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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS**

*Shadow Lake Forest*

[MONTGOMERY COUNTY, TEXAS]

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

*This Declaration of Covenants, Conditions and Restrictions may be used only in connection with the residential community known as Shadow Lake Forest in Montgomery County, Texas and the operation of Shadow Lake Forest Community Association, Inc.*

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SHADOW LAKE FOREST

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**SHADOW LAKE FOREST**

This Declaration of Covenants, Conditions and Restrictions (the "Declaration") is made by **D. R. HORTON – TEXAS, LTD.**, a Texas limited partnership (the "Declarant"), and is as follows:

**RECITALS:**

A. This Declaration is filed with respect to Lots 1 through 76, Block 1; Shadow Lake Forest Subdivision, according to the plat recorded in Document No. 2014-079352, Official Public Records of Montgomery County, Texas (the "Property"). Declarant is the owner of the Property.

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

C. By the Recording of this Declaration, Declarant serves notice that the Property is subject to the terms and provisions of this Declaration.

**NOW, THEREFORE**, it is hereby declared: (i) that the Property (or any portion thereof) 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) that each contract or deed conveying the Property (or any portion thereof) 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 Declaration 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 Declaration, the text will control.

**ARTICLE 1**  
**DEFINITIONS**

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration 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 Restrictions is applied, and pertaining to the subject matter of the Restriction 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 Restrictions are "Applicable Law" on the date of the Restrictions, and are not intended to apply to the Property 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.

**"Architectural Control Committee"** or **"ACC"** means the committee created pursuant to this Declaration to review and approve or deny plans for the construction, placement, modification, alteration or remodeling of any Improvements on a Lot. As provided in *Article 7* below, the Declarant acts as the ACC and the ACC is not a committee of the Association until the Declarant has assigned its right to appoint and remove all ACC members to the Association in a Recorded written instrument.

**"Assessment"** or **"Assessments"** means all assessments imposed by the Association under this Declaration.

**"Assessment Unit"** has the meaning set forth in *Section 6.07(b)*.

**"Association"** means SHADOW LAKE FOREST 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 4* and elsewhere in this Declaration. 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 Declaration, 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. The services provided under Bulk Rate Contracts may include, without limitation, cable television services, telecommunications services, internet access services, "broadband" services, security services, trash pick-up services, propane service, natural gas service, lawn maintenance services, wastewater services, and any other services of any kind or nature which are considered by the Board to be beneficial to all or a portion of the Property. 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 by a Majority of the Board.

**"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.

**"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 Regulations and other policies governing the Association. The Rules and Regulations and other policies set forth in the Community Manual may be amended, from time to time, by the Declarant during the Development Period. Any amendment to Bylaws, Rules and Regulations and other policies governing the Association prosecuted by the Board must be approved in advance and in writing by the Declarant until expiration or termination of the Development Period. Upon expiration or termination of the Development Period, the Community Manual may be amended by a Majority of the Board.

**"Community Systems"** means any and all cable television, telecommunications, alarm/monitoring, internet, telephone or other lines, conduits, wires, amplifiers, towers, antennae, satellite dishes, equipment, materials and installations and fixtures (including those based on, containing and serving future technological advances not now known), if installed by Declarant pursuant to any grant of easement or authority by Declarant within the Property.

**"Declarant"** means D. R. HORTON – TEXAS, LTD., a Texas limited partnership, its successors or assigns; provided that any assignment(s) of the rights of D. R. HORTON – TEXAS, LTD., as Declarant, must be expressly set forth in writing and Recorded.

Declarant enjoys special rights and privileges to help protect its investment in the Property. These special rights are described in this Declaration. Many of these rights do not terminate until either Declarant: (i) has conveyed all Lots which may be created out of the Property; or (ii) voluntarily terminates these rights by a Recorded written instrument.

**"Design Guidelines"** means the standards for design, construction, landscaping, and exterior items proposed to be placed on any Lot adopted pursuant to *Section 7.02(c)*, 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 Property. At Declarant's option, Declarant may adopt or amend from time to time the Design Guidelines for the Property or any portion thereof. Notwithstanding anything in this Declaration to the contrary, Declarant will have no obligation to establish Design Guidelines for the Property or any portion thereof.

**"Development Period"** means the period of time beginning on the date when this Declaration has been Recorded, and ending eighteen (18) months after Declarant no longer



owns any portion of the Property, unless earlier terminated by a Recorded written instrument executed by the Declarant. The Development Period is the period in which Declarant reserves the right to facilitate the development, construction, and marketing of the Property, and the right to direct the size, shape and composition of the Property.

**"Homebuilder"** means an Owner (other than the Declarant) who acquires a Lot for the construction of a single family residence for resale to a third party.

**"Improvement"** means all physical enhancements and alterations to the Property, including but not limited to grading, clearing, removal of trees, and 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, gates, screening walls, retaining walls, stairs, patios, decks, walkways, landscaping, mailboxes, poles, signs, antennae, exterior air conditioning equipment or fixtures, exterior lighting fixtures, water softener fixtures or equipment, and 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 Property designated by Declarant or as shown as a subdivided Lot on a Plat other than Common Area.

**"Majority"** means more than half.

**"Manager"** has the meaning set forth in *Section 4.05(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.

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

**"Owner"** means the person(s), entity or entities, including Declarant, holding all or a portion of the fee simple interest in any Lot, 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.

**"Plat"** means a Recorded subdivision plat of any portion of the Property, and any amendments thereto.

**“Property”** means Lots 1 through 76, Block 1; Shadow Lake Forest Subdivision, according to the plat recorded in Document No. 2014-079352, Official Public Records of Montgomery County, Texas, subject to such additions thereto and deletions therefrom as may be made pursuant to *Section 11.03* and *Section 11.04* of this Declaration.

**“Record, Recording, Recordation and Recorded”** means recorded or to be recorded in the Official Public Records of Montgomery County, Texas.

**“Resident”** means an occupant or tenant of a Lot, regardless of whether the person owns the Lot.

**“Restrictions”** means the restrictions, covenants, and conditions contained in this Declaration, the Design Guidelines, Bylaws, Community Manual, Rules and Regulations, or in any other rules and regulations promulgated by the Association pursuant to this Declaration, as adopted and amended from time to time. *See Table 1* for a summary of the Restrictions.

**“Rules and Regulations”** means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Property or the Common Area, including any amendments to those instruments.

**“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.

<b>TABLE 1: RESTRICTIONS</b>	
<b>Declaration</b> (Recorded)	Creates obligations that are binding upon the Association and all present and future owners of Property.
<b>Certificate of Formation</b> (Recorded)	Establishes the Association as a Texas nonprofit corporation.
<b>Bylaws</b> (Recorded)	Governs the Association’s internal affairs, such as elections, meetings, etc.
<b>Community Manual</b> (Recorded)	Establishes Rules and Regulations and policies governing the Association.
<b>Design Guidelines</b> (if adopted, Recorded)	Governs the design and architectural standards for the construction of Improvements and modifications thereto. The Declarant shall have no obligation to adopt the Design Guidelines.
<b>Rules and Regulations</b> (if adopted, Recorded)	Regulates the use of property, activities, and conduct within the Property or the Common Area.
<b>Board Resolutions</b> (adopted by the Board of the Association)	Establishes rules, policies, and procedures for the Property, Owners and Association.

**ARTICLE 2  
GENERAL AND USE RESTRICTIONS**

All of the Property shall be owned, held, encumbered, leased, used, occupied, and enjoyed subject to the following limitations and restrictions:

**2.01 General.**

(a) Conditions and Restrictions. All Lots within the Property will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the Restrictions.

(b) Ordinances. Ordinances and requirements imposed by local governmental authorities are applicable to all Lots within the Property. Compliance with the Restrictions is not a substitute for compliance with Applicable Law. Please be advised that the Restrictions do not purport to list or describe each restriction which may be applicable to a Lot located within the Property. Each Owner is advised to review all ordinances, requirements, regulations and encumbrances affecting the use and improvement of their Lot prior to submitting plans to the ACC for approval. Furthermore, approval by the ACC should not be construed by the Owner that any Improvement complies with the terms and provisions of any ordinances, requirements, regulations or encumbrances which may affect the Owner's Lot. Certain encumbrances may benefit parties whose interests are not addressed by the ACC.

**NOTICE**

The Restrictions are subject to change from time to time. By owning or occupying a Lot, you agree to remain in compliance with the Restrictions, as they may change from time to time.

**2.02 Conceptual Plans.** All master plans, site plans, brochures, illustrations, information and marketing materials relating to the Property or the Common Area (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 Common Area 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 Common Area makes any representation or warranty concerning such land uses and Improvements shown on the Conceptual Plans or otherwise planned for the Property or the Common Area 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. Each Owner who acquires a Lot within the Property acknowledges that development of the Property or the Common Area will likely 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 the

Common Area or changes in the Conceptual Plans as they may be amended or modified from time to time.

**2.03 Single-Family Residential Use.** The Lots shall be used solely for private single family residential purposes.

No professional, business, or commercial activity to which the general public is invited shall be conducted on any Lot, except an Owner or Resident may conduct business activities within a residence so long as: (i) such activity complies with all Applicable Law; (ii) the business activity is conducted without the employment of persons other than the residents of the home constructed in the Lot; (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 on any Lot, sound, or smell from outside the residence; (iv) the business activity does not involve door-to-door solicitation of residents within the Property; (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 Property 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 Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property 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 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.

Notwithstanding any provision in this Declaration to the contrary, until the expiration or termination of the Development Period:

- a) Declarant and/or its licensees may construct and maintain upon portions of the Common Area, any Lot, or portion of the Property owned by the Declarant, such facilities and may conduct such activities, which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single family residences constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its

licensees shall have an easement over and across the Common Area for access and use of such facilities at no charge; and

- b) Declarant and/or its licensees will have an access easement over and across the Common Area for the purpose of making, constructing and installing Improvements upon the Common Area.

**2.04 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 ACC; 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 ACC.

**2.05 Hazardous Activities.** No activities may be conducted on or within the Property and no Improvements may be constructed on or within any portion of the Property 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 Property unless discharged in conjunction with an event approved in advance by the Board 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 Property may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

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

**2.07 Mining and Drilling.** Unless otherwise provided in *Section 9.16*, no portion of the Property or the Common Area 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 Property or the Common Area by the Declarant. Furthermore, this provision will not be interpreted to prevent the drilling of water wells by the Declarant. Declarant reserves for itself, and its successors and assigns, an easement over and across the Property and the Common Area for the installation, operation, maintenance, repair, relocation, removal and/or modification of water wells. Declarant, its successors and assignees, may transfer or convey to the Association or any third-party utility service provider the easement reserved herein. Declarant, its successors and assignees, may designate any water well as Common Area, and upon such designation, the Association shall be required to maintain said water well in accordance with Applicable Law, including but not limited to all

rules and regulations imposed by the *Lone Star Groundwater Conservation District*. This provision shall also not be interpreted to prevent the drilling of water wells by an Owner so long such Owner's water well: (1) has been approved in advance by the ACC, (2) has an inside casing diameter of five (5) inches or less, and (3) is used to dispense water solely for domestic use. The construction, maintenance, use, operation, production, and plugging/capping of all water wells must comply with the requirements of all applicable regulatory authorities, including but not limited to the *Lone Star Groundwater Conservation District*. Neither the Declarant nor the Association makes any representation or warranty concerning the production capacity of any water well or the quality, potability, or safety of any water well or any water from any water well. Owners shall be required to plug any water wells that are permanently out of use in a timely manner.

**2.08 Noise.** No noise or other nuisance shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its Residents.

**2.09 Rentals.** Nothing in this 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 Restrictions. 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.

**2.10 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 Property (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, exotic snakes or lizards, ferrets, monkeys, chickens or other exotic animals). The Board may 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 may keep on such Owner's 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 Property other than within the Owner's residence, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Property. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Property, 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 area. 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. If the Board determines, in its sole discretion, that a 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, upon written notice, may be required to remove the pet from the Property.

