



# WOODFOREST

**FIRST AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WOODFOREST**

After Recording Return To:

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**FIRST AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WOODFOREST**

STATE OF TEXAS                   §  
  §  
COUNTY OF MONTGOMERY       §

This First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Woodforest (“Declaration”) is made on the date hereinafter set forth by Woodforest Development, Inc., a Texas corporation, hereinafter referred to as the “Declarant”, joined by Woodforest Partners, L.P., a Texas limited partnership, hereinafter referred to as the “Woodforest Owner”.

**W I T N E S S E T H:**

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Woodforest was recorded under Clerk’s File Number 2008-091292 in the Official Public Records of Montgomery County, Texas (“Original Declaration”);

WHEREAS, the First Amendment to the Declaration of Covenants, Conditions and Restrictions for Woodforest was recorded under Clerk’s File Number 2011067821 in the Official Public Records of Montgomery County, Texas (“First Amendment”);

WHEREAS, the Second Amendment to the Declaration of Covenants, Conditions and Restrictions for Woodforest was recorded under Clerk’s File Number 2015026260 in the Official Public Records of Montgomery County, Texas (“Second Amendment”);

WHEREAS, the Third Amendment to the Declaration of Covenants, Conditions and Restrictions for Woodforest was recorded under Clerk’s File Number 2016088143 in the Official Public Records of Montgomery County, Texas (“Third Amendment”);

WHEREAS, at the time the Original Declaration was recorded, Woodforest Owner was the owner of certain property in Montgomery County, Texas platted as Woodforest Section 3, a subdivision of 63.208 acres and containing 71 lots and 2 blocks, being a partial replat of Elk-Trace Golf Estates Section One, recorded in Cabinet “P”, Sheets 66-67, and also being out of the John Sealy survey, Abstract 759, the James Pevhouse Survey, Abstract 29, and the Archibald Hodge Survey, Abstract 18, according to the map or plat thereof, filed on the 29<sup>th</sup> day of August, 2008 under Clerk’s File No. 2008-087611 (the “Plat”) in the Plat Records of Montgomery County, Texas (the “Property”, “Subdivision”, and/or “Woodforest Section 3”, which terms include additional land as same is annexed into the Woodforest subdivision and made subject to this Declaration); and

WHEREAS, Declarant desires to develop the Property as a mixed use subdivision, and to provide and adopt a general plan of development including assessments, conditions, covenants, easements, reservations, and restrictions designed to govern the Property; and

WHEREAS, Declarant deemed it desirable, for the efficient administration of the amenities in said Subdivision and enforcement of the Dedicatory Instruments (hereinafter defined), to create an Association (hereinafter defined) to which was delegated and assigned the authority to administer and enforce these assessments, conditions, covenants, easements, reservations and restrictions, including levying, collecting and disbursing the Assessments (hereinafter defined);

WHEREAS, the Board of Directors of the Association established certain Bylaws by which the Association is governed through its Board of Directors, for the purpose of exercising the functions aforesaid and any other duties as set out in the Bylaws and/or other Dedicatory Instruments; and

WHEREAS, Declarant, with the joinder of Woodforest Owner, desires to amend and restate the Original Declaration, the First Amendment, the Second Amendment and the Third Amendment and replace them in their entirety with this Declaration pursuant to the authority under Article XVI, Section A of the Original Declaration.

NOW, THEREFORE, Declarant and Woodforest Owner hereby declare that the Property is subject to the jurisdiction of the Association, and shall be developed, improved, sold, used and enjoyed in accordance with, and subject to the following plan of development, including the assessments, conditions, covenants, easements, reservations, and restrictions hereinafter set forth, all of which are hereby adopted for, and placed upon said Property and shall be covenants running with the Property and be binding on all parties, now and at any time hereinafter, having or claiming any right, title or interest in the Property or any part thereof, their heirs, executors, administrators, successors and assigns, regardless of the source of, or the manner in which any such right, title or interest is or may be acquired, and shall inure to the benefit of each Owner of any part of the Property. Those provisions of the Original Declaration, First Amendment, Second Amendment and Third Amendment that are not being amended by this Declaration are being restated herein for ease of reference and the purpose of completeness; and further provided, that the lien created in the Original Declaration is not disturbed by this Declaration and shall continue to be in full force and effect from the date the Original Declaration was recorded.

The Property is subject to this Declaration, which may be amended and/or supplemented from time to time, the Dedicatory Instruments, and to the Development Agreement between the City of Conroe, Texas, Woodforest Partners, L.P. and Woodforest Development, Inc. If any conflict exists between all or any portion of the foregoing, the more restrictive provision shall control.

## **ARTICLE I. DEFINITION OF TERMS**

The following words when used herein shall have the following meanings when capitalized (unless the context requires otherwise and then the term is not capitalized):

- A. "ARC" means the Architectural Review Committee established for the Property as set forth in this Declaration.

- B. “Area of Common Responsibility” means all of the properties and facilities for which the Association may have responsibility under the Dedicatory Instruments, or for which the Association otherwise agrees to assume responsibility, regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and, by way of illustration and not limitation, may also include Lots or portions of Lots and property dedicated to the public, such as public rights-of-way.
- C. “Assessment” means the assessments levied against all Lots or Tracts pursuant to this Declaration, an IURD or other Dedicatory Instrument for the purposes set out herein/therein or any other charge authorized by this Declaration or other Dedicatory Instrument.
- D. “Association” means one or more non-profit corporations, including its successors, assigns, or replacements, created under the laws of the State of Texas, with the first being the WOODFOREST OWNERS ASSOCIATION, INC. Declarant is hereby authorized to incorporate one or more entities to provide the functions of the Association. No more than one such non-profit corporation shall be in existence at any one time, provided however, the formation of a sub-association is permitted. The Association is a Texas non-profit corporation that has jurisdiction over all properties located within the Subdivision, as same may be amended from time to time as additional property is annexed into the Subdivision as allowed under this Declaration. For purposes of clarity, when “Association” is used herein, that term includes the authority, rights, remedies and obligations of the nonprofit corporation, and the authority of the Board, as defined herein, to carry out the authority, rights, remedies and obligations of the Association.
- E. “Board” means the Board of Directors of the Association as provided within the Bylaws.
- F. “Builder” means an individual or entity that purchases a single or multiple Lots from the Declarant, or its affiliates, for the purpose of constructing Dwellings thereon, which Dwellings will be offered for sale to purchasers. “Builder” shall not include an individual or entity constructing additions onto a Dwelling already in existence, performing repairs or maintenance or re-constructing or replacing a Dwelling after demolition or destruction, either partial or complete.
- G. “Bylaws” mean the Bylaws of the Woodforest Owners Association, Inc., as they may be amended from time to time.
- H. “Common Area” means all real property owned in fee or held in easement, lease, or license by the Association, and any improvements thereon, including real property in which it otherwise holds possessory or use rights, for the common use and/or enjoyment of the Owners and shall include areas designated by the Declarant to be conveyed by deed or easement to the Association.
- I. “Community Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing throughout the Subdivision. Such standards may be defined in the Guidelines or rules and regulations. Such standards may be specifically

determined, and modified, by the Board, with the approval of Declarant during the Development Period.

- J. “Declarant” means Woodforest Development, Inc., a Texas corporation, its successors and assigns as same may be evidenced by a written instrument recorded in the Official Public Records of Montgomery County, Texas.
- K. “Declaration” means this First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Woodforest which encumbers the Property, and any other property brought under the control of this Declaration, or any IURD (defined hereinafter), annexation agreement and/or amendment thereto.
- L. “Dedicator Instruments” shall mean each document governing the establishment, maintenance and operation of the Subdivision, including but not limited to the Declaration, Bylaws, Certificate of Formation, and similar instruments governing the administration or operation of the Association, as well as any and all rules, Guidelines and policies, and any supplements or amendments to such documents, enforceable by the Association.
- M. “Deed Restriction Violation” means any damage that an Owner or Occupant has caused to the Common Area or a condition on a Lot or Tract or an improvement located on a Lot or Tract that does not comply with the terms and conditions of the Dedicatory Instruments covering the establishment, maintenance, and operation of the Subdivision. Failure to pay all amounts due and owing on a Lot or Tract shall also be considered a Deed Restriction Violation.
- N. "Development Period" means the period of time that Declarant reserves the right to facilitate the development, construction and marketing of the Subdivision or the right to direct the size, shape and composition of the Subdivision, which retained rights shall be vested in the Declarant until Declarant no longer owns any portion of the Property or such time as Declarant assigns or relinquishes all of its retained rights created herein and/or in any other Dedicatory Instrument.
- O. “Dwelling” means a main residential structure constructed on a Lot or Homesite intended for single-family residential use.
- P. “Foundation Fee” means the fee levied pursuant to this Declaration, as set forth hereinafter.
- Q. “Guidelines” mean general, architectural, and/or builder guidelines, and application and review procedures, if any, that may set forth various standards relating to exterior harmony of any and all improvements placed upon or constructed on any Lot, Tract, and/or construction types and aesthetics. There shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. Guidelines are enforceable by the Board.



