty to maintain the grounds up to the retaining wall.

3.4. Right to Repair. If the retaining wall is damaged or destroyed from any cause, the Owner of either Lot may repair or rebuild the retaining wall to its previous condition, and the Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt retaining wall.

3.5. Maintenance Costs. Regardless of which Lot contains the retaining wall, the Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the retaining wall, subject to the right of one Owner to call for larger contribution from the other

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under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the retaining wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the retaining wall, available remedies include the following:

a. The Owner advancing monies has a right to file a claim of lien for the monies advanced in the Real Property Records of Montgomery County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien; provided the claim of lien is filed within ninety (90) days after the date of repairs or replacements to the retaining wall, and suit is filed within one year after the date the lien is filed. The right of an Owner to contribution from another Owner under this Section is appurtenant to the land and passes to the Owner's successors in title.

b. The Association may (but is not required to) perform or fund the defaulting Owner's share of the work on the retaining wall, the cost of which may be levied against the defaulting Owner and his Lot as an individual assessment.

3.6. Alterations. The Owner of a parcel with a Shared Boundary Wall may not alter the retaining wall in any manner that affects the use, condition, or appearance of the retaining wall to the other parcel, without the prior written consent of the Water Crest on Lake Conroe Reviewer and the Owner of the other parcel. The retaining wall will always remain in the same location as when erected, unless a change of location is approved by the Owners of both parcels and the Water Crest on Lake Conroe Reviewer.

SECTION 4. PERIMETER WALL NOTICE. Notice is hereby given that a Water Crest on Lake Conroe parcel with a Perimeter Wall may have no lawful right to access the adjacent parcel for purposes of inspecting, maintaining, repairing, and reconstructing the Perimeter Wall, if and when needed. If such access is needed, the Water Crest on Lake Conroe parcel Owner is solely responsible for obtaining permission to lawfully access the adjacent parcel. By acquiring an ownership interest in a Higher Parcel with a Perimeter Wall, each Owner acknowledges that if access to the adjacent Lower Parcel is not available, other options for repairing or replacing the Perimeter Wall may result in excavation and removal of soil from the Higher Parcel, the practical loss of portions of the elevated and usable surface of the Higher Parcel, and substantially more expense than if the Owner of the Higher Lot had unfettered access to the adjacent Lower Parcel to perform the required work.

(End of Retaining Wall Supplement)

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Appendix A-1, Retaining Wall Supplement

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52919-101 05/12/2014

APPENDIX A-2

RETAINING WALL MAINTENANCE SPECIFICATIONS

FOR WATER CREST ON LAKE CONROE

1.1. **INTRODUCTION.** Because deterioration of a retaining wall on or along a boundary may have an adverse effect on more than one parcel of land, as well as on the appearance of Water Crest on Lake Conroe overall, adherence to the following Maintenance Guidelines and Routine Repairs is expected to prolong the stability, functionality, and attractiveness of a retaining wall. These Retaining Wall Maintenance Specifications apply to every Lot and Common Area in Water Crest on Lake Conroe on which a retaining wall is located, or which has a retaining wall on or along one or more of its boundaries. However, if a Lot or Common Area is subject to a parcel-specific publicly recorded document that addresses retaining walls, the parcel-specific document controls the property to which it pertains for the purposes of that document.

1.2. **MAINTENANCE GUIDELINES.** Recommended guidelines for routine maintenance of retaining walls include:

a. If the wall was engineered with a designated drainage system, periodically inspect and probe the system to ensure it is not clogged, and inspect the wall for evidence that water is leaking through the wall in places other than the designated system.

b. Maintain the grade at the top and sides of the retaining wall to ensure that water is diverted away from the wall and that changes of grade do not interfere with the wall's engineered drainage system (if any).

c. Periodically inspect the base of the retaining wall to ensure a proper grade that slopes away from the wall, and to ensure that the ground on which the wall stands is not eroding or moving.

d. Monitor increases in weight on top of the wall, and periodically inspect the vertical face of the wall for bowing which may occur with increased pressure on the wall.

e. Monitor plantings above and around the wall to avoid types of plants that have a reputation for active and destructive root systems, or that may adversely affect moisture levels behind or below the wall.