**2.11 Rubbish and Debris.** As determined by the Board, no rubbish or debris of any kind may be placed or permitted to accumulate on or within the Property, and no odors will be permitted to arise therefrom so as to render all or any portion of the Property unsanitary, unsightly, offensive, or detrimental to any other property or Residents. 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.

**2.12 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, retaining wall, 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 Board shall have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

**2.13 Drainage.** There shall be no interference with the established drainage patterns over any of the Property, including the Lots, except by Declarant, unless adequate provision is made for proper drainage and such provision is approved in advance by the ACC. Specifically, and not by way of limitation, no Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

**2.14 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 2.14* 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:

- a) Prompt removal of all litter, trash, refuse, and wastes.
- b) Lawn mowing.
- c) Tree and shrub pruning.

- d) Watering of lawn and landscaping.
- e) Keeping exterior lighting and mechanical facilities in working order.
- f) Keeping lawn and garden areas alive, free of weeds, and attractive.
- g) Keeping planting beds free of turf grass.
- h) Keeping sidewalks and driveways in good repair.
- i) Complying with Applicable Law.
- j) Repainting of Improvements.
- k) Repair of exterior damage, and wear and tear to Improvements.

**2.15 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.

**2.16 Antennas.** Except as expressly provided below, no exterior radio or television antennae or aerial or satellite dish or disc, shall be erected, maintained or placed on a Lot without the prior written approval of the ACC; provided, however, that:

- a) an antenna designed to receive direct broadcast services, including direct-to-home satellite services, that is one meter or less in diameter; or
- b) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
- c) an antenna that is designed to receive television or radio broadcast signals;

(collectively, (a) through (c) 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 ACC, 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 Property.



**2.17 Location of Permitted Antennas.** A Permitted Antenna may be installed solely on the Owner's Lot and shall not encroach upon any street, Common Area, or any other portion of the Property. A Permitted Antenna shall 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 Property, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the ACC are as follows:

- a) 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
- b) 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 ACC 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 ACC from time to time. Please contact the ACC for the current rules regarding installation and placement.

**2.18 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 ACC, except for:

- a) signs which are expressly permitted pursuant to the Design Guidelines or Rules and Regulations;
- b) signs which are part of Declarant's or Homebuilder's overall marketing, sale, or construction plans or activities for the Property;
- c) 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 the finished grade of the Lot 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;

- d) political signs may be erected provided the sign: (a) is erected no earlier than the 90<sup>th</sup> day before the date of the election to which the sign relates; (b) is removed no later than the 10<sup>th</sup> 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;
- e) 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;
- f) permits as may be required by legal proceedings; and
- g) permits as may be required by any governmental entity.

An Owner or Resident 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.

**2.19 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 ACC. Approval by the ACC is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot ("**Freestanding Flagpole**").

**2.20 Flags – Installation and Display.** Unless otherwise approved in advance and in writing by the ACC, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

- a) 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;

- b) 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
- c) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3'x5');
- d) With the exception of flags displayed on Common Area or any Lot which is being used for marketing purposes by the Declarant or 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;
- e) The display of a Permitted Flag, or the location and construction of a Permitted Flagpole or Freestanding Flagpole must comply with all Applicable Law, easements and setbacks of record ;
- f) Each 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 residence;
- g) Each 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;
- h) 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
- i) 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.

**2.21 Tanks.** The ACC 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 without the advance written approval of the ACC. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the ACC. This provision will not apply to a tank used to operate a standard residential gas grill.

**2.22 Temporary Structures.** No tent, shack, or other temporary building, improvement, or structure shall be placed upon the Property without the prior written approval of the ACC; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Declarant, Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of Declarant (unless placed by Declarant), approval to include the nature, size, duration, and location of such structure.

**2.23 Outside Storage Buildings.** Outside storage buildings located in a fenced rear yard of a Lot are allowed with the prior written approval of the ACC. One (1) permanent storage building will be permitted if: (i) 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; (iv) the roof of the storage building is the same material and color as the roof of the principal residential structure constructed on the Lot; and (v) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation.

**2.24 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 Property 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 Property or the Common Area.

**2.25 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.

**2.26 Basketball Goals; Permanent and Portable.** Portable basketball goals may be used in unfenced yards and on private driveways in the Property 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 ACC or placed in the ROW, the Association may cause the basketball goals to be removed without liability for damage to said equipment. Basketball goals may not be permanently installed on a Lot.

**2.27 Compliance with Restrictions.** Each Owner, his or her family, Residents of a Lot, tenants, and the guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with any of the Restrictions shall constitute a violation of the Restrictions and may result in a fine against the Owner in accordance with *Section 6.12* of this Declaration, 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 ACC, 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 Restrictions, 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 this Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). **Each such Owner shall release 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 2.27 (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.**

**2.28 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 without the prior written approval of the Board and the Declarant during the Development Period. Each Owner shall be liable to the Association for any and all damages to: (i) the 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 Resident of such Owner's Lot, or any guest or invitee of such Owner or Resident. 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 6.10* of this Declaration.

**2.29 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 2.29* and constitutes a "Party Wall". To the extent not inconsistent with the provisions of this *Section 2.29*, 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 solely 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 Official Public 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.

**2.30 Retaining Walls.** As originally constructed, retaining walls within the Property 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 Declaration, and in the *Retaining Wall Maintenance Specifications*, attached and incorporated herewith as **Appendix A-2** to this 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.

**2.31 Playscapes and Sports Courts.** Playscapes and sport courts are permissible at the sole discretion of the ACC. 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.

**2.32 Decorations and Lighting.** Unless otherwise permitted by *Section 2.18(e)*, 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 ACC. Customary seasonal decorations for holidays are permitted without approval by the ACC 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 ACC.

**2.33 Water Quality Facilities, Drainage Facilities and Drainage Ponds.** The Property may include, now or in the future, 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 Association in accordance with all Applicable Law and the *Joint Maintenance Agreement for Detention/Drainage System*, as recorded in Document 2013-065812 of the Official Public Records of Montgomery County, Texas. Access to these facilities and ponds is limited to persons engaged by the Association 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 and Regulations.

**2.34 Limited or Restricted Driveway Parking.** The Association reserves the right to adopt parking rules and regulations within the Property and on any street adjacent thereto. As a result of the required design of the project, driveways constructed on a Lot may not be able to accommodate the parking of vehicles. No vehicle may be parked on a driveway constructed on a Lot unless in the event of an emergency. "Parked" as used herein shall be defined as a vehicle left unattended for more than thirty (30) consecutive minutes. "Emergency" for purposes herein shall mean an event which jeopardizes life or property. No vehicle may be parked on a driveway constructed on a Lot if the vehicle, when parked, would obstruct or otherwise block ingress and egress to and from sidewalks adjacent to the driveway, i.e., no portion of the vehicle may extend over a line extended from the rear of one sidewalk adjacent to the driveway to the rear of the other sidewalk adjacent to the driveway. This provision will not apply to Declarant or its designee during the Development Period.

**2.35 Streets Within the Property.** The streets located outside the Property are public streets and maintained by applicable governmental authorities. Streets within the Property are private and maintained by the Association.

(a) **Private Streets.** Streets within the Property are Common Area and are maintained and administered by the Association. The Association, acting through the Board has the express authority to adopt, amend, repeal, and enforce the rules, regulations and procedures for use of private streets, including but not limited to:

(i) Identification of vehicles used by Owners and Residents and their guests.

(ii) Designation of parking areas and no-parking areas, and loading/unloading zones.

(iii) Limitations or prohibitions on street or driveway parking.

(iv) Removal or prohibition of vehicles that violate applicable rules and regulations.

(v) Fines for violations of applicable rules and regulations.

(b) **Public Streets.** Public streets are not Common Area, but may be maintained and/or regulated by the Association to the extent they are not



maintained or regulated by a governmental authority. As to public streets, the Association, acting through the Board, is specifically authorized: (i) to accept from applicable governmental authorities any delegation of street-related duties; and (ii) to act as attorney in fact for the Owners in executing instruments required by Applicable Law to impose, modify, or remove restrictions or traffic devices (such as speed bumps) on public streets serving and adjacent to the Property.

### ARTICLE 3 CONSTRUCTION RESTRICTIONS

**3.01 Approval for Construction.** Unless prosecuted by the Declarant, no Improvements shall hereafter be placed, maintained, erected, or constructed upon any Lot without the prior written approval of the ACC in accordance with *Article 7* of this Declaration.

**3.02 Garages.** Each residence constructed upon a Lot shall have a private garage for not less than 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 ACC. 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 ACC, no fence, wall or hedge will be erected or maintained on any Lot 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 ACC will have the sole discretion to determine the front elevation of the residence for the purpose of this *Section 3.03*. No chain-link, metal cloth or agricultural fences may be installed or maintained on a Lot, except by Declarant. If required by the Plat, the Owner of each Lot shall construct, at such Owner's sole cost and expense and prior to occupying any Improvement, a sidewalk on such Owner's Lot, located and designed in conformance with the Plat.

**3.04 Building Restrictions.** All building materials must be approved in advance by the ACC. 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 ACC, 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.

**3.05 Construction Activities.** The Restrictions 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 Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of the Restrictions 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 ACC in its sole and reasonable judgment, the ACC 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 ACC 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.

**3.06 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 ACC. Any other type of roofing material shall be permitted only with the advance written approval of the ACC. In addition, roofs of buildings may be constructed with "Energy Efficiency Roofing" with the advance written approval of the ACC. For the purpose of this *Section 3.06*, "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 ACC 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 Restrictions. In conjunction with any such approval process, the Owner should submit information which will enable the ACC to confirm the criteria set forth in this *Section 3.06*. Any other type of roofing material shall be permitted only with the advance written approval of the ACC.

**3.07 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 ACC. Nothing in this *Section 3.07* 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 ACC, above-ground or temporary swimming pools are not permitted on a Lot.

**3.08 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 ACC may require additional setbacks in conjunction with the review and approval of proposed Improvements in accordance with *Article 7* of the Declaration.

**3.09 Solar Energy Device.** During the Development Period this *Section 3.09* does not apply and the Declarant must approve in advance and in writing the installation of a Solar Energy Device. 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 ACC in accordance with the procedures set forth below.

(a) Application. To obtain ACC approval of a Solar Energy Device, the Owner shall provide the ACC 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 unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Solar Application. The Solar Application shall be submitted in accordance with the provisions of *Article 7* of the Declaration.

(b) Approval Process. The ACC will review the Solar Application in accordance with the terms and provisions of *Article 7* of the Declaration. The ACC will approve a Solar Energy Device if the Solar Application complies with *Section 3.11(c)* below UNLESS the ACC makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 3.11(c)*, will create a condition that substantially interferes with the use and enjoyment of the property within the Property by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities. The ACC'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 Common Area or property owned or maintained by the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 3.09* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, 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 ACC 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 ACC. If the Owner desires to contest the alternate location proposed by the ACC, the Owner should submit information to the ACC 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.

**3.10 Rainwater Harvesting Systems.** Rain barrels or rainwater harvesting systems (a "Rainwater Harvesting System") may be installed with the advance written approval of the ACC.

(a) Application. To obtain ACC approval of a Rainwater Harvesting System, the Owner shall provide the ACC 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 unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Rain System Application.

(b) Approval Process. The decision of the ACC will be made in accordance with *Article 7* of this Declaration. Any proposal to install a Rainwater Harvesting System on Common Area must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section 3.10* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the ACC, 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 ACC.

(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 ACC.

(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, or another Owner's Lot, the ACC may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. See *Section 3.10(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, Common Area, or another Owner's Lot, the ACC 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, Common Area, or another Owner's Lot, any additional regulations imposed by the ACC 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 ACC.

**3.11 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 ACC. All Owners implementing Xeriscaping shall comply with the following:

(a) Application. Approval by the ACC is required prior to installing Xeriscaping. To obtain the approval of the ACC for Xeriscaping, the Owner shall provide the ACC 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 ACC is not responsible for: (i) errors or omissions in the Xeriscaping Application submitted to the ACC 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 ACC, 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 ACC. For purposes of this *Section 3.11*, "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 ACC 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 ACC.

(c) Process. The decision of the ACC 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 3.11* when considering any such request.