- R. “Hardscape” shall include but not be limited to such items as rocks, landscape timbers, railroad ties, fountains, statuary, sculpture, terracing materials, lawn swings, and yard art.
- S. “Homesite” means one or more Lots upon which a single-family Dwelling may be erected subject to this Declaration.
- T. “Initial Use Restriction Designation” and/or “Annexation Agreement” (“IURD”), shall mean an amendment or supplement to this Declaration, including a Supplemental Amendment, executed by or consented to by Declarant (and the Owner of the property) that subjects additional property to this Declaration and/or imposes expressly or by reference, additional or different restrictions, assessments and/or obligations on the land described therein. The term shall also refer to the instrument recorded by the Declarant or the Association pursuant to the provisions of this Declaration to subject additional property to this Declaration.
- U. “Lot” means a parcel of Property defined as one Lot by the plat and/or any replat thereof recorded in the Official Public Records of Montgomery County, Texas, and encumbered by this Declaration, and restricted to single-family residential use. Homesites may be comprised of more than one Lot; each such Lot will be subject to the rights and duties of membership in the Association. There shall be an Assessment due for each Lot owned as defined by the then-plat of record, subject to the limitations herein. No Lot may be further subdivided and separated into smaller Lots, and no portion less than all of any Lot shall be transferred or conveyed. Notwithstanding anything contained herein to the contrary, this definition shall not include any Lot for so long as it is being used by Declarant as a model home Lot and/or a sales information center.
- V. “Member” means an Owner, as defined in this Article, subject to the provisions set forth in this Declaration.
- W. “Member in Good Standing” shall mean Declarant and a Member (a) who is not delinquent in the payment of any Assessment against the Member’s Lot or Tract or any interest, late charges, costs or reasonable attorney’s fees added to such Assessment under the provisions of the Dedicatory Instruments or as provided by law, (b) who is not delinquent in payments made pursuant to a payment plan for Assessments, (c) who has not caused damage to the Common Area, (d) who does not have any condition on his Lot or Tract which violates any Dedicatory Instrument which has progressed to the stage of a written notice to the Owner of the Owner’s right to request a hearing to be held by the Association or its designated committee, or beyond, and which remains unresolved as of the date of determination of the Member’s standing, (e) who has not failed to pay any fine levied against the Member and/or the Member’s Lot or Tract pursuant to the Dedicatory Instruments, or (f) who has not failed to comply with all terms of a judgment obtained against the Member by the Association, including the payment of all sums due the Association by virtue of such judgment. If one Occupant of a particular Dwelling does not qualify as a Member in Good Standing, then all Occupants of such Dwelling shall not be considered as Members in Good Standing. Additionally, if an Owner of multiple Lots does not qualify as a Member in Good Standing as to one Lot, then such

Owner shall not qualify as a Member in Good Standing as to all Lots owned by the Owner.

- X. “Neighborhood” means a residential area designated by the Declarant during the Development Period, and thereafter the Board, and may be comprised of one or more Lots and housing types and possibly a portion of the Common Area and/or Neighborhood Facility.
- Y. “Neighborhood Assessment” means an Assessment that may be levied pursuant to provisions set forth in this Declaration against all Lots in a Neighborhood to pay to the Association the Neighborhood Expenses and may include an accumulation for reserves for such expenses.
- Z. “Neighborhood Expenses” shall mean the expenses of administration (including professional services), maintenance, operation and replacement of a Neighborhood Facility (if any); the cost of insurance, real estate taxes and other real estate assessments, in any; water, water removal, electricity, telephone, gas or other necessary utility expenses for the Neighborhood Facility, the cost of and the expenses incurred for the maintenance and repair and replacement of personal property used by the Association in connection with the operation of the Neighborhood Facility or the provision of Neighborhood Wide Services to all Dwellings in the Neighborhood; any expense designated as a Neighborhood Expense by the Declarant and/or the Association; any expenses incurred by the Association which, pursuant to generally accepted accounting principles, can be reasonably allocated to the Neighborhood; and any other expenses lawfully incurred by the Association for the common benefit of the Owners of Lots in the Neighborhood. Neighborhood Expenses shall be determined on a Neighborhood by Neighborhood basis and no expenses incurred for any one Neighborhood shall be deemed to be a Neighborhood Expense for any other Neighborhood. In the event that certain expenses are incurred by the Association in connection with the operation of a given Neighborhood Facility and another Neighborhood Facility and/or the Common Area, the allocation of expenses between the Neighborhoods shall be made by the Board based on generally accepted accounting principles, and any allocations so made shall be final and binding. All Neighborhood Expenses are secured by the Assessment lien created herein.
- AA. “Neighborhood Facility” shall mean a portion of the Property which is part of a Neighborhood and which is described and designated as a “Neighborhood Facility” by the Declarant and/or the Association, or on a plat, together with all improvements thereon, rights appurtenant thereto, and all personal property used in connection with the operation thereof. By way of example, and not limitation, a Neighborhood Facility may be a swimming pool, tennis court, or other recreational facility which is available for use primarily or exclusively by Owners of Lots within a Neighborhood, an access gate or similar structure which serves a Neighborhood, or other facilities which serve or are used exclusively by Owners of Lots in the Neighborhood. A Neighborhood Facility shall not be deemed to be part of the Common Area.
- BB. “Neighborhood Wide Services” shall mean those services which are described and designated as a Neighborhood Wide Service (a) in an IURD or (b) by an action of the

Board pursuant to a petition signed by Owners of at least two-thirds of the Lots in the Neighborhood. Neighborhood Wide Services shall be furnished to the Lots in a specific Neighborhood by the Association as a Neighborhood Expense.

- CC. "Occupant" shall mean Owners, residents, tenants, lessees, guests, and invitees of any Lot, Tract or Dwelling within the Property for any period of time.
- DD. "Outbuildings" shall mean and refer to structures such as (by way of example and not limitation) storage buildings, sheds, greenhouses, gazebos and shade trellises.
- EE. "Owner" means an owner of any portion of the Property. Persons or entities holding title only as a lienholder shall not be an Owner for purposes of this Declaration.
- FF. "Public View" shall mean a condition, structure, item or improvement located on a Lot or Tract that is openly visible from or by (i) an individual standing at ground level of at least one neighboring Lot or Tract (such neighboring Lot or Tract does not have to be adjoining the Lot or Tract with any such condition, structure, item or improvement), (ii) a Common Area, or (iii) a street.
- GG. "Recreational Sites" means Common Area property that is set aside for use as recreational facilities, reserves, or green space and is encumbered by this Declaration, a recorded plat, or both.
- HH. "Special Assessment" means an Assessment levied pursuant to the terms set forth in this Declaration, for a specific purpose.
- II. "Tract" means a parcel of property encumbered by this Declaration that is not a Lot.
- JJ. "Woodforest", the "Subdivision" and/or the "Property" means the Woodforest Subdivision, located in Montgomery County, Texas. The Subdivision originally consisted of that land comprising Woodforest Section 3, as more particularly described in the plat recorded under Clerk's File No. 2008-087611 in the Map Records of Montgomery County, Texas. The Subdivision has been and may be supplemented as additional land is annexed into the Subdivision by the recording of an IURD, Annexation Agreement, or Supplemental Amendment.

## **ARTICLE II. PURPOSE AND INTENT**

The Subdivision is intended to be a mixed-use development that is planned to feature residential and commercial uses. This Declaration serves as the means by which design, maintenance and use of the Property and additional property anticipated to be a part of the Subdivision will be established.

### **ARTICLE III. PROPERTY SUBJECT TO RESTRICTIONS**

#### **A. Property Initially Encumbered**

The Property that was initially encumbered by the Declaration and is therefore a part of the Subdivision is more particularly described in the map or plat thereof, filed under Clerk's File No. 2008-087611 of the Official Public Records of Montgomery County, Texas.

#### **B. Annexation of Additional Property**

Without the joinder of any other Owners or Members, the Declarant reserves the exclusive right for twenty-five (25) years following the recording of the Original Declaration to annex any additional property into the Subdivision. Such annexations have been or will be accomplished by the execution and filing for record of an IURD, Supplemental Amendment or Annexation Agreement setting forth the land being annexed and/or the specific restrictions relating to such property, if different. Any IURD, Supplemental Amendment or Annexation Agreement may contain Assessments, covenants, conditions, restrictions and easements which apply only to the real property annexed and/or may create exceptions to, or otherwise modify, the terms of this Declaration as they may apply to the real property being annexed in order to reflect the different or unique character and/or intended use of such real property.

The right of the Declarant to annex land under this Section shall automatically pass to the Association upon the expiration of the twenty-five (25) year term granted above.

#### **C. Deannexation of Property**

During the Development Period, the Declarant, without the joinder of any other Owners or Members, may deannex from the Subdivision any property owned by the Declarant. During the Development Period, property not owned by the Declarant may be deannexed with the prior written consent of the Declarant and the Owner of the property.

### **ARTICLE IV. ASSOCIATION MEMBERSHIP, VOTING RIGHTS AND BOARD OF DIRECTORS**

#### **A. Eligibility**

Eligibility to vote or serve as a director or officer of the Board, after the expiration of the term of the initial Board, shall be predicated upon that person being a Member of the Association. Nothing contained herein creates a fiduciary duty owed by the Board to the Members of the Association

#### **B. Membership**

Declarant and every record Owner shall be a Member of the Association, excluding therefrom persons or entities holding an interest in the land merely as security for the performance of an obligation (such as a mortgagee, or holder of any other lien against property), unless that holder of the security interest foreclosed and thereby became the Owner of the Lot(s)

or Tract(s). Membership is appurtenant to and runs with the land. Membership is not severable as an individual right and cannot be separately conveyed to any party or entity. Any one (1) Owner shall have no more than one (1) Membership in the Association. All duties and obligations set forth in this Declaration are the responsibility of each Member. No waiver of use of rights of enjoyment created by this Declaration shall relieve Members or their successors or assigns of such duties or obligations. Mandatory membership began with the execution of the Original Declaration and passes with title to the land (regardless of any method of conveyance) to any subsequent grantee, successor, or assignee of Members. Members in Good Standing shall have the right to the use and enjoyment of the Common Area in the Subdivision. Owners who are not Members in Good Standing may be prohibited from utilizing Common Areas in the Subdivision.

C. Voting Rights

The Association shall initially have two (2) classes of membership, being Class A Members and Class B Members, as follows:

1. Class A Membership

Class A Members shall be all Members with the exception of Class B Members, if any. Each residential Class A Member's voting rights shall be based on the number of Lots owned and shall be determined as follows:

One (1) vote shall be granted to Class A Members for each Lot owned.