WATER CREST ON LAKE CONROE
DEVELOPMENT AREA DECLARATION
Appendix A-2, Retaining Wall Maintenance
Specifications for Water Crest on Lake Conroe

f. Monitor normal cosmetic hairline cracks for increases in width that warrant repair. Periodically inspect the wall for missing or deteriorated joint fillers, joint sealant, and mortar joints, particularly after severe freeze and thaw cycles, and after severe wet and dry cycles, both of which may create extra stress on a wall. Periodically inspect the wall for signs of distress, such as severe cracking, tilting or bulging of the wall, and dislodged rocks and stones used to construct the wall.

g. Protect the wall from excavation, trenching, and burrowing animals.

1.3. **ROUTINE REPAIRS.** Routine repairs to retaining walls typically include all of the following:

a. Clear clogs in the wall's drainage system so water can drain the way the wall was engineered.

b. Treat wash-outs when they are small and manageable, using either backfill or flowfill.

c. When chunks of mortar break away, promptly rebuild the mortar joint with professional repainting.

d. Professionally repair hairline cracks that are 1/4 inch in width or great.

(End of Appendix A-2)

WATER CREST ON LAKE CONROE
DEVELOPMENT AREA DECLARATION
Appendix A-2, Retaining Wall Maintenance
Specifications for Water Crest on Lake Conroe

E-FILED FOR RECORD
06/19/2014 9:50AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/19/2014



County Clerk
Montgomery County, Texas



AFTER RECORDING RETURN TO:

Robert D. Burton, Esq.
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

WATER CREST ON LAKE CONROE

NOTICE OF APPLICABILITY [RESIDENTIAL] [SECTIONS 1, 2, 3, AND 4]

Declarant: D. R. HORTON – TEXAS, LTD., a Texas limited partnership

Neighborhood: A

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828 in the Official Public Records of Montgomery County, Texas, and to that certain Water Crest on Lake Conroe Development Area Declaration [Residential], recorded as Document No. 2014058260 in the Official Public Records of Montgomery County, Texas.

2

WATER CREST ON LAKE CONROE [RESIDENTIAL]
NOTICE OF APPLICABILITY

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52919-101 06/17/2014

**NOTICE OF APPLICABILITY
OF WATER CREST ON LAKE CONROE MASTER COVENANT
[RESIDENTIAL]
[SECTIONS 1, 2, 3, AND 4]**

This Notice of Applicability of Water Crest on Lake Conroe Master Covenant and Water Crest on Lake Conroe Development Area Declaration [Residential] [Sections 1, 2, 3 and 4] is made and executed by D. R. HORTON – TEXAS, LTD., a Texas limited partnership (“Declarant”) and is as follows:

1. **Applicability of Master Covenant.** This Notice of Applicability is filed with respect to Lots 1 through 42, Block 1, Lots 1 through 22, Block 2, Lots 1 through 24, Block 3, Lots 1 through 8, Block 4, and Lots 1 through 11, Block 5, Water Crest on Lake Conroe, Section 1, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029420, Sheet No. 2842, Cabinet Z, in the Official Public Records of Montgomery County, Texas; Lots 1 through 3, Block 1, Lots 1 through 34, Block 2, Lots 1 through 12, Block 3, Lots 1 and 2, Block 4, Water Crest on Lake Conroe, Section 2, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-026721, Sheet No. 2838, Cabinet Z, in the Official Public Records of Montgomery County, Texas; Lots 1 through 10, Block 1, Lots 1 through 14, Block 2, Lots 1 through 7, Block 3, Water Crest on Lake Conroe, Section 3, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029427, Sheet No. 2847, Cabinet Z, in the Official Public Records of Montgomery County, Texas; and Lots 1 through 6, Block 1, Lots 1 through 9, Block 2, Lots 1 through 7, Block 3, and Lots 1 through 6, Block 4, Water Crest on Lake Conroe, Section 4, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029428, Sheet No. 2849, Cabinet Z, in the Official Public Records of Montgomery County, Texas (collectively, the “Development Area”). Pursuant to that certain Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828 in the Official Public Records of Montgomery County (the “Covenant”), Declarant served notice that portions of the property described on Exhibit “A” to the Covenant, upon the Recording of appropriate Notice of Applicability from time to time, may be made a part of the Development and thereby fully subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Covenant.