(d) Approval. Each Owner is advised that if the Xeriscaping Application is approved by the ACC, 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 ACC 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 this Declaration and may subject the Owner to fines and penalties. Any requirement imposed by the ACC 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**  
**SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.**

**4.01 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 Bylaws will for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**4.02 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 that qualifies the Owner thereof for membership, and membership may not be severed from the ownership of the Lot, or in any way transferred, pledged, mortgaged or alienated, except together with the title to such Lot. Within thirty (30) days after acquiring legal title to a Lot, 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; (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 Resident other than the Owner.

**If you acquire a Lot you automatically become a member of the Association.**  
**Membership is Mandatory!**

(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 by and through any Common Area, which easements will be appurtenant to and will pass with the title to such Member's Lot, subject to the following restrictions and reservations:

(i) The right of the Declarant, or the Declarant's designee, 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 remains past due and for any period during which such member is in violation of any provision of this Declaration;

(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 and Regulations 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.

**4.03 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 Declaration to the contrary, Declarant will have the sole right to appoint and remove all members of the Board until the 10<sup>th</sup> anniversary of the date this Declaration is Recorded. Not later than the 10<sup>th</sup> anniversary of the date this Declaration 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.**

**4.04 Voting Rights.** The right to cast votes and the number of votes which may be cast for election of members to the Board (except as provided by *Section 4.03*) and on all other matters to be voted on by the Members will be calculated as set forth below.



(a) Owner Votes. The Owner of each Lot will have one (1) vote for each Lot so owned.

(b) Declarant Votes. In addition to the votes to which Declarant is entitled by reason of *Section 4.04(a)*, 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.

(c) Co-Owner Votes. When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof) for such Lot will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this *Section 4.04*.

**4.05 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 Declaration. 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 and Regulations, Bylaws and Community Manual. To make, establish and promulgate, and in its discretion to amend from time to time, or repeal and re-enact, such rules, regulations, policies, Bylaws and Community Manual, as applicable, which are not in conflict with this Declaration, as it deems proper, covering any and all aspects of the Property or the Common Area (including the operation, maintenance and preservation thereof) or the Association. Any Rules and Regulations, 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 Restrictions 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, as provided in *Article 6* 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 or Resident, upon any Lot and into any Improvement thereon for the purpose of enforcing the Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the Restrictions. The expense incurred by the Association in connection with the entry upon any Lot and the maintenance and repair work conducted thereon or therein will be a personal obligation of the Owner of the Lot so entered, will be deemed an Individual Assessment against such Lot, will be secured by a lien upon such Lot, and will be enforced in the same manner and to the same extent as provided in *Article 6* 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 Restrictions. 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 Restrictions; 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 alter or demolish any Improvements on any Lot other than Common Area in enforcing these Restrictions 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) has been obtained. **EACH SUCH OWNER AND RESIDENT WILL RELEASE AND HOLD 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 4.05(e) (INCLUDING ANY COST, 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" 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 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 Restrictions or by Applicable Law. In addition, until expiration or termination of the Development Period, any grant or conveyance under this *Section 4.05(g)* must be approved in advance and in writing by the Declarant. In addition, the Association is (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 for the benefit of property not otherwise subject to the terms and provisions of this Declaration.

(h) Manager. To retain and pay for the services of a person or firm (the "Manager"), which may include Declarant or any affiliate of Declarant, to manage and operate the Association, including its property, to the extent deemed advisable by the Board. 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 transfer fees, 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 AND COMMITTEE MEMBERS 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, gardening and all other utilities, services, repair and maintenance for any portion of the Property, Common Area, private or public recreational facilities, easements, roads, roadways, rights-of-ways, signs, parks, parkways, median strips, sidewalks, paths, trails, ponds, and lakes.

(j) Other Services and Properties. To obtain and pay for any other property, services, permits or other governmental approvals, 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 Restrictions or as determined by the Board.

(k) Construction on Common Area. To construct new Improvements or additions to any property owned, leased, or licensed by the Association, 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 any Common Area 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) Allocation of Votes. To determine votes when permitted pursuant to *Section 4.04* above.

(o) Authority with Respect to the Restrictions. 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 Restrictions. Any decision by the Board to delay or defer the exercise of the power and authority granted by this *Section 4.05(o)* will not subsequently in any way limit, impair or affect ability of the Board to exercise such power and authority.

(p) Membership Privileges. To establish Rules and Regulations governing and limiting the use of the Common Area and any Improvements thereon.

**4.06 Acceptance of 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 for the purpose of this Declaration. Declarant and its assignees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Property 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 Declaration. Such property will be accepted by the Association and thereafter will be maintained as Common Area by the Association for the benefit of the Property 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 for no payment 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.

**4.07 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: (1) 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 (2) 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.

**4.08 Insurance.** The Board may purchase and cause to be maintained, 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 or incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against such liability or otherwise.

**4.09 Bulk Rate Contracts.** Without limitation on the generality of the Association powers set out in *Section 4.05* 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 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. 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 Declaration 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 which is reserved under the terms and provisions of this Declaration. 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 pursuant to Applicable Law, 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 the Resident of such Owner's Lot) 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 the Resident of such Owner's Lot) 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.

**4.10 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 or any other 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. 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.

**4.11 Administration of Common Area.** The administration of the Common Area by the Association shall be in accordance with the provisions of Applicable Law and the Restrictions, 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 by any title insurance company selected by Declarant to insure title to any portion of the Common Area. Declarant and/or its assignees may construct and maintain upon portions of the 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 Property, 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 for access and shall have the right to use such facilities and to conduct such activities at no charge.

**4.12 Merger.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by at least two-thirds of the votes of Members present in person or by proxy at the meeting at which the action to merge or consolidate with another association is submitted for a vote. On merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Restrictions within the Property, together with the covenants and restrictions established on any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

## ARTICLE 5 INSURANCE

**5.01 Insurance.** Each Owner will be required to purchase and maintain commercially standard insurance on the Improvements located upon such Owner's Lot. The Association will not be required to maintain insurance on the Improvements constructed upon any Lot. The Association may, however, obtain such 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. During the Development Period, Declarant reserves the right to satisfy the insurance obligations of the Association with a master insurance program controlled by Declarant.

### **ARE YOU COVERED?**

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

**5.02 Restoration.** In the event of any fire or other casualty, unless otherwise approved by the ACC, the Owner will promptly repair, restore and replace any damaged or destroyed structures to their same exterior condition existing prior to the damage or destruction thereof. 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 will be secured by the liens reserved in the Declaration for Assessments and may be collected by any means provided in this Declaration for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot. **EACH SUCH 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 5.02, 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.**

**5.03 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 5*, hereby grants to the Association an express mechanic's and materialmen's lien for the reasonable cost of such repair, restoration, or replacement of the damaged or destroyed Improvement to the extent that the cost of such repair, restoration or replacement exceeds any insurance proceeds allocable to such repair, restoration or replacement and delivered to the Association. Upon request by the Board, and before the commencement of any reconstruction, repair, restoration or replacement, such Owner will execute all documents sufficient to effectuate such mechanic's and materialmen's lien in favor of the Association.

## ARTICLE 6 COVENANT FOR ASSESSMENTS

### 6.01 Assessments.

(a) Established by the Board. Assessments established by the Board pursuant to the provisions of this *Article 6* will be levied against each Lot in amounts determined



pursuant to *Section 6.07* below. The total amount of Assessments will be determined by the Board pursuant to *Section 6.03, 6.04, 6.05, and/or 6.06*.

(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 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. The Association may enforce payment of such Assessments in accordance with the provisions of this Article.

(c) Declarant Subsidy. Declarant may, but is not obligated to, reduce Assessments which would otherwise be levied against Lots 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.

**6.02 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 Declaration. The funds of the Association may be used for any purpose authorized by the Restrictions and Applicable Law.

**6.03 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 (the "**Regular Assessments**") which sets forth: (i) an estimate of the expenses to be incurred by the Association during such year in performing its functions and exercising its powers under the Restrictions, 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 Restrictions, and (ii) an estimate the amount needed to maintain a reasonable provision for contingencies and an appropriate replacement reserve, and will give due consideration to any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses will then be levied at the level of Assessments 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 Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner. All such Regular Assessments will be due and payable to the Association annually on or before the first 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.

**6.04 Special Assessments.** In addition to the Regular Assessments provided for above, the Board may levy special assessments (the "**Special Assessment**") 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 Restrictions. The amount of any Special Assessments will be at the reasonable 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. 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.

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

**6.06 Working Capital Assessment.** Each Owner (other than Declarant) of a Lot will pay a one-time working capital assessment (the "**Working Capital Assessment**") to the Association in such amount 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, 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 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 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, the Declarant's during the Development Period, and thereafter the Board's, determination regarding the application of the exception will be binding and conclusive

without regard to any contrary interpretation of this *Section 6.06*. The Working Capital Assessment will be in addition to, not in lieu of, any other Assessments levied in accordance with this *Article 6* and will not be considered an advance payment of such Assessments. The Working Capital Assessment hereunder will be due and payable by the transferee to the Association immediately upon each transfer of title to the Lot, including upon transfer of title from one Owner of such Lot 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 all Lots) by the Recordation of a waiver notice, which waiver may be temporary or permanent.

**6.07 Amount of Assessment.**

(a) Assessments to be Levied. The Board shall levy Assessments against each "Assessment Unit" (as defined in *Section 6.07(b)* below). Unless otherwise provided in this Declaration, Assessments levied pursuant to *Section 6.03* and *Section 6.04* shall be levied uniformly against each Assessment Unit allocated to a Lot.

(b) Assessment Unit. Each Lot shall constitute one "Assessment Unit" unless otherwise provided in *Section 6.07(c)* and *Section 6.07(d)*.

(c) Assessment Exemption. Notwithstanding anything in this Declaration to the contrary, no Assessments shall be levied upon Lots owned by Declarant.

(d) Other Exemptions. Declarant may, in its sole discretion, elect to: (i) exempt any un-platted or unimproved portion of the Property or any Lot from any Assessments levied or charged pursuant to this *Article 6*; or (ii) delay the levy of Assessments against any un-platted, unimproved or improved portion of the Property. Declarant or the Board may also exempt any portion of the Property which is dedicated and accepted by public authority from Assessments.

**6.08 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 levied as an Individual Assessment against the Lot owned by such Owner, collectible in the manner as provided for collection of Assessments, including foreclosure of the lien against such Lot; provided, however, such charge will never exceed the maximum charge permitted under Applicable Law.

**6.09 Owner's Personal Obligation; Interest.** Assessments levied as provided for herein will be the personal and individual debt of the Owner of the Lot 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 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 therefor (or if there is no such highest rate, then at the rate of one and one half percent (1 1/2%) per month), together with all costs and expenses of collection, including reasonable attorney's fees. Such amounts will be levied as an Individual Assessment against the Lot owned by such Owner.

**6.10 Assessment Lien and Foreclosure.** The payment of all sums assessed in the manner provided in this Article is, together with late charges as provided in *Section 6.08* and interest as provided in *Section 6.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the continuing Assessment lien granted to the Association pursuant to *Section 6.01(b)* above, and will bind each Lot 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, except only for: (i) tax and governmental assessment liens; (ii) all sums secured by a Recorded first mortgage lien or Recorded first deed of trust lien of record, to the extent such lien secures sums borrowed for the acquisition or improvement of the Lot 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 of record; 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, agent or attorney 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 covered by such lien and a description of the Lot. Such notice may be signed by one of the authorized officers, agents, or attorneys of the Association and will be Recorded. Each Owner, by accepting a deed or ownership interest to a Lot subject to this Declaration, 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 by law and under this Declaration, 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; 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 6.10*, 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 will be signed by an authorized officer, agent, or attorney of the Association. 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 twelve (12) day period) to such Owner, in addition to all other rights and remedies available pursuant to Applicable Law, terminate, in such manner as the Board deems appropriate, any utility or cable service provided through the Association and not paid for directly by an Owner or Resident 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. Utility or cable service will not be disconnected 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 will not relieve the Owner of such Lot 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 and on the date of such conveyance Assessments against the Lot remain unpaid, or said Owner owes other sums or fees under this Declaration to the Association, the Owner will pay such amounts to the Association out of the sales price of the Lot, and such sums will be paid in preference to any other charges against the Lot other than liens superior to the Assessment lien and charges in favor of the State of Texas or a political subdivision thereof for taxes on the Lot which are due and unpaid. The Owner conveying such Lot will remain personally liable for all such sums until the same are fully paid, regardless of whether the transferee of the Lot also assumes the obligation to pay such amounts. The Board may adopt an administrative transfer fee to cover the expenses associated with updating the Association's records upon the transfer of a Lot to a third party; provided, however, that no transfer fee will be due upon the transfer of a Lot from Declarant to a third party.