Each commercial Class A Member's voting rights, if any, shall be as set forth in the Annexation Agreement or Dedicatory Instrument applicable to such Tract.

2. Class B Membership

Class B Members shall be the Declarant and any Owner upon which Declarant, in its sole discretion, may confer Class B status in the Association. Declarant shall be entitled to three (3) times the total number of votes allocated to Class A Members. The Declarant's Class B Membership shall terminate upon the earliest to occur of the following:

a. When Declarant no longer owns any real property within the Woodforest development; or

b. Such time as Declarant, in its sole discretion, so determines, provided however, that Declarant may assign its rights in whole or in part, permanent or temporary, at any time.

Declarant shall have the continuing right, at any time prior to the termination of Declarant's Class B Membership, without the joinder or consent of any other Owner, entity, lender or other Person, to confer Class B status in the Association on any Owner (with such Owner's consent), solely with respect to voting rights

and/or Assessments (the “Conferral”). Provided, however, any such Conferral of Class B status does not have to be uniform as to all Class B Members. Declarant shall evidence such Conferral of Class B status by filing in the Official Public Records of Montgomery County, Texas, an instrument specifying the name and address of the party upon which Class B status has been conferred, setting forth a legal description for all of the real property to which such Class B conferral applies, and setting forth the terms of such Conferral. The Class B status so conferred by Declarant shall terminate and such Owner shall become a Class A Member of the Association, upon the earliest to occur of the following:

- a. Termination of Declarant’s Class B status in the Association, as provided herein; or
- b. A material violation by such Class B Member of any terms and conditions of the Conferral which has not been cured after the Class B Member has received notice of such violation and has failed to cure such violation; or
- c. Expiration of the term of the Conferral, if any, provided in the Conferral.

D. Voting Procedures

Class A Members and Class B Members shall exercise their votes as set out in the Dedicatory Instruments.

E. Right to Appoint/Elect Board of Directors

Declarant shall retain the authority to appoint all members of the Board until on or before the 120<sup>th</sup> day after the date that seventy-five percent (75%) of the Lots that may be created and made subject to the Declaration (as set forth hereinafter) are conveyed to Owners other than the Declarant or to a Builder in the business of constructing homes who purchased the Lots from the Declarant for the purpose of selling completed homes built on the Lots, at which time one-third (1/3) of the Board members (who must be Members of the Association) must be elected by the Owners other than the Declarant, as set forth in the Bylaws.

After such date, Declarant shall retain the authority to appoint the remaining two-thirds (2/3) of the members of the Board until such time as Declarant no longer owns any portion of the Property. The Declarant may assign the Association its authority to appoint some or all (as applicable) members of the Board, with such assignment evidenced by an instrument recorded in the Official Public Records of Montgomery County, Texas.

Upon termination of Declarant’s authority to appoint two-thirds (2/3) of the members of the Board, any remaining Class B Members shall be converted to Class A Members and elections shall be held to elect the members of the Board (who must be Members of the Association) pursuant to the provisions of the Certificate of Formation and the Bylaws of the Association. In the event Class B Membership terminates pursuant to the above provisions, and thereafter additional property is annexed into the jurisdiction of the Association, which results in the Declarant owning property in the Subdivision, only Declarant’s Class B Membership shall be

restored (no other previously designated Class B Membership shall be restored), until it again terminates as specified hereinabove. Notwithstanding anything contained herein to the contrary, the Declarant may assign, temporarily or permanently, all or a portion of its rights as Declarant to any person(s).

## **ARTICLE V. USE RESTRICTIONS**

Notwithstanding anything contained herein to the contrary, the provisions of this Article shall apply only to Lots unless other portions of the Property are specifically included in said provisions.

### **A. Residential Uses Permitted**

Homesites within the Subdivision shall be used exclusively for single-family residential purposes. The term “single-family” as used herein shall refer not only to the architectural design of the Dwelling but also to the permitted number of inhabitants, which shall be limited to a single family, as defined below. Single-family shall mean the use of, and improvement to, a Lot with no more than one building designed for and containing facilities for living, sleeping, cooking, and eating therein. In no case may a Lot contain more than one Dwelling. No multi-family Dwellings may be constructed on any Lot. No building, Outbuilding or portion thereof shall be constructed for income property or such that Occupants would occupy less than the entire Lot and/or Homesite.

It is permitted for Owners to lease a Dwelling in the Subdivision, so long as Occupants are leasing the entire land and improvements comprising the Homesite. Leasing a Dwelling for residential purposes shall not be considered a “business”, provided the terms herein are satisfied. This provision shall not preclude the Association or an institutional lender from leasing a Dwelling upon taking title following foreclosure of its security interest in the Dwelling or upon acceptance of a deed in lieu of foreclosure. “Leasing” for purposes of this Declaration, is defined as occupancy of a Dwelling by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Provided, however, “leasing” for purposes of this Declaration shall not include vacation rental by Owner, boarding house, “Airbnb”, or bed and breakfast and such uses are prohibited. No fraction or portion of any Dwelling may be leased or rented. All leases must be in writing and shall contain such terms as the Board may prescribe from time to time. All leases shall provide that they may be terminated in the event of a violation of the Declaration or the Dedicatory Instruments by an Occupant or Occupant’s family, and the Board, in its sole discretion, may require termination by the Owner and eviction of the Occupant in such event. Rental or lease of the Lot and Dwelling shall not relieve the Owner from compliance with this Declaration or the Dedicatory Instruments. Single-family residential purpose does not include a Lease to tenants temporarily (less than ninety (90) days) or where the tenants do not intend to make the Lot/Dwelling their primary residence.

No Dwelling may be occupied by more than one single family. By way of illustration the following is an example of an approved single family:

**RESIDENT 1 AND RESIDENT 2 RESIDE IN DWELLING.**

Additional approved residents are:

- a) children of either or both residents;
- b) no more than a total of 2 parents of the residents;
- c) one unrelated person; and
- d) one household employee.

It is not the intent of this provision to exclude from a Lot any individual who is authorized to so remain by any state or federal law. If it is found that this provision is in violation of any law, then this provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

**B. Non-Permitted Uses**

1. No trade or business may be conducted in or from any Dwelling, Lot or Homesite, except such use within a Dwelling where (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all governmental requirements and other Dedicatory Instruments applicable to the Property; (c) the business activity does not involve visitation to the Dwelling or Homesite by clients, customers, suppliers or other business invitees or door-to-door solicitation of Occupants of the Subdivision; and (d) 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 Subdivision, as may be determined in the sole discretion of the Board. The uses set out in this Section 1 (a) through (d) shall be referred to singularly or collectively as an “Incidental Business Use.” At no time may an Incidental Business Use cause increased parking or traffic within the Subdivision. Any increased parking or traffic within the Subdivision as a result of an Incidental Business Use shall be deemed to be a Deed Restriction Violation. A day-care facility, home day-care facility, church, nursery, pre-school, beauty parlor, or barber shop or other similar facility is expressly prohibited.

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 that involves the manufacture or provision of goods for or to persons other than the Occupant’s family, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does not generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Dwelling shall not be considered a trade or business within the meaning of this Section. This Section does not apply to any activity conducted by the Declarant, or by a Builder with approval of the Declarant, with respect to its development and sale of the Property. Garage sales, attic sales, moving sales, or yard sales (or any similar vending of merchandise) conducted on any Homesite more than once per year shall be considered business activity and therefore prohibited. The Association may, but is not required to, adopt rules and regulations regarding such sales.



Notwithstanding anything contained herein to the contrary, estate sales are expressly prohibited.

2. No vehicles displaying signs or advertising shall be permitted to be parked within Public View in the Subdivision, other than service vehicles contracted by Owners to perform specific services. No vehicles with more than two axles shall be permitted to be parked or stored for a period in excess of twelve (12) hours per week in a residential section of the Subdivision, without prior written permission of the Board, whose approval may be issued or withheld at its sole and absolute discretion.

3. No livestock, domestic or wild animals, nor plants or crops shall be raised on any Homesite, Lot, or any portion of the Property for the purpose of breeding or selling same, whether for profit or not. Exchange of such animals, plants or produce for anything of value to the seller shall constitute a sale of the merchandise and therefore prohibited under this provision.

C. Animals and Pets

No animals, livestock, including swine or poultry of any kind, shall be raised, bred, or kept on any portion of the Subdivision, except that dogs, cats, or other usual and common household pets, not to exceed a total of two (2) pets, may be permitted in or on a Homesite or in a Dwelling. The foregoing limitation on number of pets shall not apply to hamsters, small birds, fish or other constantly caged animals kept inside the Dwelling, nor shall it apply to require the removal of any litter born to a permitted pet prior to the time that the animals in such litter are three (3) months old. No pets are permitted to roam free. No animals or pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times whenever they are outside a Dwelling and/or fence, be confined on a leash which must be held by a responsible person.

D. Antennas

No exterior antenna, aerial, satellite dish, or other apparatus for the reception of television, radio, satellite or other signals of any kind may be placed, erected, or maintained on a Lot if visible from Public View, unless it is impossible to receive an acceptable quality signal from any other location. However, in that event, the receiving device may be placed in the least visible location where reception of an acceptable quality signal may be received. The Board may require painting or screening of the receiving device if painting or screening does not substantially interfere with an acceptable quality signal. In no event are the following devices permitted: (i) satellite dishes, which are larger than one (1) meter in diameter; (ii) broadcast antenna masts, which exceed the height of the center ridge of the roofline; and (iii) MMDS antenna masts, which exceed the height of twelve feet (12') above the center ridge of the roofline. No exterior antenna, aerial, satellite dish, or other apparatus which transmits television, radio, satellite or other signals of any kind are permitted on a Lot. This section is intended to comply with the Telecommunications Act of 1996 (the "Act"), as the Act may be amended from time to time, and FCC regulations promulgated under the Act. This section is to be interpreted as restrictive as possible while not violating the Act or FCC regulations. The Board may promulgate Guidelines which further define, restrict or address the placement and screening of

receiving devices and masts, provided such Guidelines are in compliance with the Act and applicable FCC regulations.