2. **Applicability of Development Area Declaration.** Pursuant to that certain Covenant and the Water Crest on Lake Conroe Development Area Declaration [Residential] recorded as Document No. 2014058260 in the Official Public Records of Montgomery County, Texas (the “Development Area Declaration”), Declarant served notice that portions of the property described on Exhibit “A” to the Covenant, upon the Recording of appropriate Notices of Applicability from time to time, may be subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Development Area Declarations. Pursuant to this Notice of Applicability, the Development Area is subject to the terms and provisions of the Development Area Declaration.

3. **Development Area.** The Development Area described and identified in Paragraph 1 hereinabove will constitute one of the Development Areas which is permitted, contemplated and defined under the Covenant.

4. **Property Incorporated Into Development.** The provisions of the Covenant and Development Area Declaration shall apply to the Development Area. The Development Area is hereby included within and made a part of the Development, and is hereby subjected to the terms, covenants, conditions, restrictions, reservations, easements, servitudes, liens and charges of the Covenant and the Development Area Declaration.

5. **Designation of Neighborhood.** Pursuant to *Section 3.02* of the Covenant, the Development Area shall be within Neighborhood A, and subject to all terms and provisions of the Covenant which relate to Neighborhoods so designated within the Development.

6. **Miscellaneous.** This notice constitutes a Notice of Applicability under *Section 9.05* of the Covenant. Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Covenant.

EXECUTED to be effective as of the 19day of June, 2014.

[SIGNATURE PAGE TO FOLLOW]

DECLARANT:

D. R. HORTON – TEXAS, LTD., a Texas limited partnership

By: **D. R. HORTON, INC.,** a Delaware corporation, its authorized agent

By: _____

Printed Name: Randy Schweyher

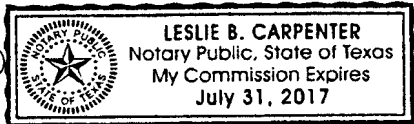
Title: Division President

THE STATE OF TEXAS §

COUNTY OF Montgomery

This instrument was acknowledged before me this 20 day of June, 2014 by Randy Schweyher, Division President of D. R. HORTON, INC., a Delaware corporation, authorized agent of D. R. HORTON – TEXAS, LTD., a Texas limited partnership, on behalf of said corporation and partnership.

(SEAL)



Notary Public Signature

E-FILED FOR RECORD
06/20/2014 2:15PM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/20/2014



County Clerk
Montgomery County, Texas

MANAGEMENT CERTIFICATE
OF
WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.

The undersigned, being an officer of Water Crest on Lake Conroe Community Association, Inc., and in accordance with Section 209.004 of the Texas Property Code, does hereby certify as follows:

1. The name of the subdivision: Water Crest on Lake Conroe
2. The name of the association: Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation.
3. The recording data for the subdivision: Lots 1 through 42, Block 1, Lots 1 through 22, Block 2, Lots 1 through 24, Block 3, Lots 1 through 8, Block 4, and Lots 1 through 11, Block 5, Water Crest on Lake Conroe, Section 1, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029420, Sheet No. 2842, Cabinet Z, in the Official Public Records of Montgomery County, Texas; Lots 1 through 3, Block 1, Lots 1 through 34, Block 2, Lots 1 through 12, Block 3, Lots 1 and 2, Block 4, Water Crest on Lake Conroe, Section 2, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-026721, Sheet No. 2838, Cabinet Z, in the Official Public Records of Montgomery County, Texas; Lots 1 through 10, Block 1, Lots 1 through 14, Block 2, Lots 1 through 7, Block 3, Water Crest on Lake Conroe, Section 3, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029427, Sheet No. 2847, Cabinet Z, in the Official Public Records of Montgomery County, Texas; and Lots 1 through 6, Block 1, Lots 1 through 9, Block 2, Lots 1 through 7, Block 3, and Lots 1 through 6, Block 4, Water Crest on Lake Conroe, Section 4, a subdivision located in Montgomery County, Texas according to the map or plat recorded in File No. 2014-029428, Sheet No. 2849, Cabinet Z, in the Official Public Records of Montgomery County, Texas.
4. The recording data for the Restrictions:
 - (a) Water Crest on Lake Conroe Master Covenant recorded under Document No. 2014057828, Official Public Records of Montgomery County, Texas.
 - (b) Water Crest on Lake Conroe Notice of Applicability [Residential] [Sections 1, 2, 3 & 4] recorded under Document No. 2014059121, Official Public Records of Montgomery County, Texas.
 - (c) Water Crest on Lake Conroe Development Area Declaration [Residential] recorded under Document No. 2014058260, Official Public Records of Montgomery County, Texas
5. The name and mailing address of the association: Water Crest on Lake Conroe Community Association, Inc. 350 N St Paul St. Suite #2900, Dallas, TX 75201-4234