**Yes, the Association can foreclose on your Lot!**

**If you fail to pay assessments to the Association, you may lose title to your Lot if the Association forecloses its assessment lien.**

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

- (a) All area dedicated and accepted by public authority;

- (b) The Common Area; and
- (c) Any portion of the Property owned by Declarant.

**6.12 Fines and Damages Assessment.**

(a) Board Assessment. The Board may assess fines against an Owner for violations of the Restrictions which have been committed by an Owner, a Resident, or the Owner or Residents guests, agents or invitees. Any fine and/or charge levied in accordance with this Section 6.12 will be considered an Individual Assessment pursuant to this Declaration. 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 or any facilities caused by the Owner, Resident, 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 Rules and Regulations 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 (30<sup>th</sup>) 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 is, together with interest as provided in *Section 6.09* hereof and all costs of collection, including attorney's fees as herein provided, secured by the lien granted to the Association pursuant to *Section 6.01(b)* of this Declaration. Unless otherwise provided in this *Section 6.12*, 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 6*.

## ARTICLE 7 ARCHITECTURAL CONTROL COMMITTEE

Declarant has a substantial interest in ensuring that Improvements within the Property maintain and enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market and sell all or any portion of the Property. Until Declarant has delegated its right to appoint and remove all members of the ACC to the Board as provided in *Section 7.02(a)* below, the ACC will be acting solely in Declarant's interest and will owe no duty to any other Owner or the Association. Notwithstanding any provision in this Declaration to the contrary, Declarant may appoint a single person to exercise the rights of the ACC.

7.01 Construction of Improvements. No Improvement may be erected, placed, constructed, painted, altered, modified or remodeled on any Lot, and no Lot may be re-subdivided or consolidated with other Lots or Property, by anyone other than Declarant without the prior written approval of the ACC.

7.02 Architectural Control Committee.

(a) Composition. The ACC will be composed of not more than three (3) persons (who need not be Members or Owners) appointed as provided below, who will review Improvements proposed to be made by any Owner other than Declarant. Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant may assign its right to appoint all members of the ACC to the Association by Recorded written instrument, and thereafter, the Board will have the right to appoint and remove (with or without cause) all members of the ACC. Any assignment by Declarant of the right to appoint and remove all members of the ACC may be withdrawn until expiration of twenty-four (24) months after the expiration of the Development Period. If Declarant withdraws its assignment of the right to appoint and remove all members of the ACC, then on the date of such withdrawal, Declarant will have the right to appoint and remove (with or without cause) all members of the ACC. Declarant's right to appoint all members of the ACC will automatically be assigned to the Association upon the expiration of twenty-four (24) months after the expiration of the Development Period. Declarant, at its option, may create and assign specific duties and responsibilities to one or more sub-committees consisting of members and/or nonmembers of the ACC. In the event responsibilities and duties are assigned to a sub-committee, those responsibilities and duties will no longer be discharged by the ACC unless the sub-committee exercising such duties and responsibilities is dissolved by Declarant. The right to create, dissolve, and appoint members of such sub-committees will reside exclusively with Declarant until such time as Declarant has assigned its right to appoint members of the ACC to the Association. The ACC will have the right to employ consultants and advisors as it deems necessary or appropriate.

(b) Submission and Approval of Plans and Specifications. Construction plans and specifications or, when an Owner desires solely to re-subdivide or consolidate Lots, a proposal for such re-subdivision or consolidation, will be submitted in accordance with the Design Guidelines, if any, or any additional rules adopted by the ACC together with any review fee which is imposed by the ACC in accordance with Section 7.02(c) to the ACC at the offices of Declarant, at such address as may hereafter be designated in writing from time to time. No re-subdivision or consolidation will be made, nor any Improvement placed or allowed on any Lot, until the plans and specifications and the builder which the Owner intends to use to construct the proposed structure or Improvement have been approved in writing by a Majority of the members of the ACC. The ACC 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 ACC or any other entity; and harmony of external design and location in relation to surrounding structures, topography, vegetation, and finished grade elevation. The ACC may postpone its review of any plans and specifications submitted for approval pending receipt of any information or material which the ACC, in its sole discretion, may require. Site plans must be approved by the ACC prior to the clearing of any Lot, or the construction of any Improvements. The ACC may refuse to approve plans and specifications for proposed Improvements, or for the re-subdivision or consolidation of any Lot on any grounds that, in the sole and absolute discretion of the ACC, are deemed sufficient, including, but not limited to, purely aesthetic grounds.

(c) Design Guidelines. Declarant may adopt the initial Design Guidelines and, during the Development Period, will have the power from time to time, to adopt (unless previously adopted by Declarant), amend, modify, or supplement the Design Guidelines, if any. Upon expiration or termination of the Development Period, the ACC, or any sub-committee thereof created pursuant to *Section 7.02(a)*, will have the power from time to time, to amend, modify, or supplement the Design Guidelines, if any; provided, however, that any amendment to the Design Guidelines made by a sub-committee will only apply to the Improvements under the jurisdiction of such sub-committee, and during the Development Period, any such amendment, modification or supplement must be approved in advance and in writing by the Declarant. In the event of any conflict between the terms and provisions of the Design Guidelines, if any, and the terms and provisions of this Declaration, the terms and provisions of this Declaration will control. In addition, the ACC 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 Declaration. Such charges will be held by the ACC and used to defray the administrative expenses incurred by the ACC in performing its duties hereunder; provided, however, that any excess funds held by the ACC will be distributed to the Association at the end of each calendar year. The ACC will not be required to review any plans until a complete submittal package, as required by this Declaration and the Design Guidelines, is assembled and submitted to the ACC. The ACC will have the authority to adopt such additional procedural and substantive rules and guidelines (including, without limitation, the imposition of any requirements for 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 Declaration, as it may deem necessary or appropriate in connection with the performance of its duties hereunder.

(d) Actions of the Architectural Control Committee. The ACC may, by resolution unanimously adopted in writing, designate one or more of its members, or an agent acting on its behalf, to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the vote

of a Majority of all of the members of the ACC taken at a duly constituted meeting will constitute an act of the ACC.

(e) Failure to Act. In the event that any plans and specifications are submitted to the ACC as provided herein, and the ACC fails either to approve or reject such plans and specifications for a period of sixty (60) days following such submission, rejection of such plans and specifications by the ACC will be presumed. In furtherance, and not in limitation, of the foregoing, any failure of the ACC to act upon a request for a variance will not be deemed a consent to such variance, and the ACC's written approval of all requests for variances will be expressly required.

(f) Variances. The ACC may grant variances from compliance with any of the provisions of the Design Guidelines, if any, or this Declaration, when, in the opinion of the ACC, in its sole and absolute discretion, such variance is justified. All variances must be evidenced in writing and must be signed by at least 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 ACC, including the Declarant or its designee, the Association, or the Board. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or the Design Guidelines, if any, 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 this Declaration or the Design Guidelines, if any, 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 this Declaration or the Design Guidelines, if any.

(g) Duration of Approval. The approval of the ACC of any plans and specifications, and any variances granted by the ACC, 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 ACC, in its sole and absolute discretion, the Owner will be required to resubmit such plans and specifications or request for a variance to the ACC, and the ACC will have the authority to re-evaluate such plans and specifications in accordance with this *Section 7.02(g)* and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

(h) No Waiver of Future Approvals. The approval of the ACC to any plans or specifications for any work done or proposed in connection with any matter requiring the approval or consent of the ACC 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 ACC.

(i) Non-Liability of Committee Members. NEITHER DECLARANT, THE BOARD, THE ARCHITECTURAL CONTROL COMMITTEE, NOR ANY MEMBER WILL BE LIABLE TO ANY OWNER OR TO ANY OTHER PERSON FOR ANY LOSS, DAMAGE OR INJURY ARISING OUT OF THE PERFORMANCE OF THE ARCHITECTURAL CONTROL COMMITTEE'S DUTIES UNDER THIS DECLARATION.

## ARTICLE 8 MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots within the Property. The provisions of this Article apply to the Declaration and the Bylaws of the Association.

**8.01 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 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 Property or which affects any Lot on which there is an eligible 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 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 Restrictions relating to such Lot or the Owner or Resident which is not cured within sixty (60) days; or

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

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

8.03 **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 and not to any other portion of the Property.

**ARTICLE 9  
GENERAL PROVISIONS**

9.01 **Term.** The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Declaration will run with and bind the Property, 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 Declaration is Recorded, and continuing through and including January 1, 2064, after which time this 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 in a resolution adopted 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. Notwithstanding any provision in this *Section 9.01* to the contrary, if any provision of this 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.

9.02 **Eminent Domain.** In the event it becomes necessary for any public authority to acquire all or any part of the Common Area for any public purpose during the period this Declaration 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 Mortgages or deeds of trust on the respective Lot.

9.03 **Amendment.** This Declaration 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 entitled to be cast by members 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. No amendment will be effective without the written consent of Declarant, its successors or assigns, during the Development Period.

**9.04 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, the Restrictions. The Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of the Restrictions. 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 Restrictions 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 Declaration and subject to all of the enforcement procedures set forth herein. Failure to enforce any right, provision, covenant, or condition set forth in the Restrictions 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 Restrictions 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 RESTRICTIONS.

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

**9.06 Severability.** If any provision of this 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 Declaration, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

**9.07 Conflicts.** If there is any conflict between the provisions of this Declaration, the Certificate, the Bylaws, or any Rules and Regulations adopted pursuant to the terms of such documents, the provisions of this Declaration, the Certificate, the Bylaws, and the Rules and Regulations, in such order, will govern.

**9.08 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

**9.09 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 Declaration. Any Owner acquiring a Lot 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, agrees to hold Declarant harmless therefrom.

**9.10 Acceptance by Owners.** Each Owner of a Lot or other real property interest in the Property, by the acceptance of a deed of conveyance, or 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 Declaration or to whom this 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 within the Property, and will bind any person having at any time any interest or estate in the Property, and will inure to the benefit of each Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

**9.11 Damage and Destruction.** The Association shall undertake the following actions subsequent to damage or destruction to all or any part of the Common Area covered by insurance:

(a) **Claims.** Promptly after damage or destruction by fire or other casualty to all or any part of the 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 9.11(a)*, means repairing or restoring the 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 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 will not be repaired and no alternative Improvements are authorized, then the affected portion of the 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. 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 6*, against all Owners. Additional Assessments may be made in like manner at any time during or following the completion of any repair.

(e) 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 Mortgages or deeds of trust on their Lots.

**9.12 No Partition**. Except as may be permitted in this Declaration or amendments thereto, no physical partition of the Common Area or any part thereof will be permitted, nor will any person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the portion of the Property or the Common Area in question has been removed from the provisions of this Declaration pursuant to *Section 11.04* below. This *Section 9.12* 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 Declaration, nor will this provision be constructed to prohibit or affect the creation of a condominium regime in accordance with the Texas Uniform Condominium Act.

**9.13 Notices**. Any notice permitted or required to be given to any person by this Declaration will 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 (3<sup>rd</sup>) 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 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.

**9.14 View Impairment**. Neither Declarant nor the Association guarantee or represent that any view over and across the Lots, or any open space or Common Area within the Property will be preserved without impairment. Neither the Declarant, the ACC, nor the Association shall have any obligation to relocate, prune, or thin trees, or perform other landscaping. The Association (with respect to any 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.