Declarant and the Association shall have the right, without the obligation, to erect an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of the Subdivision, should any master system or systems require such exterior apparatus.

E. Basketball Goals and Backboards

No basketball goal, net and/or backboard may be kept, placed or mounted upon any Lot or kept, placed, attached or mounted to any fence or Dwelling without prior written approval by the ARC. Further, no basketball goal, net and/or backboard may be placed within the public right-of-ways, islands or medians within the Subdivision. All basketball goals and/or backboards are subject to the Guidelines, rules or policies as to type, location, and hours of use. All basketball goals and/or backboards shall at all times be maintained and kept in good condition. If any basketball goal, net and/or backboard is placed within the Subdivision in violation of this Declaration, the Association or its agents shall be authorized to exercise its Self Help remedy, as set forth in this Declaration, to bring the Owner's Lot into compliance with this provision.

F. Drilling

No drilling or related operations of any kind shall be permitted upon, under, on or in any Lot or Tract, nor shall any wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Tract, including water wells for potable or non-potable uses. Provided, however, the Declarant, the Association and/or the municipal utility district has the right to drill water wells for non-potable use upon the Common Area and Area of Common Responsibility owned by such entity for purposes including, but not limited to, irrigation of recreational fields, parks and other open areas.

G. Exterior Seasonal Decorations

The display of exterior seasonal decorations, by way of illustration but not limited to lights, banners, flags, wreaths, shall be subject to reasonable rules and regulations, if any, promulgated by the Board. Such rules may address the appearance and length of time of such display. Such display shall be maintained and kept in good condition at all times. If any exterior seasonal decorations are placed, or remain, within the Subdivision in violation of this Declaration or the Dedicatory Instruments, the Board or its agents shall be authorized to exercise its Self Help remedy, to bring the Owner's Lot into compliance with this provision.

H. Flags and Flagpoles

The size, number, and placement of flagpoles, and the display of flags within the Subdivision, shall be subject to any applicable Guidelines, rules or policies adopted by the Board. The Declarant, by promulgating this Section, is not attempting to violate any local, state or federal law. This Section shall be interpreted to be as restrictive as possible while not violating any laws of the State of Texas and/or the United States of America.

## I. General Nuisances

No portion of the Property shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, animal, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, comfort, or serenity of the Owners and/or Occupants of surrounding Homesites, Tracts, and users of the Common Areas.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Property. There shall not be maintained any plants, animals, device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood (except for wood burned in approved outdoor fire pits and fireplaces), leaves, trash, garbage or household refuse shall be permitted within the Property. No speaker, horn, whistle, bell or other sound device, except alarm devices used exclusively for residential monitoring purposes, shall be installed or operated on the Property, unless required by federal, state or local regulation. The use and discharge of firecrackers and other fireworks is prohibited within the Property.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Tract, Lot or Homesite. The pursuit of hobbies or other visible activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, that might tend to cause disorderly, unsightly, or unkempt conditions, may not be pursued or undertaken on any part of the Property. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work may be permitted provided such activities are not conducted on a regular or frequent basis, and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

Notwithstanding anything contained herein to the contrary, the Association shall have the right but not the obligation to enter upon any Common Area, Area of Common Responsibility and/or street right-of-way and remove signs not authorized by the Board in advance, and/or to regulate (including, but not limited to, the prohibition of) street vending and similar non-approved activities.

No portion of the Property shall be used, in whole or in part, in a way that creates a nuisance within the Property. Activities or conditions constituting a nuisance are incapable of exhaustive definition which will fit all cases, but they can include those activities and conditions that endanger life or health, give unreasonable offense to senses, or obstruct reasonable use of property. Those activities or conditions that cause minor and/or infrequent disturbances resulting from ordinary life activities within a deed restricted community are not intended to constitute a nuisance. Whether such activity or condition constitutes a nuisance will be determined by the Board. The Board may adopt rules or policies to further define what constitutes a nuisance, as warranted.

J. Generators

The size, number, placement, and other characteristics of standby electric generators within the Subdivision shall be subject to any applicable Guidelines, rules or policies adopted by the Board.

K. Monuments and Fences

The Declarant and the Association, including their respective designees, are hereby granted an easement to place, maintain and repair a monument or marker within the Subdivision.

Fencing on all Lots and Tracts within the Subdivision shall be as set forth in the Guidelines or other Dedicatory Instrument and shall be subject to prior written approval by the ARC. Unless otherwise set forth herein or in another Dedicatory Instrument, Owners shall be responsible for the ongoing maintenance, repair and/or replacement of all fences in existence at the time of their purchase of the Lot. Replacement fences shall be of a similar material and design as originally constructed. The maintenance of any portion of a fence which lies between Lots or Tracts shall be the joint responsibility of the Lot or Tract Owner on whose property the fence lies between. In the event an Owner fails to repair, replace or maintain any fence in a manner consistent with the Community Wide Standard in the sole discretion of the Board, the Board may exercise its Self Help remedy pursuant to the terms set forth in this Declaration, and shall have the right, but not the obligation, through its agents, contractors and/or employees to enter such property for the repair and/or replacement of such fence after notice to the Owner. Any expense incurred by the Association in effectuating such repairs/replacement shall be the responsibility of the Owner(s) having such obligation to maintain, or will be split evenly between adjoining Lot or Tract Owners if a common fence is involved, and shall be secured by the continuing lien on the Lot or Tract.

Notwithstanding anything contained herein to the contrary, the maintenance, replacement, and/or repair of fencing installed on an Owner's Lot or Tract that is adjacent to a Common Area, Area of Common Responsibility or street, and that is specifically identified in the IURD associated with any portion of the Subdivision as a "Perimeter Fence", shall be the responsibility of the Association. The Declarant and/or the Association is hereby granted an easement over, across, upon, and under an Owner's Lot to the extent necessary to install, maintain, repair and/or replace a Perimeter Fence as same may be designated in the applicable IURD. Owners of Lots within Woodforest hereby agree to hold harmless the Declarant and the Association, including their directors, officers and agents, and release them from any liability for the placement of, construction, design, repair, maintenance and replacement of Perimeter Fences, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur due to the existence, installation, maintenance, repair, and/or replacement of Perimeter Fences.

The Association's maintenance obligation of the Perimeter Fences extends only to normal wear and tear of such fencing. Any damage caused to a Perimeter Fence by an Owner or Occupant that is beyond normal wear and tear will be repaired by the Association or the owner of the Perimeter Fence, as applicable, at the Owner's expense. The Board has the sole discretion

to determine what constitutes normal wear and tear. In exercising its obligations set forth herein, the Association shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such exercise of its obligations set forth herein, nor in any way shall the Association and the ARC, or their agents, be liable for any accounting or other claim for such action. Further, in exercising its obligations set forth herein, the Association is not liable for any loss or damage to landscaping (soft or hardscape) that encroaches upon a Perimeter Fence and/or any existing materials that are affixed to the Perimeter Fence including but not limited to any Owner fencing that is connected to a Perimeter Fence and any Owner's decorations or other personal items.

L. Outbuildings

Outbuildings shall not be constructed or placed on a Lot or Tract within the Subdivision without the prior written approval of the ARC. Reasonable Guidelines may be established from time to time addressing factors including, but not limited to, the appearance, type, size, quality and location of Outbuildings on a Lot or Tract.

M. Outside Storage and Trash Collection

No equipment, machinery, or materials of any kind or nature shall be stored on any Homesite forward of the fence at the front wall of the Dwelling situated thereon, unless the equipment, machinery or materials is being used temporarily (not more than one week) and is incident to repair or construction of the Dwelling or Homesite. All equipment, machinery, and materials shall be properly stored out of sight of every other Homesite immediately after use of such item, and all trash, debris, excess, or unused materials or supplies shall likewise be disposed of immediately off of the Homesite, or stored out of view until trash collection occurs.

Trash may only be placed outside for collection the evening before collection. Such trash must be contained to protect from animals or spillage and trash cans must be removed from sight the same evening of collection. No outdoor incinerators shall be kept or maintained on any Lot.

N. Parking and Prohibited Vehicles

No commercial vehicles or non-motorized vehicles, by way of example and not limitation, tow trucks, plumbing or similar service type vans or trucks, boat, trailer, marine craft, recreational vehicle, camper rig off of truck, hovercraft, aircraft, machinery or equipment of any kind may be parked or stored on any part of any Lot, street, easement, or right-of-way, unless such vehicle or object is completely concealed from Public View inside a garage or enclosure approved by the ARC. Passenger automobiles, passenger vans, motorcycles, or pick-up trucks that: (a) are in operating condition; (b) are qualified by current vehicle registration and inspection stickers; (c) are currently licensed and in daily use as motor vehicles on the streets and highways of the State of Texas; (d) do not exceed eighty inches (80") in height, or one hundred inches (100") in width and (e) have no advertising or signs located thereon, may be parked in the driveway on a Lot, however, no vehicle shall be parked so as to obstruct or block a sidewalk or be parked on a grassy area. The restriction concerning advertising and signs shall not apply to any vehicles, machinery, or equipment temporarily parked and in use for the construction, repair or maintenance of a Dwelling in the immediate vicinity. Storage of any vehicles in the street is

prohibited. Storage shall mean the parking of a vehicle for the shorter of: (i) seventy-two (72) consecutive hours or (ii) seven (7) days in any calendar month, whichever occurs first.

Vehicles to be parked on a Homesite must meet the restrictions of this Declaration and the Dedicatory Instruments, and at all times be operable (unless otherwise completely concealed in an enclosed garage), have current license tags, current state inspection stickers, and comply with current mandatory insurance under the laws of the State of Texas. Any vehicle not in daily use as a motor vehicle on the streets and highways of the State of Texas and not in compliance with the foregoing shall be considered stored on the property and such storage is strictly prohibited unless same is completely concealed in an enclosed garage. A vehicle that cannot physically fit within the designed garage of the Dwelling with the door closed will be construed as a vehicle not incident to residential use of a Homesite.