6. The mailing address of the person managing the association:
First Service Residential, 2204 Timberloch Place, Suite #180, The Woodlands, TX 77380.

This Certificate is effective as of the 20 day of JUNE, 2014.

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation

By: [Signature]
Name: LESLIE B CARPENTER
Title: PRESIDENT

THE STATE OF TEXAS §
 §
COUNTY OF Montgomery §

This instrument was acknowledged before me on 20 day of June, 2014, by Leslie Carpenter the President of Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.

[SEAL]



Cindy Kay Deaton
Notary Public Signature

AFTER RECORDING RETURN TO:
Robert D. Burton, Esq.
Winstead, PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com

E-FILED FOR RECORD
06/23/2014 10:41AM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/23/2014



County Clerk
Montgomery County, Texas

AFTER RECORDING RETURN TO:

Robert D. Burton
Winstead, PC
401 Congress Ave., Suite 2100
Austin, Texas 78701
Email: rburton@winstead.com



WATER CREST ON LAKE CONROE

NOTICE OF REDUCTION OF
ASSESSMENTS

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded as Document No. 2014057828
in the Official Public Records of Montgomery County, Texas.

**NOTICE OF REDUCTION OF ASSESSMENTS
WATER CREST ON LAKE CONROE**

This Notice of Reduction of Assessment (this "Notice") is made and executed by **D.R. HORTON - TEXAS, LTD.**, a Texas limited partnership (the "Declarant"), and is as follows:

1. **Authority Under Declaration.** Pursuant to *Section 5.09(e)* of that certain Water Crest on Lake Conroe Master Covenant recorded as Document No. 2014057828, Official Public Records of Montgomery County, Texas, as amended (collectively, the "**Declaration**"), Declarant may, in its sole discretion, elect to exempt or delay the levy of Assessment attributable to any portion of the Property or any Lot.

2. **Reduction of Assessments.** Declarant hereby elects to reduce the levy of regular Assessments and Working Capital against the Lots owned a Homebuilder (individually, a "**Benefited Lot**" and collectively the "**Benefited Lots**") by fifty percent (50%). The reduction in Assessments as to each Benefited Lot will expire upon the date a Homebuilder is no longer the Owner of the Benefited Lot.

The exemption of Assessments as to the Benefited Lots is personal to a Homebuilder and does not inure to the benefit of a Homebuilder's successors or assigns. In addition, the exemption of Assessments as to the Benefited Lots is only effective so long as a Homebuilder is in the business of constructing residences for resale to third parties and intends to construct a residence on the Benefited Lot(s) for resale to a third party.

3. **Miscellaneous.** Any capitalized terms used and not otherwise defined in this notice shall have the meanings set forth in the Declaration.

EXECUTED to be effective as of the _____ day of _____, 2014 (the "Effective Date").