**9.15 Safety and Security**. Each Owner and Resident of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their

property within the Property or the Common Area. The Association may, but shall not be obligated to, maintain or support certain activities within the Property or the Common Area 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 Declarant shall in any way be considered insurers or guarantors of safety or security within the Property or the Common Area, 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 Property or the Common Area, 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 Residents of such Owner's Lot 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 Property assumes all risks of personal injury and loss or damage to property, including any residences or Improvements constructed upon any Lot and the contents thereof, resulting from acts of third parties.

**9.16 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 Property. 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 Property (to a depth of thirty feet below the finished grade of the Property) 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 Property (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 Property 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 Property. 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 Property. In addition, if the Declaration 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.

## ARTICLE 10 EASEMENTS

**10.01 Right of Ingress and Egress.** Declarant, its agents, employees, designees, successors and assigns will have a right of ingress and egress over and the right of access to the Common Area to the extent necessary to use the Common Area and the right to such other temporary uses of the Common Area as may be required or reasonably desirable (as determined by Declarant in its sole discretion) in connection with the construction and development of the Property. The Property shall be subject to a perpetual non-exclusive easement for the installation and maintenance, 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 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 Systems and to provide the services available through the Community Systems to any and all Lots within the Property. Neither the Association nor any Owner shall have any interest therein. Any or all of such services may be provided either directly through the Association and paid for as part of the Assessments or paid directly to Declarant, any affiliate of Declarant, or a third party, by the Owner who receives the services. The Community 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 Systems or all or any portion of the rights, duties or obligations with respect thereto, to the Association or to any person or entity. The rights of Declarant with respect to the Community Systems installed by Declarant and the services provided through such Community Systems are exclusive, and no other person or entity may provide such services through the Community Systems installed by Declarant without the prior written consent of Declarant. In recognition of the fact that interruptions in cable television and other Community 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 Systems services, regardless of whether or not same is caused by reasons within the control of the then-provider of such services.

**10.02 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 the Property becoming subject to this Declaration are incorporated herein by reference and made a part of this Declaration 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 most efficiently and economically developing the Property.

**10.03 Improvements, Roadway and Utility Easements.** Declarant hereby reserves unto itself and Declarant's agents and employees, a perpetual non-exclusive easement over, under, and across the Property, or any areas conveyed or maintained by the Association, or any areas reserved or held as Common Area, for the installation, operation, maintenance, repair, relocation, removal and/or modification of any Improvements, roadways, walkways, pathways, street lighting, sewer lines, water lines, utility lines, drainage or storm water lines, and/or other pipelines, conduits, wires, and/or any public utility function on, beneath or above the surface of the ground that serve the Property, and any other property owned by Declarant, 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 facilities and Improvements described in this *Section 10.03*. 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.

**10.04 Subdivision Entry and Fencing Easement.** Declarant reserves for itself and the Association, an easement over and across the Property for the installation, operation, maintenance, repair, relocation, removal and/or modification of certain subdivision entry facilities, walls, and/or fencing which serves the Property. Declarant will have the right, from time to time, to Record a written notice which identifies the subdivision entry facilities, walls, and/or fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision entry facilities, walls, and/or fencing as Common Area by Recorded written notice. 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 or residence or Improvement constructed thereon.

**10.05 Landscape and Monument Sign Easement.** Declarant hereby reserves for itself and the Association, an easement over and across the Property and the Common Area for the installation, operation, maintenance, repair, replacement, removal, relocation, and/or modification of landscaping, signs, and/or monument signs which serve the Property and the Common Area and any other property owned by the Declarant. Declarant will have the right, from time to time, to Record a written notice, which identifies those portions of the Property and the Common Area to which the easement reserved hereunder applies. Declarant may designate all or any portion of the easement areas reserved hereunder as Common 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 or residence or Improvement constructed thereon.

**10.06 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 this Declaration, each Owner, by accepting a deed to a Lot and each Mortgagee, by accepting the benefits of a Mortgage against a Lot, 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, 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 this Declaration. The power thereby vested in the 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 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, any such agreements, documents, amendments or supplements to the Restrictions 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 or by any title insurance company selected by Declarant to insure title to any portion of the Common Area.

## ARTICLE 11 DEVELOPMENT RIGHTS

**11.01 Development by Declarant.** It is contemplated that the Property will be developed pursuant to a plan, which may, from time to time, be amended or modified. Declarant reserves the right, but will not be obligated, to pursue the development, construction and marketing of the Property, the right to direct the size, shape, and composition of the Property, the right to create and/or designate Lots and Common Areas and to subdivide all or any portion of the Property pursuant to the terms of this *Section 11.01*, subject to any limitations imposed on portions of the Property by any applicable Plat. Collectively, the rights reserved to the Declarant as set forth in this Declaration shall be known as the "Development Rights", and Declarant hereby reserves the right and privilege for itself, and/or its assigns, to exercise the Development Rights, and any other rights reserved on behalf of the Declarant as set forth in this Declaration until twenty-four (24) months after the expiration or termination of the Development Period, except the right to appoint and remove Board members and officers of the Association which shall be governed by the provisions set out in *Section 4.03*. These rights may be exercised with respect to any portions of the Property and the Common Area. As each area

is developed or dedicated, Declarant may designate the use, classification and such additional covenants, conditions and restrictions as Declarant may deem appropriate for that area.

**11.02 Special Declarant Rights.** Notwithstanding any provision of this Declaration to the contrary, at all times, 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 in the Property; (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 Property and the Common Area. The construction, placement or maintenance of Improvements by Declarant will not be considered a nuisance, and Declarant hereby reserves the right and privilege for itself to conduct the activities enumerated in this *Section 11.02* until twenty-four (24) months after expiration or termination of the Development Period.

**11.03 Addition of Land.** Declarant may, at any time and from time to time, add additional lands to the Property. Upon the filing of a notice of addition of land, such land will be considered part of the Property for purposes of this Declaration, and such added lands will be considered part of the Property subject to this Declaration and the terms, covenants, conditions, restrictions and obligations set forth in this Declaration, and the rights, privileges, duties and liabilities of the persons subject to this Declaration will be the same with respect to such added land as with respect to the lands originally covered by this Declaration. To add lands to the Property, Declarant will be required only to Record a notice of addition of land containing the following provisions:

- (a) A reference to this Declaration, which reference will state the document number or volume and initial page number where this Declaration is Recorded;
- (b) A statement that such land will be considered Property for purposes of this Declaration, and that all of the terms, covenants, conditions, restrictions and obligations of this Declaration will apply to the added land; and
- (c) A legal description of the added land.

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

- (a) A reference to this Declaration, which reference will state the document number or volume and initial page number where this Declaration is recorded;

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

(c) A legal description of the withdrawn land.

**11.05 Assignment of Declarant's Rights.** Notwithstanding any provision in this 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 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 12 DISPUTE RESOLUTION

### **12.01 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 Declaration ("**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 Property and the Common Area 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 12.02* 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 Restrictions;  
or

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

(iii) The design or construction of Improvements within the Property and the Common Area, other than matters of aesthetic judgment under *Article 7*, 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 12.02*:

- (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 Declaration;
- (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 Restrictions;
- (iv) Any legal proceeding in which any indispensable party is not a Bound Party;
- (v) Any action by the Association to enforce the Restrictions; 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 12.02(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.

**12.02 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 12.02(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.

[SIGNATURE PAGE FOLLOWS]

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

**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

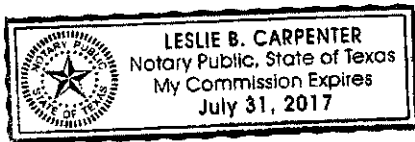
Title: Division President

THE STATE OF TEXAS §

COUNTY OF Montgomery

This instrument was acknowledged before me this 30 day of SEPTEMBER, 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



## 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 Shadow Lake Forest parcel and either a public street or a parcel of land that is not subject to the 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 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 Shadow Lake Forest 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 Restrictions, 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 ACC 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 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 ACC. 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 Owners may be responsible for portions of retaining walls on the perimeter of Shadow Lake Forest, 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

-2-

SHADOW LAKE FOREST  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
APPENDIX A-1 - RETAINING WALL SUPPLEMENT

and a Common Area, this Section's allocation of responsibility may contravene a possible 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 Shadow Lake Forest.
- b. From time to time, as needed, perform the Routine Repairs published in the Retaining Wall Maintenance Specifications for Shadow Lake Forest.
- 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 Official Public Records of Montgomery County, Texas. In the absence of such an agreement, the above allocations apply.

### 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

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 Official Public 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 ACC 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 ACC.

**SECTION 4. PERIMETER WALL NOTICE.** Notice is hereby given that a Shadow Lake Forest 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 Shadow Lake Forest 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)*

## APPENDIX A-2

### RETAINING WALL MAINTENANCE SPECIFICATIONS

#### FOR SHADOW LAKE FOREST

**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 Shadow Lake Forest 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 Shadow Lake Forest 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.

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.

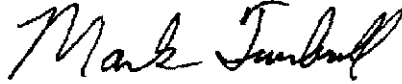
b. Treat wash-outs when they are small and manageable, using either backfill or flowfill.

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)*

E-FILED FOR RECORD  
10/01/2014 10:40AM



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.

10/01/2014



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](mailto:rburton@winstead.com)

**SHADOW LAKE FOREST**  
**COMMUNITY MANUAL**

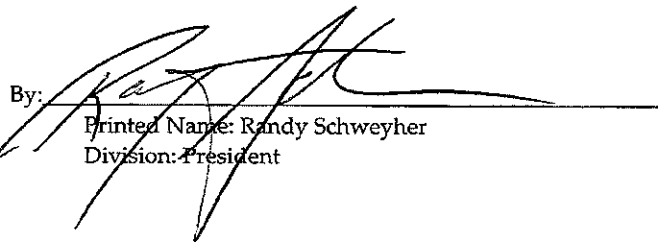
D. R. HORTON - TEXAS, LTD., a Texas limited partnership, as the Declarant under the Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas, certifies that the foregoing Community Manual was adopted for the benefit of the Shadow Lake Forest Community Association, Inc., a Texas non-profit corporation, as part of the initial project documentation for Shadow Lake Forest. This Community Manual becomes effective when recorded.

IN WITNESS WHEREOF, the undersigned has executed this Community Manual on the 1st day of October, 2014.

**DECLARANT:**

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

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

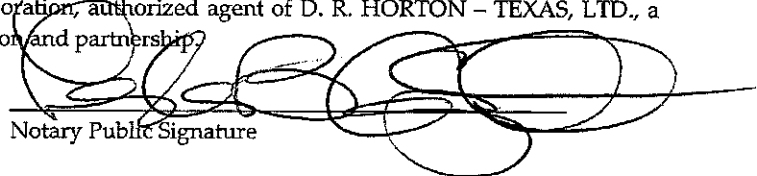
By:   
Printed Name: Randy Schweyher  
Division: President

THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this 1st day of October, 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)   
LESLIE B. CARPENTER  
Notary Public, State of Texas  
My Commission Expires  
July 31, 2017

  
Notary Public Signature

Cross-reference to Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

# COMMUNITY MANUAL

*for*

## SHADOW LAKE FOREST

*A Residential Community in Montgomery County*

D. R. Horton – Texas is the developer of Shadow Lake Forest. The guiding principles for the Community have been set forth in the governing documents for Shadow Lake Forest, which include the Development Documents and the Association Documents (both defined below) and are collectively referred to herein as the “Documents” (the “**Documents**”). The Documents include such instruments as the Declaration of Covenants, Conditions and Restrictions (the “**Declaration**”), 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 Residents of property 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 Shadow Lake Forest Community Association, Inc., the non-profit corporation created by the Declarant to exercise the authority and assume the powers described in the Declaration (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.

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

This Community Manual becomes effective when recorded.

**SHADOW LAKE FOREST**

**COMMUNITY MANUAL**

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5.	RECORDS INSPECTION, COPYING AND RETENTION POLICY	ATTACHMENT 5
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ATTACHMENT 1

CERTIFICATE OF FORMATION

## ATTACHMENT 2

### BYLAWS OF SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.

#### ARTICLE I INTRODUCTION

The name of the corporation is Shadow Lake Forest Community Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located initially 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 Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded in the Official Public Records of Montgomery County, Texas, including the number, qualification, appointment, removal, and replacement of Directors.