Recreational vehicles, such as mobile homes, motor homes, campers, and boats are not considered vehicles incident to the residential use of a Homesite and therefore are not permitted to be stored outside of the garage or ARC approved enclosure on a Homesite for any period of time greater than forty-eight (48) hours. A recreational vehicle with not more than two (2) axles may be parked in front of or on the Homesite for up to forty-eight (48) hours for loading, and unloading only.

Parking of any vehicle other than in a driveway or within an enclosed garage of a Homesite or other paved area provided for parking is expressly prohibited. The Owners of any Lot, by virtue of ownership of a Lot within the Subdivision, hereby contractually covenant and agree that the Association has jurisdiction over the public streets within the Subdivision, and shall have the right without the obligation to enforce the ban on parking on the public streets.

The Association may establish from time to time reasonable rules regarding the use, maintenance and parking of vehicles on private and/or public streets, and the Association has discretion to determine the various types of vehicles that fall within the scope of any such rules. Such parking rules may change the dimensions of permitted vehicles and/or the length of time for temporary parking or storage of vehicles. If there is a conflict between this Section and parking rules promulgated by the Board, the parking rules shall control.

O. Play Structures

Play Structures (as defined herein) shall not be constructed or placed on a Lot within the Subdivision without the prior written approval of the ARC. Guidelines may be established from time to time regarding play forts, play houses, swing sets and other recreational equipment (“Play Structures”), taking into account such factors including but not limited to the overall height, size, location and number of Play Structures placed on a Lot. In setting the Guidelines, factors including but not limited to the size and configuration of the Lot, the location of the Lot in the community, the location of the Play Structure on the Lot, the type of fencing on the Lot and visibility of the Play Structure from streets, other Lots, or the Common Areas may be taken into account.

P. Ponds and Other Water Bodies

The use of ponds and other bodies of water within the Subdivision, including but not limited to activities such as swimming, fishing, and boating, may be regulated by rules and regulations. The Board has the right, without the obligation, to promulgate rules and regulations governing the use of the ponds, and other bodies of water. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of ponds, or other bodies of water within or adjacent to Property.

Notwithstanding the foregoing, the Association, and the Declarant (for so long as the Declarant owns property that is or may be subjected to this Declaration) may use and regulate the use of any ponds or other bodies of water within the Subdivision for the irrigation of the Common Areas, for any other purpose deemed appropriate by the Board or Declarant, subject to the terms of any easement agreement affecting such use. The Declarant's rights under this Section shall be superior to any rights of the Association.

Q. Screening

No Owner or Occupant of any portion of the Property shall permit the keeping of articles, goods, materials, utility boxes, refuse, trash, storage tanks, or like equipment on the Property which may be considered a nuisance or hazard in the sole discretion of the Board. Air conditioners, utility boxes, garbage containers, antennas to the extent reasonably possible and pursuant to the terms set forth herein, or like equipment, shall not be kept in Public View and must be placed in a location first approved in writing by the ARC. Such screen shall be of a height at least equal to that of the materials or equipment being stored, but in no event shall such screen be more than six feet (6') in height. Added screening must also be provided to shield such stored materials and equipment from grade view from adjacent Dwellings or Common Area. Utility boxes must be screened so that they are not visible from the street and as may be set out in the Guidelines. A combination of trees, hedges, shrubs or fences should be used as screening material, as same may be set out in the Guidelines. All screening designs, locations, and materials are subject to prior written ARC approval. Any such screening installed must be maintained in a clean and neat manner at all times, and may not detract from the appearance of the Property.

R. Signs

No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any Dwelling, fence or other improvement upon such Lot so as to be visible from Public View except the following:

1. For Sale Signs. An Owner may erect one (1) sign on his Lot, not exceeding 2'x3' in area, fastened only to a stake in the ground and extending not more than three (3') feet above the surface of such Lot advertising the property for sale.

2. Political Signs. Pursuant to Texas Property Code §202.009, or its successor statute, political signs are approved as temporary signage on Lots for all local, state, or federal election purposes, provided that they meet the following criteria:

- (a) Maximum sign size cannot exceed 4 feet by 6 feet.
- (b) Signs must be ground-mounted. No sign can be mounted on any exterior part of the dwelling, garages, patios, fences or walls.
- (c) Signs may be posted not more than 90 days prior to the election and must be removed within 10 days after the election.
- (d) Signs may not contain roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component.
- (e) No sign can be attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object.
- (f) No sign may involve the painting of architectural surfaces.
- (g) No sign may threaten the public health or safety or violate a law.
- (h) No sign may contain language, graphics or any display that would be offensive to the ordinary person.
- (i) No sign may be accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.
- (j) Political signs are prohibited on any Common Area or facilities owned by the Association, including any public or private street right of way utility easements.
- (k) Only one sign per candidate or ballot item shall be allowed.

3. School Spirit Signs. Signs containing information about one or more students residing in the Dwelling and the school they attend shall be permitted so long as the sign is not more than 36” x 36” and is fastened only to a stake in the ground. There may be no more than one sign for each student residing in the Dwelling, and said signs may not be displayed more than ten (10) days in any calendar month, for more than three (3) months in a calendar year.

4. Security Signs/Stickers. Signs or stickers provided to an Owner by a commercial security or alarm company providing service to the Dwelling shall be permitted so long as the sign is not more than 8” x 8” or the sticker is no more than 4” x 4”. There shall be no more than one sign and no more than six (6) stickers located on the windows or doors. Stickers shall also be permitted upon windows and doors for a “Child Find” program or a similar program sponsored by a local police and/or local fire department.

A Builder and/or the Declarant may place certain information and advertising signs on Lots without the prior permission of the ARC, so long as such signs are similar to those listed as acceptable for Builder use in the Guidelines, and so long as such signs do not otherwise violate this Declaration.

If any sign is placed within the Subdivision, including but not limited to the streets, street right-of-ways, and Common Areas, in violation of this Declaration or the Dedicatory Instruments, the Board or its agents shall have the right but not the obligation to enter upon any



Lot, Tract, Homesite, street, street right-of-way, or Common Area and remove and/or dispose of any such sign violation, and in doing so shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry, removal and/or disposal nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

Guidelines may be established from time to time addressing the display of signs, including but not limited to billboards, posters, school activities, political signs, security signs/stickers and advertising devices within the Subdivision. The right is reserved by Declarant to construct and maintain, or to allow Builders to construct and maintain signs and other advertising devices on land they own and on the Common Area as is customary in connection with the sale of developed tracts and newly constructed residential Dwellings. In addition, the Declarant and the Association shall have the right to erect and maintain directional and informational signs along the streets within the Property and identifying signs and monuments at entrances to the Subdivision.

S. Swimming Pools/Spas

No above ground swimming pools are permitted within the Subdivision. All swimming pools and spas require prior written approval by the ARC.

T. Tree Removal

No trees greater than three (3) caliper inches to be measured at a point six (6) inches above grade shall be removed, except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in writing by the ARC. In the event of an intentional or unintentional violation of this Section, the violator may be required to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as the Board may determine necessary, in its sole discretion, to mitigate the damage.

U. Window Air Conditioning Units

No window or wall type air conditioners shall be permitted to be used, placed or maintained on or in any building on the Lots or Tracts, with the exception that window or wall type air conditioners shall be permitted for the benefit of a garage if such air conditioning unit is located at the rear of the garage unit and is screened from Public View. All window air conditioning units require prior written ARC approval as set forth herein.

All living areas within the home, including any room additions, must be centrally air-conditioned, unless otherwise approved by the ARC. Units that are alternatives to centrally air-conditioned units must be screened from Public View, and will require ARC approval.

V. Wind Turbines

No device used to convert wind into energy, including by way of illustration and not limitation, wind turbines, wind pumps, wind chargers and windmills, shall be permitted to be used, placed or maintained in any location within the Subdivision. Provided, however, this

provision does not apply to Common Areas within the Subdivision. The Board shall have the sole discretion to determine what devices are prohibited pursuant to this provision.

W. Window Treatments

Within three (3) months of occupying a Dwelling on any Homesite, an Owner shall install appropriate window treatments in keeping with the Community Wide Standard. Appropriate window treatments would include, by way of illustration and not limitation, curtains and draperies with backing material of white, light beige, cream, light tan, or light gray; blinds or miniblinds of the same colors or natural wood; and/or shutters of the same colors or natural wood. No other window treatment color may be visible from the exterior of the Dwelling. The Board shall have the sole discretion to determine what window treatments are appropriate.

Expressly prohibited both before and after the initial three (3) months of occupancy are any temporary or disposable coverings not consistent with the Community Wide Standard, such as reflective materials, newspapers, shower curtains, fabric not sewn into finished curtains or draperies, other paper, plastic, cardboard, or other materials not expressly made for or commonly used by the general public for window coverings in a residential subdivision of the same caliber as the Subdivision.

**ARTICLE VI. COMMON AREA AND AREA OF COMMON RESPONSIBILITY**

The Board, subject to the rights of the Members set forth in this Declaration and any amendments or IURD thereto, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon and shall keep it in good, clean, attractive and sanitary condition. No Owner or Occupant may appropriate any portion of the Common Area or any improvement thereon for his or her own exclusive use. Any Owner or Occupant that causes damage to the Common Area shall be financially responsible for said damage. The cost of repair, if not timely paid by the Owner (subject to any notice that may be required by law), shall be assessed against the Owner's Lot or Tract and secured by the continuing lien set forth in this Declaration.