[SIGNATURE PAGE TO FOLLOW]

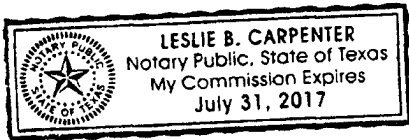
DECLARANT:

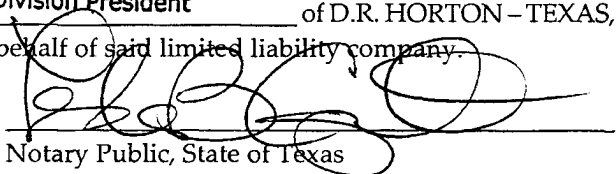
D.R. HORTON – TEXAS, LTD., a Texas limited partnership

By: _____
Printed Name: **Randy Schweyher**
Title: **Division President**

THE STATE OF TEXAS §
COUNTY OF Montgomery §

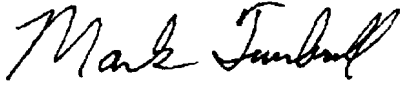
This instrument was acknowledged before me on this 24 day of JUNE, 2014, by Randy Schweyher, Division President of D.R. HORTON – TEXAS, LTD., a Texas limited liability company, on behalf of said limited liability company.

(seal) 



Notary Public, State of Texas

E-FILED FOR RECORD
06/24/2014 1:46PM



COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

06/24/2014



County Clerk
Montgomery County, Texas



RECORDING RETURN TO:

ROBERT D. BURTON, ESQ.
WINSTEAD PC
401 CONGRESS AVE., SUITE 2100
AUSTIN, TEXAS 78701
EMAIL: RBURTON@WINSTEAD.COM

DECLARANT REMOVAL AND APPOINTMENT OF DIRECTOR

**WATER CREST ON LAKE CONROE
COMMUNITY ASSOCIATION, INC.**

Montgomery County, Texas

DECLARANT: D.R. HORTON – TEXAS, LTD., a Texas limited partnership

Cross reference to Water Crest on Lake Conroe Master Covenant, recorded under Document No. 2014057828, in the Official Public Records of Montgomery County, Texas, as amended.

**WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC.
DECLARANT REMOVAL OF DIRECTOR AND APPOINTMENT OF DIRECTOR**

D.R. HORTON - TEXAS, LTD., a Texas limited partnership (the "Declarant") has caused to be recorded that certain Water Crest on Lake Conroe Master Covenant, recorded under Document No. 2014057828, in the Official Public Records of Montgomery County, Texas, as amended (the "Covenant").

Declarant has the right to appoint and remove all Board members in accordance with the Covenant and Bylaws of the Water Crest on Lake Conroe Community Association, Inc., a Texas non-profit corporation, the association established pursuant to the Covenant (the "Association").


Declarant hereby removes Tu-Anh Cloteaux from the Board of Directors of the Association and appoints Robert Daigle to serve on the Board of Directors of the Association.

Declarant hereby appoints Robert Daigle as an officer of the Association, to hold the office of Secretary and Treasurer of the Association.

EXECUTED TO BE EFFECTIVE as of the 9 day of MARCH, 2015.

DECLARANT:

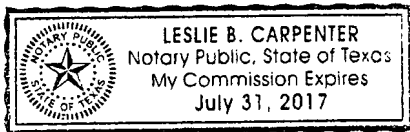
D. R. HORTON - TEXAS, LTD.,
a Texas limited partnership

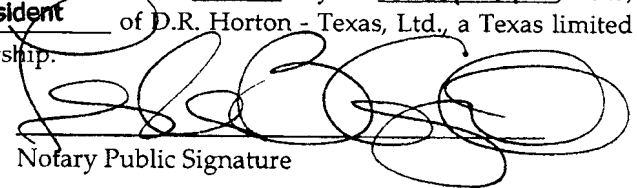
By: 
Printed Name: **Randy Schweyher**
Title: **Division President**

STATE OF TEXAS §
COUNTY OF Montgomery §

This instrument was acknowledged before me on this 9 day of MARCH, 2015, by Randy Schweyher, Division President of D.R. Horton - Texas, Ltd., a Texas limited partnership, on behalf of said limited partnership.

[seal]




Notary Public Signature

E-FILED FOR RECORD
03/18/2015 8:57AM

Mark Turnbull

COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify this instrument was e-FILED in
file number sequence on the date and at the time
stamped herein by me and was duly e-RECORDED in
the Official Public Records of Montgomery County, Texas.

03/18/2015



Mark Turnbull

County Clerk
Montgomery County, Texas