#### ARTICLE II DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in these Bylaws shall have the meanings hereinafter specified:

**Section 2.1. Assessment.** "Assessment" or "Assessments" shall mean assessment(s) levied by the Association under the terms and provisions of the Declaration.

**Section 2.2. Association.** "Association" shall mean and refer to Shadow Lake Forest Community Association, Inc., a Texas non-profit corporation.

**Section 2.3. Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by the Association, including without limitation, all easement estates, licenses, leasehold estates and other interests of any kind in and to real or personal property which are now or hereafter owned or held by the Association.

**Section 2.4. Association Rules.** "Association Rules" shall mean the rules and regulations adopted by the Board pursuant to the Declaration, as the same may be amended from time to time.

**Section 2.5. Board.** "Board" shall mean the Board of Directors of the Association.

**Section 2.6. Bylaws.** "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board and as from time to time amended.

**Section 2.7. Certificate.** "Certificate" shall mean the Certificate of Formation of Shadow Lake Forest Community Association, Inc., filed in the office of the Secretary of State of the State of Texas, as the same may from time to time be amended.

**Section 2.8. Community Manual.** "Community Manual" means the community manual, which may be initially adopted and recorded in the Official Public Records of Montgomery County, Texas, by

Declarant as part of the initial project documentation for the benefit of the Association. The Community Manual may include the Bylaws, Rules and Regulations and other policies governing the Association. The Community Manual may be amended, from time to time, by a Majority of the Board; provided, however, that during the Development Period (as defined in the Declaration), any amendment to the Community Manual must be approved in advance and in writing by Declarant.

**Section 2.9. Declarant.** "Declarant" shall mean D. R. HORTON – TEXAS, LTD., a Texas limited partnership, its successors or assigns; provided that any assignment(s) of the rights of D. R. HORTON – TEXAS, LTD., a Texas limited partnership, as Declarant, must be expressly set forth in writing and recorded in the Official Public Records of Montgomery County, Texas.

**Section 2.10. Declaration.** "Declaration" shall mean the "Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest", recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

**Section 2.11. Majority.** "Majority" shall mean more than half.

**Section 2.12. Manager.** "Manager" shall mean the person, firm, or corporation, if any, employed by the Association pursuant to the Declaration and delegated the duties, powers, or functions of the Association.

**Section 2.13. Member.** "Member" or "Members" shall mean any person(s), entity or entities holding membership privileges in the Association as provided in the Declaration.

**Section 2.14. Mortgage.** "Mortgage" or "Mortgages" shall mean any mortgage(s) or deed(s) of trust covering any portion of the Property given to secure the payment of a debt.

**Section 2.15. Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any lien or liens upon any portion of the Property.

**Section 2.16. Owner.** "Owner" or "Owners" shall mean the person(s), entity or entities, including Declarant, holding a fee simple interest in any Lot, but shall not include the Mortgagee of a Mortgage.

**Section 2.17. Property.** "Property" shall mean and refer to the property subject to the terms and provisions of the Declaration.

**Section 2.18. Restrictions.** "Restrictions" means, singularly or collectively as the case may be, the Declaration, the Certificate, Bylaws, the Community Manual, the Design Guidelines, if any, and any rules and regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time. An appendix, exhibit, schedule, or certification accompanying a Restriction is part of a Restriction.

### ARTICLE III

#### MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

**Section 3.01. Membership.** Each Owner of a Lot is a mandatory Member of the Association, as more fully set forth in the Declaration.

**Section 3.02. Place of Meetings.** Meetings of the Association shall be held where designated by the Board, either within the Property or as convenient as possible and practical.

**Section 3.03. 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 3.04. Special Meetings.** Special meetings of Members may be called in accordance with Section 22.155 of the Texas Business Organizations Code or any successor statute.

**Section 3.05. Notice of Meetings.** Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting or by publication in a 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 at his address as it appears on the records of the Association, with postage prepaid.

**Section 3.06. Waiver of Notice.** Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting by a Member shall be deemed a waiver of notice of all business transacted at such meeting unless an objection by a Member on the basis of lack of proper notice is raised before the business is put to a vote.

**Section 3.07. Quorum.** Except as provided in these Bylaws or in the Declaration, the presence of the Members representing twenty (20%) of the total votes in the Association shall constitute a quorum at all Association meetings. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum, provided that Members representing at least ten percent (10%) of the total votes in the Association remain in attendance, and provided that any action taken is approved by at least a Majority of the votes present at such adjourned meeting, unless otherwise provided in the Declaration.

**Section 3.08. 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 3.09. Voting.** The voting rights of the Members shall be as set forth in the Declaration, and such voting rights provisions are specifically incorporated by reference. Except as otherwise provided in the Declaration, action may be taken at any legally convened meeting of the Members upon the affirmative vote of the Members having a Majority of the total votes present at such meeting in person or proxy or by absentee ballot or electronic voting, 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 shall be entitled to cast the vote allocated to such Lot and not the person merely holding beneficial title to the same unless such right is expressly delegated to the beneficial Owner thereof in writing. 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.** The voting rights of an Owner may be cast or given: (a) in person or by proxy at a meeting of the Association; (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 Declaration 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 for which it was given.

(b) **Absentee and Electronic Ballots.** An absentee or electronic ballot: (i) may be counted as an Owner 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 Owner attends any meeting to vote in person, so that any vote cast at a meeting by an Owner 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 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 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 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 Owner submitting the ballot can be confirmed; and (c) for which the Owner may receive a receipt of the electronic transmission and receipt of the Owner's ballot. If an electronic ballot is posted on a website, a notice of the posting shall be sent to each Owner 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 (15<sup>th</sup>) 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 (30<sup>th</sup>) 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.

**Section 3.13. Action Without a Meeting.** Any action required or permitted by law to be taken at a meeting of the Members 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 holding at least the minimum number of votes necessary to authorize such action at a meeting if all Members 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 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 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 4.03* of the Declaration, i.e., no later than the 10<sup>th</sup> anniversary of the date the Declaration is Recorded, the President of the Association must have held a meeting of the Members of the Association (the "**Initial Member Election Meeting**") where the Members will elect one (1) Director, for a one (1) year term ("**First Member Elected Director**"). Declarant will continue to appoint and remove two-thirds of the Board after the Initial Member Election Meeting until expiration or termination of the Development Period. Notwithstanding the foregoing, the First Member Elected Director's term will expire as of the date of the Member Election Meeting.

(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, including Declarant, will elect three (3) new directors (to replace all Declarant appointed Directors and the First 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). Upon expiration of the term of a Director elected by the Members pursuant to this *Section 4.1(c)*, his or her successor will be elected for a term of two (2) years.

(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, a duly authorized agent or representative of the corporation, partnership, or other entity which owns the Lot. 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. As determined by the Board, Directors may be reimbursed for any reasonable and necessary out-of-pocket expenses.

**Section 4.3. 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 4.5. 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 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.

**Section 4.6. Removal of Directors.** 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 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 Restrictions, such Director may be removed by a Majority vote of the remaining Directors.

**Section 4.7. Eligibility for Board Membership.** With the exception of Board member positions appointed by the Declarant as permitted by the Declaration, 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.

**Section 5.6. Location.** Except if otherwise held by electronic or telephonic means, a Board meeting must be held in the county in which all or a part of the property in the subdivision 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 (10<sup>th</sup>) day or earlier than the sixtieth (60<sup>th</sup>) 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.

**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 shall be in lieu of a meeting and 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 Declaration) 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 Restrictions; (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 Declaration:

(a) Adopt and publish the Association Rules, including regulations governing the use of the Association Property and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the right of a Member to use of the Association Property 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 Association 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 Restrictions;

- (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 Property;
- (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 Declaration, to:
  - (1) Fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; 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);
- (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 Declaration 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.

(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 Restrictions 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 Restrictions 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 Declaration, 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 Declaration.

## **ARTICLE XI**

### **CORPORATE SEAL**

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

## **ARTICLE XII**

### **AMENDMENTS**

These Bylaws may be amended by: (i) the Declarant until expiration or termination of the Development Period; (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; or (iii) a Majority vote of the Board of Directors after the expiration or termination of the Development Period.

## **ARTICLE XIII**

### **INDEMNIFICATION OF DIRECTORS AND OFFICERS**

The Association shall indemnify every Director and Officer of the Association and Committee Member against, and reimburse and advance to every Director, Officer, and Committee Member 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, Officer, or Committee Member 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, Officer, or Committee Member 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, Officer, or Committee Member 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 Declaration and these Bylaws, the Declaration 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.

### ATTACHMENT 3

#### SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC. FINE AND ENFORCEMENT POLICY

1. Background. Shadow Lake Forest is subject to that certain Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest, recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time ("**Declaration**"). In accordance with the Declaration, Shadow Lake Forest Community Association, Inc., a Texas non-profit corporation (the "**Association**") was created to administer the terms and provisions of the Declaration. Unless the Declaration 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 Declaration, Certificate, Bylaws, Community Manual, and any rules and regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time (collectively, the "**Restrictions**"), including the obligation of Owners to pay assessments pursuant to the terms and provisions of the Declaration and the obligations of the Owners to compensate the Association for costs incurred by the Association for enforcing violations of the Restrictions.

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 Restrictions.

2. Policy. The Association uses fines to discourage violations of the Restrictions, 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 Restrictions. 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 Restrictions 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 fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Restrictions. 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 (30<sup>th</sup>) 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 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 Restrictions. 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:

1<sup>st</sup> Notice (No Right to Cure)

**\$50.00**

2<sup>nd</sup> Notice (No Right to Cure)

**\$75.00**

3<sup>rd</sup> Notice (No Right to Cure)

**\$100.00**

4<sup>th</sup> 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 Restrictions 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

### SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC. ASSESSMENT COLLECTION POLICY

Shadow Lake Forest is a community (the "Community") created by and subject to the Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest Recorded in the Official Public Records of Montgomery County, Texas, and any amendments or supplements thereto ("Declaration"). The operation of the Community is vested in Shadow Lake Forest 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 Declaration, Certificate, Bylaws, Community Manual, and any rules and regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time (collectively, the "Restrictions"), including the obligation of Owners to pay Assessments pursuant to the terms and provisions of the Declaration.

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

#### **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.

## 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	(4) Other attorney's fees
(2) Current assessments	(5) Fines
(3) Attorney fees and costs associated with delinquent assessments	(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 managing agent, 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 tenant, 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 Restrictions 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 Restrictions 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 Restrictions, 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 resident is deemed notice to all residents. 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

### **SHADOW LAKE FOREST 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 Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest 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 Declaration 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 Declaration.

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:

- a. **PERMANENT:** The Articles of Incorporation or the Certificate of Formation, the Bylaws and the Declaration, 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.

(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,  $\$15.00 \times .20 = \$3.00$ ; 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

SHADOW LAKE FOREST 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 Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

1. Dedicatory Instruments. As set forth in Texas Property Code Section 202.001, "dedicatory 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 declaration or 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, or as otherwise referred to in this notice as the "Governing Documents."

2. Recordation of All Governing Documents. The Association shall file all of the Governing Documents in the real property records of each county in which the property to which the documents relate is located. Any dedicatory instrument comprising one of the Governing 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 Governing Documents. The Association shall make all of the Governing Documents relating to the Association or subdivision and filed in the county deed records available on a website if the Association has, or a management company on behalf of the Association maintains, a publicly accessible website.

ATTACHMENT 7

**SHADOW LAKE FOREST 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 Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time.

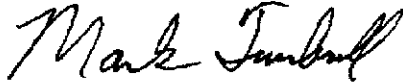
1. **Purpose.** The purpose of this Email Registration Policy is to facilitate proper notice of annual and special meetings of members of the Association pursuant to Section 209.0051(e) of the Texas Property Code.

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  
10/06/2014 10:35AM



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.

10/06/2014



County Clerk  
Montgomery County, Texas



E-FILED FOR RECORD  
10/08/2014 9:23AM



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.

10/08/2014



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**

**SHADOW LAKE FOREST**  
**ADOPTION OF WORKING CAPITAL ASSESSMENT**

Cross Reference to that certain Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest, recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas.