The Declarant, and its designees, may transfer or convey at any time to the Association interests in real or personal property within or for the benefit of the Subdivision, and the Association is hereby obligated to accept such transfers and conveyances, even if such transfer or conveyance occurs after the termination of the Development Period. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests. Real property transferred to the Association by the Declarant, or its designees, may be transferred via a deed without warranty; provided, however, the property shall be transferred free and clear of all liens and mortgages at the time of such transfer. Upon the Declarant's written request, the Association shall reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

Owners hereby covenant (i) not to possess any Common Area in any manner adverse to the Association, and (ii) not to claim or assert any interest or title in any Common Area. Owners

hereby waive their right to adversely possess any Common Area, and hereby acknowledge and agree that any claim of adverse possession by an Owner of any Common Area shall be void.

The Association may maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

- (a) the Common Area;
- (b) any walking paths or trail system located within Woodforest;
- (c) landscaping within public rights-of-way within or abutting Woodforest to the extent that reasonable governmental authorities do not maintain it to the Community-Wide Standard;
- (d) such portions of any additional property as may be dictated by the Declarant, this Declaration, any Dedicatory Instrument or any covenants or agreement for maintenance entered into by, or otherwise binding on the Association; and
- (e) any property and facilities that the Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Declarant shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property it does not own, including, without limitation, Lots, property dedicated to the public, or property owned or maintained by another association if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. To the extent permitted by Texas law, the Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own.

## **ARTICLE VII. NOTICES AND EASEMENTS**

### **A. Easements for Green Belt, Pond Maintenance, Flood Water and Other Landscape Reserves**

The Declarant and Association reserve for themselves, including their designees, the non-exclusive right and easement, but not the obligation, to enter upon the green belts, landscape reserves, ponds, and other bodies of water located within the Property (a) to install, keep, maintain and replace pumps in order to obtain water for the irrigation of any of the Common Area, (b) to construct, maintain and repair any fountain, wall, dam, hardedge, canal, or other structure retaining water therein, and (c) to remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant's rights and easements hereunder shall automatically terminate at such time as Declarant shall cease to own any portion of the Property subject to the Declaration. The Declarant, the Association, and their designees

shall have an access easement over and across any portion of the Property abutting or containing any portion of any of the green belts, landscape reserves, canals, ponds, or other bodies of water to the extent reasonably necessary to exercise their rights and responsibilities under this Declaration.

There is further reserved, for the benefit of Declarant, the Association, and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Homesites (but not the Dwellings thereon) extending from the rear Lot line of Lots bordering any ponds, canals, or other bodies of water, flood storage easements or FEMA Special Flood Hazard Areas a distance of sixteen feet (16') in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Property; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, canals, or other bodies of water within the Subdivision; (c) to maintain and landscape the slopes and banks pertaining to such ponds or other bodies of water; and (d) to enter upon and across such portions of the Property for the purpose of exercising rights and performing obligations under this Declaration. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other person or entity liable for damage resulting from flood due to hurricanes, heavy rainfall, or other natural disasters.

There is further reserved for the Declarant, the Association and/or their designees an easement for the over spray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision located adjacent to the Common Area, any landscape/open space reserves, greenbelts, canals, ponds, or other bodies of water.

## B. Reserves

Owners of Lots within Woodforest Section 3, are advised that there exist Restricted Reserves "A", "B", "C", "F", and "G" as shown on the Plat (hereinafter the "Restricted Reserves") which reserves are restricted in their use to open space and utilities. Owners of Lots within Woodforest Section 3 hereby agree to hold harmless the Declarant and the Association, including their agents, officers and directors, and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Restricted Reserves, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Restricted Reserves. The Declarant and/or the Association have the right to promulgate rules and regulations governing the use of the Restricted Reserves.

Owners whose Lots are adjacent to or abut the Restricted Reserves shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Restricted Reserves. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Restricted Reserves to their condition immediately prior to said infiltration.

Owners of Lots within Woodforest Section 3, are advised that there exists Restricted Reserve "E" as shown on the Plat which Restricted Reserve is unrestricted in its use to a private road easement (hereinafter the "Road Easement"). Owners of Lots within Woodforest Section 3 hereby agree to hold harmless the Declarant and the Association, and their agents, and release them from any liability for the placement of, construction, design, operation, maintenance and replacement the Road Easement, and agree to indemnify the parties released from any damages they may sustain. Owners further grant an easement to the Declarant and the Association for any incidental noise, lighting, odors, parking and/or traffic, which may occur in the normal operation of the Road Easement. The Declarant and/or the Association have the right to promulgate rules and regulations governing the use of the Road Easement.

Owners are further advised that there are additional restricted reserves located throughout the Subdivision that are more particularly described on the applicable plat and IURD pertaining to the sections wherein such restricted reserves are located.

C. Easements to Serve Additional Property

The Declarant and Association, including their duly authorized agents, representatives, and employees, designees, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of any annexed property, whether or not such Property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction of roads and for tying in and installation of utilities on any annexed property.

Declarant agrees that if an easement is exercised for permanent access to any annexed property and such property or any portion thereof is not made subject to this Declaration, the Declarant shall enter into a reasonable agreement with the Association to share the cost of maintenance to any access roadway serving the property. Such agreement shall provide for sharing of costs based on the ratio that the number of Dwellings or buildings on that portion of the property that is served by the easement and is not made subject to this Declaration bears to the total number of Dwellings and buildings within the Property.

D. Recreation Easement

Owners of portions of the Property, their successors and assigns, hereby acknowledge and agree that the existence of recreation facilities and a golf course adjacent to, or in close proximity to, the Property is beneficial and highly desirable; however, each such Owner acknowledges and agrees that portions of the Property located adjacent to, or in close proximity to, recreation facilities and a golf course are subject to the risk of damage or injury due to errant sports balls. Owners of portions of the Property, their successors and assigns, hereby assume the risk of damage and injury and hereby release the owner of the recreation facilities and the golf course, the Association and/or the Declarant, their agents, employees, officers and directors from any and all liability for damage or injury caused by errant sports balls in, on, or around the Property. There is hereby reserved and granted to the Declarant and the Association, as to that portion of the Property that is adjacent to, or in close proximity to, a recreation facility or golf course, along with the Declarant's and Association's servants, independent contractors, agents,

members, guests and invitees, a nonexclusive easement over and across the Property, or portions thereof as provided below, for the following purposes:

- (i) Flight of balls (which may include but not be limited to golf, baseballs, softballs, footballs, tennis balls, soccer balls, volley balls) over, across, and upon the Property;
- (ii) Doing of every act necessary and incident to the playing of recreational activities on or within the recreation facility and golf course, including, lighting of parking facilities; and,
- (iii) Creation of noise related to the normal maintenance, operation and recreational activities of the recreation facility and golf course, including, but not limited to, the operation of mowing and spraying equipment. Such noise may occur from early morning until late evening.

E. Rights Concerning Easements and Rights-of-Way

Notwithstanding anything contained herein to the contrary, access and maintenance easements and rights-of-way across each Lot or Tract are hereby expressly reserved to the Declarant and its designees in, on, over, and under the Easement Area (as defined hereinbelow) for the following purposes, among others:

1. the installation, construction, repair, replacement, and maintenance of:
  - a. wires, lines, conduits and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television systems, community antenna television cables and other utilities and similar facilities;
  - b. storm-water drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, meter boxes, street lights, signage, and for any other public or quasi-public utility facility, service or function, whether above ground or underground;
  - c. slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Declarant or which might create erosion or sliding problems, or which might change, obstruct or retard drainage flow, and
  - d. an open space or buffer area between a Lot or Tract and the adjacent Lots or Tracts or street rights-of-way, to provide separation and privacy among adjacent Lots or Tracts.

Subject to any rights dedicated to the public, the Declarant reserves all rights in and to the right-of-way of any public street or road located within, or which may be located on or adjacent to the Subdivision, any walkways, bicycle pathways, and wetlands.

Except with the written approval of the ARC, nothing shall exist or be placed on, over or above any portion of the Easement Area. If in the judgment of the ARC, anything hinders the Easement Area, the Association may exercise all enforcement rights granted to it in this Declaration, the Bylaws or the laws of the State of Texas.

2. Definition of "Easement Area". "Easement Area" as used herein, means and refers to a strip of land within each Lot or Tract ten feet (10') in width along the entire distance of the front and rear boundaries of the Lot or Tract, and five feet (5') in width along the entire distance of each side boundary of each Lot or Tract. The Declarant or its designee or any utility company may clear the Easement Area of all structures, improvements, trees, bushes and other growth, including any overhanging branches or protrusions from structures located upon adjacent property.

3. Reservation of Rights for Utilities. The Declarant and assigns reserve the right to build, maintain, repair, sell, grant or lease all utilities in the Easement Area.

4. Right of Entry. The Declarant, including its agents and designees, shall have the right at reasonable times to enter upon all parts of the Easement Area for any of the purposes for which said easements and rights-of-way are reserved. The Declarant, including its agents and designees, shall be responsible for leaving such Lot or Tract in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of this Section, provided that the obligation set forth above shall not extend to structures and improvements not approved by the ARC. Title to any Lot or Tract or portion thereof, shall not include title to any utility lines in, under, or upon, any street or the Easement Area. The Declarant expressly reserves the right for itself, including its agents and designees, to construct, operate, maintain, repair, remove and replace utility lines in the Easement Area. The conveyance of a Lot or Tract shall not convey any right to any utility lines located in the Easement Area on such Lot or Tract.

F. Woodforest Golf Course

Owners of Lots and Tracts within the Subdivision are advised that in the vicinity of the Subdivision there is, or will, exist the Woodforest Golf Course. The Woodforest Golf Course is a privately-owned facility owned by a separate entity from the Declarant. Ownership of a Lot or Tract within the Subdivision does not automatically entitle an Owner to membership in, or use of, the Woodforest Golf Course facilities. Owners of Lots and Tracts acknowledge that neither the Declarant, nor the Association, has made any representations, nor have the Owners relied upon any representations, as to the continued existence or change in use in the golf course property.