**SHADOW LAKE FOREST**  
**ADOPTION OF WORKING CAPITAL ASSESSMENT**

Pursuant to *Section 6.06* of that certain Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest, recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas (collectively, the "Declaration"), the Board of Directors (the "Board") and undersigned officer of the SHADOW LAKE FOREST 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 6.06* of the Declaration, the Board adopts a working capital assessment equal to One Thousand Two Hundred Dollars and No/100 (\$1,200.00)(the "Working Capital Assessment"). The Working Capital Assessment applies to all Lots subject to the Declaration unless otherwise exempt pursuant to *Section 6.06* of the Declaration.

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 Declaration.

EXECUTED TO BE EFFECTIVE on the 23 day of OCTOBER, 2014.

SHADOW LAKE FOREST COMMUNITY ASSOCIATION,  
INC., a Texas non-profit corporation

By: 

Printed Name: Leslie Carpenter

Title: Director

By: 

Printed Name: Robert Daigle

Title: Director

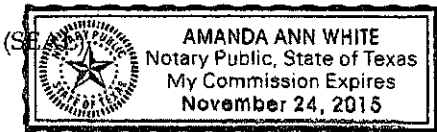
By: 

Printed Name: Tu-Anh Cloteaux

Title: Director

THE STATE OF TEXAS §  
COUNTY OF Montgomery §

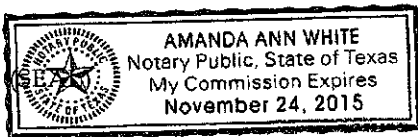
This instrument was acknowledged before me on this the 23 day of October 2014, by Leslie Carpenter, Director of Shadow Lake Forest Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White  
Notary Public Signature

THE STATE OF TEXAS §  
COUNTY OF Montgomery §

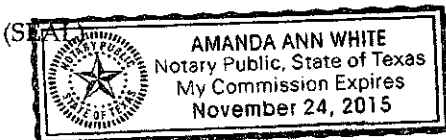
This instrument was acknowledged before me on this the 23 day of October 2014, by Robert Daigle, Director of Shadow Lake Forest Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White  
Notary Public Signature

THE STATE OF TEXAS §  
COUNTY OF Montgomery §

This instrument was acknowledged before me on this the 23 day of October 2014, by Tu-Anh Cloteaux, Director of Shadow Lake Forest Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Amanda White  
Notary Public Signature

E-FILED FOR RECORD  
10/24/2014 9:26AM



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.

10/24/2014



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](mailto:rburton@winstead.com)

**SHADOW LAKE FOREST**  
**AMENDMENT TO THE COMMUNITY MANUAL**

[MONTGOMERY COUNTY, TEXAS]

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

Cross-reference to Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas, and that certain Community Manual for Shadow Lake Forest recorded under Document No. 2014097581, Official Public Records of Montgomery County, Texas.

**AMENDMENT TO THE COMMUNITY MANUAL  
SHADOW LAKE FOREST**

This Amendment to the Community Manual for Shadow Lake Forest is made and executed by **D.R. HORTON - TEXAS, LTD.**, a Texas limited partnership (the "**Declarant**"), and is as follows:

A. Declarant previously recorded that certain that certain: (i) Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest recorded under Document No. 2014096109, Official Public Records of Montgomery County, Texas (the "**Declaration**"), and (ii) that certain Community Manual for Shadow Lake Forest recorded under Document No. 2014097581, Official Public Records of Montgomery County, Texas (the "**Community Manual**").

B. Pursuant to *Article 1* of the Declaration, the Community Manual may be amended, from time to time, by the Declarant during the Development Period (as defined in the Declaration). The Development Period has not expired.

C. Declarant desires to amend the Community Manual on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Community Manual is hereby amended as follows:

1. **Attachment 1**. Attachment 1 to the Community Manual is deleted in its entirety and replaced with Attachment 1 attached hereto and incorporated herein.

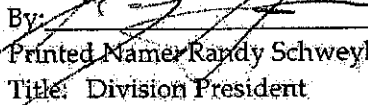
[SIGNATURE PAGE FOLLOWS]

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

**DECLARANT:**

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

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

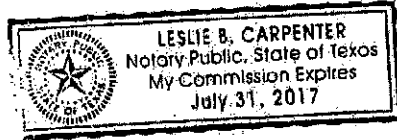
By:   
Printed Name: Randy Schweyher  
Title: Division President

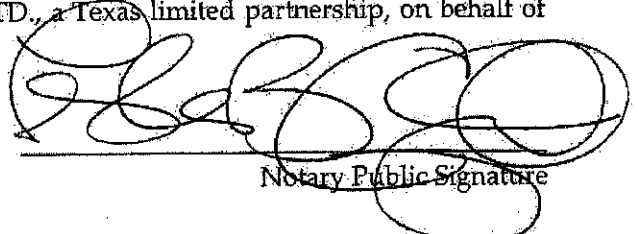
THE STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me this 11 day of December, 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

ATTACHMENT 1

CERTIFICATE OF FORMATION

Corporations Section  
P.O.Box 13697  
Austin, Texas 78711-3697



Nandita Berry  
Secretary of State

**Office of the Secretary of State**

**CERTIFICATE OF FILING  
OF**

**Shadow Lake Forest Community Association, Inc.**  
File Number: 802074077

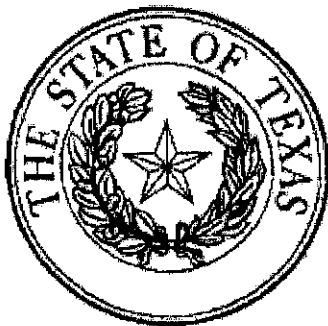
The undersigned, as Secretary of State of Texas, hereby certifies that a Certificate of Formation for the above named Domestic Nonprofit Corporation has been received in this office and has been found to conform to the applicable provisions of law.

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: 09/30/2014

Effective: 09/30/2014



*NANDITA BERRY*

Nandita Berry  
Secretary of State

Phone: (512) 463-5555  
Prepared by: Rosa Arcellano

Come visit us on the Internet at <http://www.sos.state.tx.us/>  
Fax: (512) 463-5709  
TID: 10306

Dial: 7-1-1 for Relay Services  
Document: 570692480902



FILED  
In the Office of the  
Secretary of State of Texas

SEP 30 2014

CERTIFICATE OF FORMATION  
OF  
SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC. Corporations Section

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: Shadow Lake Forest 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 Declaration of Covenants, Conditions and Restrictions for Shadow Lake Forest, recorded in the Official Public Records of Montgomery County, Texas, as the same may be amended from time to time (the "Declaration"). 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 Declaration;
- (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

AUSTIN\_1/714834v.3 52919-105

(c) to have and to exercise any and all powers, rights, and privileges which a corporation organized under the Texas Business Organizations Code Act 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 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136. 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 Declaration. 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 Declaration.

**ARTICLE VIII  
INCORPORATOR**

The name and street address of the incorporator is:

2

SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.  
CERTIFICATE OF FORMATION

AUSTIN\_1/714834v.3 52919-105

NAME

ADDRESS

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:

NAME

ADDRESS

Leslie Carpenter

400 Carriage Hills Blvd  
Conroe, Texas 77384

Robert Daigle

400 Carriage Hills Blvd  
Conroe, Texas 77384

Tu-Anh Cloteaux

400 Carriage Hills Blvd  
Conroe, Texas 77384

Each of the foregoing persons has consented to serve as a director. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its sole discretion, may determine, as set forth in the Declaration.

**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.

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SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.  
CERTIFICATE OF FORMATION

AUSTIN\_1/714834v.3 52919-105

**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 the Declaration. 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 by law to be taken at any annual or special meeting of the members of the Association, or any action that may be taken at any annual or special meeting of the members of the Board of Directors, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the number of members or directors, as applicable, having the total number of votes of the Association or Board of Directors, as applicable, necessary to enact the action taken, as determined under the Declaration or this Certificate of Formation.

**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 Declaration. In the case of any conflict between the Declaration and this Certificate of Formation, the Declaration shall control; and in the case of

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SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.  
CERTIFICATE OF FORMATION

AUSTIN 1/714834v.3 52919-105

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 30 day of September, 2014.



Robert D. Burton, Incorporator

E-FILED FOR RECORD  
12/12/2014 9:10AM



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.

12/12/2014



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  
SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.

*Montgomery County, Texas*

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

Cross reference to Declaration of Covenant, Conditions and Restrictions – Shadow Lake Forest recorded under Document No. 2014096109, in the Official Public Records of Montgomery County, Texas, as amended.

**SHADOW LAKE FOREST 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 Declaration of Covenants, Conditions and Restrictions - Shadow Lake Forest, recorded under Document No. 2014096109, 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 Shadow Lake Forest Community Association, Inc., a Texas non-profit corporation, the association established pursuant to the Declaration (the "Association").

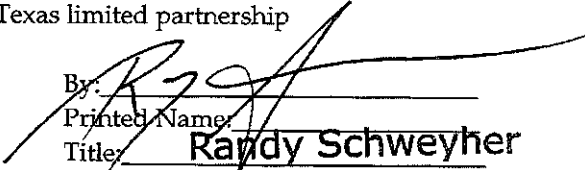
Declarant hereby removes Tu-Anh Cloteaux from the Board of Directors of the Association and appoints Jerry Hlozek to serve on the Board of Directors of the Association.

Declarant hereby appoints Jerry Hlozek 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:**

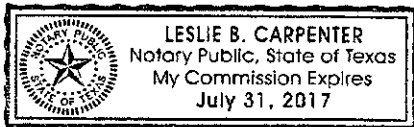
**D. R. HORTON - TEXAS, LTD.,**  
a Texas limited partnership

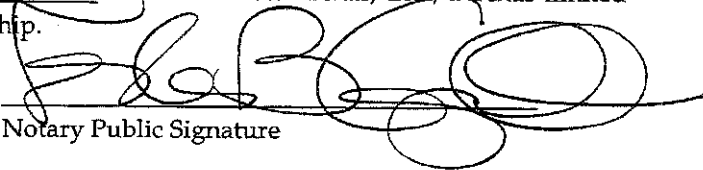
By:   
Printed Name: \_\_\_\_\_  
Title: **Randy Schweyher**  
**Division President**

STATE OF TEXAS §  
COUNTY OF Montgomery §

This instrument was acknowledged before me on this 9 day of MARCH, 2015, by Randy Schweyher, Division President the \_\_\_\_\_ 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



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



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  
SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC.**

*Montgomery County, Texas*

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

**Cross reference to Declaration of Covenant, Conditions and Restrictions – Shadow Lake Forest, recorded under Document No. 2014096109, in the Official Public Records of Montgomery County, Texas, as amended.**

**SHADOW LAKE FOREST 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 Declaration of Covenants, Conditions and Restrictions – Shadow Lake Forest recorded under Document No. 2014096109, 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 Shadow Lake Forest Community Association, Inc., a Texas non-profit corporation, the association established pursuant to the Declaration (the "Association").

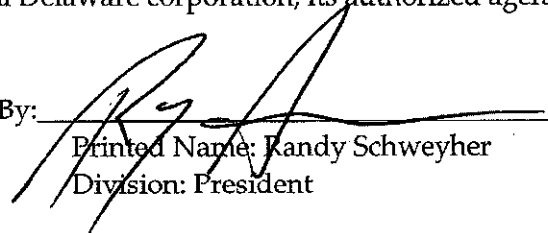
Declarant hereby removes Jerry Hlozek from the Board of Directors of the Association and appoints Mark Hardy to serve on the Board of Directors of the Association.

EXECUTED TO BE EFFECTIVE as of the 17 day of August, 2015.

**DECLARANT:**

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

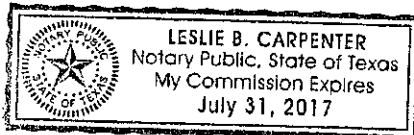
By: D. R. HORTON, INC.,  
a Delaware corporation, its authorized agent

By:   
Printed Name: Randy Schweyher  
Division: President

THE STATE OF TEXAS           §  
COUNTY OF MONTGOMERY   §

This instrument was acknowledged before me this 17 day of August, 2015, 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  
09/10/2015 9:28AM



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.

09/10/2015



County Clerk  
Montgomery County, Texas

SHARED AMENITY AGREEMENT

This Shared Amenity Agreement (the "Agreement") is made by and between WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, and the SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation, and is as follows:

RECITALS

A. Water Crest on Lake Conroe is a development located in Montgomery County, Texas, which is subject to that certain Water Crest on Lake Conroe Master Covenant, recorded under Document No. 2014057828, in the Official Public Records of Montgomery County, Texas, as may be amended from time to time (the "WCLC Covenant").

B. Shadow Lake Forest is a development located in Montgomery County, Texas, which is subject to that certain Shadow Lake Forest Declaration of Covenants, Conditions and Restrictions, recorded under Document No. 2014096109, in the Official Public Records of Montgomery County, Texas, as may be amended from time to time (the "SLF Declaration").

C. The Water Crest on Lake Conroe Community Association, Inc. (the "WC HOA") is the homeowners' association created to administer the terms and conditions of the WCLC Covenant. The WC HOA administers and maintains a boat ramp located and depicted on Exhibit "A", attached hereto (the "Boat Ramp").

D. The Shadow Lake Forest Community Association, Inc. (the "SL HOA") is the homeowners' association created to administer the terms and conditions of the SLF Declaration.

E. WC HOA and SL HOA desire to enter into this Agreement to permit the Members of the SL HOA to utilize the Boat Ramp.

NOW, THEREFORE, for and in consideration of the mutual covenants and obligations set forth herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the WC HOA and the SL HOA hereby agree as follows:

1. Defined Terms. All defined terms delineated with initial capital letters in this Agreement that are not defined herein shall have the meaning ascribed to them in the WCLC Covenant or the SLF Declaration, as applicable. Other terms have the meanings commonly ascribed to them.

2. Use of the Boat Ramp. Each Member of the SL HOA shall have access to and be entitled to use the Boat Ramp, subject to the terms and provisions of this Agreement, the terms and provisions of the WCLC Covenant, and any rules or regulations adopted by the WC HOA for the use of the Boat Ramp.

(a) Boat Ramp. Subject to the termination provisions set forth in *Paragraph 3* below, the WC HOA hereby grants and conveys to the Members of SL HOA a license to utilize the Boat Ramp subject to rules and regulations adopted from time to time by the WC HOA (the "Use Rules"); provided however, that any Use Rules will be applied by the WC HOA to the Members of the WC HOA and the Members of the SL HOA on a non-discriminatory, non-preferential basis, *i.e.*, among other things, Members of the SL HOA will enjoy the same access to the Boat Ramp as do the Members of the WC HOA, and the WC HOA will address violations of the Use Rules by the Members of the SL HOA utilizing the same procedures used to address violations of the Use Rules by the Members of the WC HOA. Pursuant to its authority under the SLF Declaration, the SL HOA must adopt a fine and enforcement policy or some other mechanism by which the SL HOA may impose and collect a fine from its Members for a violation of the Use Rules. In the event a fine is assessed by the WC HOA as a result of a violation of the Use Rules by a Member of the SL HOA, the SL HOA will impose and collect the fine from its Member in accordance with the fine and enforcement policy or other mechanism therefor, and such fine, upon receipt from the Member of the SL HOA, will be remitted to the WC HOA.

(b) Release and Indemnity. The WC HOA may require each Member to execute a release and indemnity in a form and content approved by the WC HOA Board as a precondition to use of the Boat Ramp.

3. Term. The terms set out in this Agreement will inure to the benefit of and be enforceable by WC HOA or SL HOA and their successors for an initial term of twenty (20) years, which shall be automatically renewed for successive five (5) year terms. This Agreement may not be amended, modified or terminated except by written instrument executed by a majority of the Board of Directors of the WC HOA and the SL HOA.

4. Notice. Any notice, communication, request, reply or advice (severally and collectively referred to as "Notice") in this Agreement provided or permitted to be given, made or accepted by the parties hereto, must be in writing. Notice may, unless otherwise provided herein, be given or served:

(a) by depositing the same in the United States Mail, certified, with return receipt requested, addressed to the party to be notified and with all charges prepaid; or

(b) by depositing the same with Federal Express or another service guaranteeing "next day delivery," addressed to the party to be notified and with all charges prepaid; or

(c) by delivering the same to such party or an agent of such party by telecopy or by hand delivery.

Notice deposited in the United States mail in the manner hereinabove described shall be deemed effective from and after the earlier of the date of actual receipt or three (3) days after the date of such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall until changed as provided below, be the address of the registered agent of each such party on file with the Secretary of State of the State of Texas.

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other party. If any date or any period provided in this Agreement ends on a Saturday, Sunday or legal holiday, the applicable period shall be extended to the first business day following such Saturday, Sunday or legal holiday.

5. **Mediation and Arbitration.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall act in good faith and use their best efforts to settle the dispute, claim, question, or disagreement to this effect and at least one (1) representative selected by each party shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to all parties to the dispute. If they do not reach such solution within a period of sixty (60) days, then, upon notice by one Party to all other Parties to the dispute, disputes, claims, questions, or differences shall be finally settled by binding arbitration administered by the American Arbitration Association in accordance with the provisions of its applicable rules.

6. **Further Assurances.** Each of the parties hereto, shall be obligated to execute and deliver any and all documents and instruments and to perform such additional acts reasonably requested by the other party to implement the terms of this Agreement.

7. **Counterpart Execution.** This Agreement may be executed in any number of counterparts, with the same effect as if all parties hereto had signed the same document, and all counterparts will constitute one and the same agreement.

8. **Binding Effect.** The obligations under this Agreement will be binding on the successors and assigns of the parties hereto.

9. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of Texas and will be enforceable in Montgomery County, Texas. The District Courts of Montgomery County, Texas shall be the exclusive forum for any action to enforce the terms of this agreement, and the parties expressly consent to personal jurisdiction in Montgomery County, Texas.

10. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements or understandings, whether written or oral, with respect to the subject matter hereof. No amendments or modifications hereto will be valid unless made in writing and signed by all parties hereto.

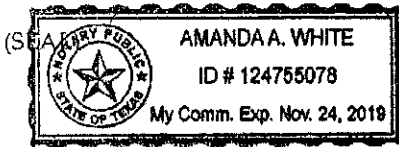
EXECUTED to be effective on the date ("Effective Date") fully executed by each of the Parties hereto.

WATER CREST ON LAKE CONROE COMMUNITY ASSOCIATION, INC., a Texas nonprofit corporation

By: [Signature]  
Printed Name: WESLEY B CARPENTER  
Title: PRESIDENT

THE STATE OF TEXAS §  
§  
COUNTY OF Montgomery §

This instrument was acknowledged before me on this the 29<sup>th</sup> day of JANUARY 2016, by WESLEY B CARPENTER Director of Water Crest on Lake Conroe Community Association, Inc., a Texas nonprofit corporation, on behalf of said nonprofit corporation.



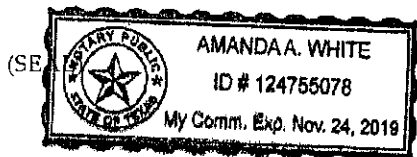
Amanda White  
Notary Public Signature

SHADOW LAKE FOREST COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation

By: [Signature]  
Printed Name: WESLEY B CARPENTER  
Title: PRESIDENT

THE STATE OF TEXAS §  
§  
COUNTY OF Montgomery §

This instrument was acknowledged before me on this the 29<sup>th</sup> day of JANUARY 2016, by WESLEY B CARPENTER Director of Shadow Lake Forest Community Association Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



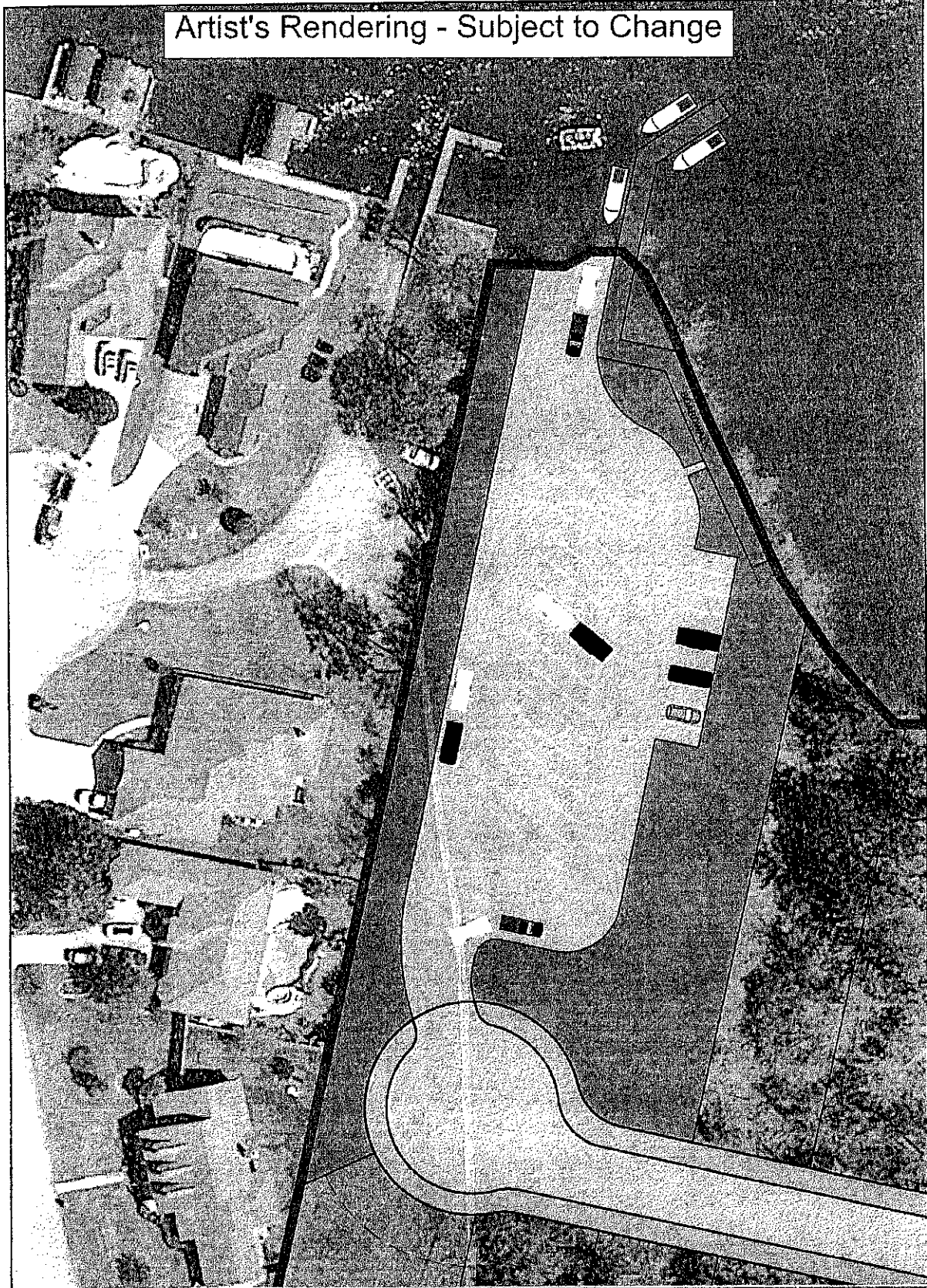
Amanda White  
Notary Public Signature



**Exhibit "A"**

Depiction of Boat Ramp

Artist's Rendering - Subject to Change



# Water Crest Boat Dock and Parking Area

A ±314 Acre Community located in Montgomery County, Texas.

January 7, 2016

## **EHRA**

10555 Westliffe Drive  
Houston, Texas 77042  
713.764.4500  
EHRAinc.com  
OFFICE: 1111A

EHRA, JOB NO. 121-044-00  
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All drawings are preliminary and not for construction. All dimensions are approximate. All other dimensions are as shown. All other dimensions are as shown. All other dimensions are as shown.

E-FILED FOR RECORD  
01/29/2016 4:24PM



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.

01/29/2016



County Clerk  
Montgomery County, Texas