G. Natural Conditions

The Subdivision may contain a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including, without limitation, insects, venomous and non-venomous snakes and other reptiles, deer, armadillos, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and Occupant of any Lot or Tract, and every person entering the

Subdivision: (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movements within or throughout the Subdivision; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Subdivision. Neither the Association, the Declarant, any successor declarant, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Subdivision, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or though the Subdivision.

#### H. Drainage Areas

Owners are hereby advised that drainage watershed areas, flood storage easements and FEMA Special Flood Hazard Areas are located within and in close proximity to the Subdivision that are regulated by the Federal Emergency Management Agency (“FEMA”) and/or the Montgomery County Floodplain Administrator (collectively referred to as “Drainage Areas”). It should be noted that there may be potentially dangerous conditions that may exist within and around the Drainage Areas such as, by way of illustration and not limitation, the following: holes, streams, roots, stumps, ditches, gullies, standing water, flooding, erosion and/or instability of natural topography, insects, reptiles and/or animals. Each Owner of a Lot within the Subdivision hereby agrees to (a) release the Declarant and the Association, including their respective officers and directors from any liability for the existence, placement, construction, design, operation, overspray of herbicides, fungicides, pesticides, fertilizers, and water over portions of the Subdivision, noise, lighting, odors, parking, traffic, maintenance and replacement regarding or related to the Drainage Areas, and (b) indemnify each of such released parties from any liability arising out of or related to such Lot Owner's proximity to or use of the Drainage Areas.

Owners hereby acknowledge that the Association, its directors, officers, managers, agents, or employees, the Declarant or any successor Declarant have made no representations or warranties nor has any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to water level variances, safety, any use, and/or any future change in use of the Drainage Areas. Owners whose Lots are adjacent to or abut the Drainage Areas shall take care and shall not permit any trash, fertilizers, chemicals, petroleum products, environmental hazards or any other foreign matters to infiltrate the Drainage Areas. Any Owner permitting or causing such infiltration shall indemnify and hold harmless the Association for all costs of clean up and remediation necessary to restore the Drainage Areas to their condition immediately prior to said infiltration.

#### I. Reclaimed Water

Declarant hereby discloses to each Owner, and each Owner by acceptance of title to his or her Lot or Tract hereby acknowledges, that the Declarant and/or the Association, may use either *or* both: (i) water from water wells drilled on the Common Area, and (ii) reclaimed water for irrigation of the Common Areas and Areas of Common Responsibility, that SUCH WATER IS NOT INTENDED FOR HUMAN CONSUMPTION AND SHOULD NOT BE CONSUMED BY HUMANS.



J. Commercial Use Tracts

There are two commercial Tracts that are subject to the jurisdiction of the Association and the ARC with uses, membership, voting and assessment obligations set forth in those instruments recorded under Clerk's File Numbers 2010111367 ("Welcome Center Tract") and 2011030886 ("Fire Station Tract"), as same have been or may be amended from time to time. There are additional commercial tracts encumbered by the Declaration of Covenants, Conditions and Restrictions for Woodforest Commercial Property, recorded under Clerk's File Number 2014044057, as same has been or may be amended from time to time. Owners are advised that some of these commercial tracts may exist in close proximity to the residential component of Woodforest.

**ARTICLE VIII. DEED RESTRICTION ENFORCEMENT**

A. Authority to Promulgate Rules, Policies and Guidelines

The Board has the authority, without the obligation, to promulgate, amend, cancel, limit, create exceptions to, and enforce reasonable rules, policies and Guidelines, including but not limited to rules and policies concerning the administration of the Property, the enforcement of the Dedicatory Instruments, the use and enjoyment of the Property, limitations on the use of the Common Area, establishing and setting the amount of fines for violations of the Dedicatory Instruments, and all fees and costs generated in the enforcement of the Dedicatory Instruments. Such rules, policies and Guidelines shall be binding upon all Owners and Occupants, if any. The rights and remedies contained in this Article are cumulative and supplement all other rights of enforcement under applicable law.

B. Attorney's Fees and Fines

In addition to all other remedies that may be available, after giving notice and an opportunity to be heard as may be required by §209 of the Texas Property Code, as same may be amended, the Association has the right to collect attorney's fees and/or fines as set by the Board from any Owner that is in violation of the Dedicatory Instruments, any applicable IURD or amendments, any Guidelines, or any other rule or regulation promulgated by the Board pursuant to the provisions set forth herein. Said attorney's fees and fines shall be added to the violating Owner's Assessment account and shall be secured by the continuing lien on the Lot or Tract.

C. Remedies

Every Owner shall comply with all provisions of the Dedicatory Instruments. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association. In addition, the Board has the authority, but not the obligation, to enforce the covenants, conditions and restrictions contained in the Dedicatory Instruments, and to regulate the use, maintenance, repair replacement, modification, and appearance of the Subdivision, and may avail itself of any and all remedies provided in the Dedicatory Instruments and local, state and federal law. Notwithstanding anything contained herein to the contrary, the Board shall have no duty, legal or otherwise, to institute legal or other proceedings on behalf of or in the name of an Owner.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (i) the Association's position is not strong enough to justify taking any or further action;
- (ii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (iii) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any Dedicatory Instrument.

D. Enforcement by Owners

Each Lot and Tract Owner is empowered to enforce the covenants, conditions and restrictions contained in the Dedicatory Instruments; provided, however, no Owner shall have the right to enforce the lien rights retained in this Declaration or other Dedicatory Instrument in favor of the Association and/or other rights, regarding Assessments, fines, or other charges retained by the Association.

E. Self Help

"Self Help" shall mean the authority, but not the obligation, of the Association, upon approval of not less than a majority of the Board members, to enter upon a Lot, Tract or Homesite and cause to be performed any of the Owner's maintenance and repair obligations, or acts required by that Owner to bring his/her Lot, Tract or Homesite into compliance with the Dedicatory Instruments, if said Owner fails to perform same after written demand from the Board. In exercising its Self Help remedy, the Association shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such exercise of Self Help, nor in any way shall the Association or its agent be liable for any accounting or other claim for such action. The Association shall have the right, but not the obligation, to enter into any Lot, Tract or Homesite for emergency, security, and safety reasons, and to inspect for the purpose of ensuring compliance with the Dedicatory Instruments, which right may be exercised by the Association's Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in the case of emergency situations, and as otherwise specified herein, the Association shall give the violating Owner notice as may be required by law, of its intent to exercise Self Help.

Subject to any notice that may be required by law, any costs incurred by the Association in the exercise of its Self Help remedy shall be the personal obligation of the person or entity

who was the Owner of the Lot at the time when the Self Help costs were incurred. Subject to any notice that may be required by law, the costs incurred by the Association in exercising its Self Help remedy, which costs may include by way of illustration and not limitation, the actual costs incurred by the Association and an administrative fee set by the Board, may be charged to the subject Owner's Assessment account and shall be supported by the continuing lien created herein.

## ARTICLE IX. ARCHITECTURAL RESTRICTIONS

**NOTE WELL:** The provisions of this Article are broad and sweeping and an extremely wide range of activities are regulated hereby. Owners are advised to review this Article and the Guidelines carefully to ensure that they comply with all of the requirements before commencing any work or engaging in any activity on or in connection with their Lot, Tract, or Dwelling to ensure they comply with all of the provisions set forth herein and in the Guidelines. Work commenced, performed, or completed without prior approval as required herein, in the Guidelines, or otherwise in violation of the terms of the Dedicatory Instruments or applicable law may subject the Owner of the Lot or Tract to substantial costs, expenses, fees, and penalties, which may be in addition to a requirement that the Lot, Tract, and/or Dwelling be restored to its original condition. All references herein to ARC approval shall mean the prior written approval of the ARC

### A. Architectural Review Committee - "ARC"

The ARC shall be a committee of the Board. In the absence of a designation by the Declarant, the initial ARC shall be composed of the individuals designated as the initial members of the Board as set forth in the Association's Certificate of Formation; provided however, the Declarant shall have the sole authority to designate all members of the ARC who need not be members of the Board. One member of the ARC may be designated as the representative to act on behalf of the ARC. During the Development Period, the Declarant reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. The Declarant shall retain the right of ARC appointment and removal until the first to occur of the following:

1. the Declarant no longer owns any portion of the Property, or
2. the Declarant relinquishes in writing, its authority over ARC appointment.

At such time, the Board of the Association shall have the right to replace such ARC members by duly appointing Owners who are Members in Good Standing with the Association. The Board reserves the right to appoint replacements as necessary by reason of resignation, removal or incapacity. Such removal and/or appointment shall be at the sole authority and discretion of the Board and the Board shall have the right to review any action or non-action taken by the ARC and shall be the final authority.

At any time prior to the happening of (1) or (2) above, the Declarant may, without obligation, assign to the Board, or such other person the Declarant deems appropriate, all or a

portion of Declarant's ARC rights and/or the responsibility for review and approval of modifications to existing Dwellings.

Guidelines may be promulgated and amended by the Declarant during the Development Period. After the expiration of the Development Period, Guidelines may be promulgated and amended by the Board. Provided however, any such amendments shall not be applied retroactively to reverse a prior approval granted by the ARC or the Board to any Owner. Guidelines may be modified or amended as deemed necessary and appropriate for the orderly development of the Subdivision, including, but not limited to, those portions of the Guidelines regarding workmanship, materials, building methods, observance of requirements concerning installation and maintenance of public utility facilities and services, and compliance with governmental regulations. Subject to the provisions herein, there shall be no limitation on the scope of amendments to the Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Guidelines less restrictive. The rules, standards, and procedures set forth in the Guidelines, as same may be amended from time to time, shall be binding and enforceable against each Owner in the same manner as any Dedicatory Instrument. Further, different Guidelines for additional property that may be annexed into the Property may be promulgated.

The ARC shall have the authority, but not the obligation, to delegate review and approval or denial of plans for modifications of existing improvements within the Subdivision to a Modifications Committee. The members of the Modifications Committee shall be appointed, and may be removed, by the Declarant during the Development Period, and thereafter by the Board. A denial by the Modifications Committee, if it is created, may be appealed to the ARC.

**B. ARC Approval Required**

No buildings, Hardscape, additions, modifications (including tree removal) or improvements shall be erected, placed or performed on any Tract, Lot or Homesite until the construction plans and specifications including, but not limited to, the site plan, design development plan, and exterior plan have been submitted in duplicate to and approved in writing by the ARC as hereinafter provided. Builders may submit their design plans as master design plans, which plans shall include all specifications, including specifications as to brick color and paint color that may be used when building each design. In the event the ARC fails to approve such plans and specifications within thirty (30) days after the receipt thereof, they shall be deemed to be disapproved. In no case may construction begin prior to approval of plans by the ARC. If plans are disapproved, no construction can commence until revised plans are submitted and approved by the ARC. The Board has the right to establish and charge a review fee, to be paid at the time of submittal of plans and any revisions. If a fee is set and not paid, the thirty (30) day time period set out herein shall not begin to run until the fee is paid.

The ARC is hereby vested with the right, but not the obligation, to refuse to review a request for an improvement or modification, or to deny such a request, if the Owner requesting same is not a Member in Good Standing. The Board, on behalf of the ARC, may retain and/or delegate review of plans and specifications to a designated AIA architect or other such person or firm as may be designated by the Board, experienced or qualified to review same, who may then render an opinion to the ARC or Board. Approval of plans and specifications shall not cover or

include approval for any other purpose and specifically, but without limitation, shall not be construed as (i) any representation as to or responsibility for the structural design or engineering of the improvement or the ultimate construction thereof or (ii) any representation as to compliance with City of Conroe codes or ordinances or Montgomery County regulations.

The Board shall have the authority hereunder to require any Owner or Owner's agents or contractors to cease and desist in constructing or altering any improvements on any Tract or Homesite, where such actions have not first been reviewed and approved, constitute a violation of the Dedicatory Instruments or any other documents promulgated by the Board pursuant to the provisions set forth herein. Written notice may be delivered to the Owner, or any agent or contractor with apparent authority to accept same, and such notice shall be binding on Owner as if actually delivered to Owner. The violating Owner shall remove such violating improvements or sitework at its sole expense and without delay, returning same to its original condition or bringing the Tract or Homesite into compliance with the Dedicatory Instruments and any plans and specifications approved by the ARC for construction on that Tract or Homesite. If an Owner proceeds with construction that is not approved by the ARC, or that is a variance of the approved plans, the Association may assess fines as provided for herein, and may continue to assess such fines until ARC approval is granted or the violation is removed. This Declaration is notice of such liability for violation and Owners hereby agree to bear the cost and expense to cure any violations according to this provision, regardless of the substantial cost, time or loss of business involved. Each Owner acknowledges that it may not always be possible to identify objectionable features of proposed construction or alteration of improvements until such construction and/or alteration is completed, in which case it may be unreasonable to require changes to the improvements involved; however, the ARC may refuse to approve similar proposals in the future.

The Board or its agents or assigns shall have the right, but not the obligation, to enter any Lot, Tract or Homesite to determine if violations of this Declaration, the Guidelines, or any other Dedicatory Instrument exist. In so doing, the Board or its agents or assigns shall not be subject to any liability for trespass, other tort or damages in connection with or arising from such entry nor in any way shall the Association or its agent be liable for any accounting or other claim for such action.

The ARC shall have the right to set reasonable time constraints for both the commencement and completion of construction, which constraints shall be no less than ninety (90) days to commence construction and no more than nine (9) months to complete construction. If construction fails to start before the designated commencement date or is not completed before the designated completion date the plans shall be deemed not approved. Plan approval shall be effective for twelve (12) months after issued by the ARC. If no construction has been commenced within the twelve (12) month period after ARC approval, the plan approval shall expire, and plans must be re-submitted prior to commencement of construction.

### C. Building Setbacks

No Dwelling or other structure (including any protrusion from same) shall be erected nearer to any street or property line than as established herein, in an IURD, in the Guidelines, the applicable plat or other Dedicatory Instrument. In the event there is a conflict between the

Guidelines, this Declaration, any other documents imposed upon the Property that contain a setback requirement, and the applicable plat, the more restrictive will control. Notwithstanding anything to the contrary herein, in no case shall any setback on any Lot be less than the width of any easement existing on a Lot, as shown on the applicable plat. All Dwellings shall be oriented to the front of the Lot. The ARC has discretion to designate the “front” of a Lot. Unless otherwise provided on the applicable plat or other Dedicatory Instrument, no Dwelling shall be built within five (5) feet of a side Lot line. Unless otherwise provided on the applicable plat or other Dedicatory Instrument, all Lots shall have a minimum rear setback of the greater of ten feet (10’) or the width of any easement.

The combining of no more than two (2) Lots to create one Homesite may be permitted subject to prior written approval of the ARC and partial release(s) by Declarant, to the extent necessary, of easements created herein. All governmental requirements must be complied with as to combining one Lot with another Lot. If Lots are combined the side set back lines shall be measured from resulting side property lines rather than from the Lot lines as indicated on the applicable plat. The combining of two Lots shall not forgive the obligation to pay Assessments on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two Assessments.

D. Landscaping

All open, unpaved space in the front and at the sides of a Homesite, shall be planted and landscaped. Landscaping in accordance with the plans approved by the ARC must be installed prior to occupancy of any Dwelling constructed on the Property.

Any significant changes in the existing landscaping on any Homesite must have prior written approval from the ARC.

Notwithstanding anything contained herein to the contrary, landscaping minimum standards may be established in the Guidelines. Additionally, the Community Wide Standard as to landscaping and reforestation is addressed in part by those Woodforest Residential Landscape Reforestation Criteria, recorded under Clerk’s File Number 2017-002616 in the Official Public Records of Montgomery County, Texas, as same have been or may be amended from time to time (“Criteria”). The ARC shall have discretion to determine if, as, or when the landscaping on a Lot does not meet the minimum standards established in the Guidelines and the Criteria.

E. Grading and Drainage

Topography of each and every Tract and Homesite must be maintained with proper grading and drainage systems such that runoff of water (rain or other precipitation, or manmade irrigation) does not cause undue erosion of the subject Tract or Homesite or any other Tracts or Homesites, whether adjacent to the subject Homesite or not, or to the Common Areas. Owners causing (either directly or indirectly) erosion or other incidental damage to personal or real property due to inadequate or defective grading or drainage measures on their own Tract or Homesite, or because of excess runoff shall be liable to all such damaged parties for the replacement, repair and/or restoration of such damaged real or personal property.

Owners shall be responsible for ensuring that all local, state and federal rules and regulations regarding drainage and run-off are met.

F. Temporary Structures

Temporary structures may only be erected on undeveloped Property by Builders with the prior written approval of the ARC or the Declarant. By way of illustration and not limitation, temporary structures may include construction trailers and temporary construction debris receptacles. All temporary structures shall be maintained in good condition and all construction debris shall be contained to the site. Time limitations for such structures are limited to the period of active and exclusive construction and sales within the Subdivision.

G. Garages

Dwellings must at all times have either attached or detached garages. Garages are required to maintain fully operational overhead doors which are in good condition at all times. No garages may be used for or converted to a living area. Garage setbacks may be as established in an IURD or the Guidelines.

H. Minimum Square Footage

The minimum square footage of Dwellings in Woodforest shall be as established in the Guidelines or as set out in the IURD. Pursuant to the authority in this Declaration, the Declarant or the Board shall have the authority to determine the distribution of the square footage, or require a greater square footage for Dwellings containing more than one story. Notwithstanding anything contained herein to the contrary, the Declarant hereby reserves the unilateral right to develop the Subdivision, and/or any additional property which may be subjected to this Declaration, in any manner consistent with residential use, including but not limited to Dwellings which may contain higher or lower square footage in other portions of the Subdivision.

I. Land Use Restrictions

Prior to sale by Declarant of any Lot or Tract of land subject to this Declaration, as same may be amended from time to time, or the construction of any buildings thereon, the Declarant shall designate the land use for such parcel in an IURD. There shall be no change in the land use designation for such parcel except as permitted under the IURD. In designating the land use for portions of the Property that have been or will subsequently be subdivided, developed and sold as a part of a common scheme relative to the designated land use (a "Development Tract"), the Declarant may create reciprocal easement rights binding upon and benefitting each subsequent Owner of such Development Tract. The land use designated to a Development Tract may be changed with the consent of the Declarant and the owners of two-thirds (2/3) of the Lots within such Development Tract, provided that the designated land use may not be changed as to a particular Lot without the consent of the Owner of such Lot. Each land use designation and all changes thereto shall be made by instrument recorded in the Official Public Records of Montgomery County, Texas.

## ARTICLE X. MAINTENANCE

### A. General Maintenance

Each Owner shall maintain and keep in good repair his or her Dwelling and all structures, parking areas and other improvements, including driveway and its apron portion forward of the building line comprising the Homesite or Tract. All structures and other improvements designed to be painted must be kept painted and the paint may not be allowed to become faded, cracked, flaked or damaged in any manner. Grass, vegetation and weeds on each Homesite and Tract shall be cut as often as may be necessary to maintain the same in a neat and attractive condition. Grass growing onto or over sidewalks, driveways, and curbs shall be presumed to be unattractive.

### B. Landscaping

The Community Wide Standard as to landscaping and reforestation is addressed in part by the Dedicatory Instruments, including the Criteria. In the event any Owner of any Homesite or Tract within the Property fails to maintain the landscaping, grass or vegetation of a Homesite or Tract in a manner consistent with the Community Wide Standard established within the Property and satisfactory to the Board, the Board, after providing notice as may be required by law setting forth the action intended to be taken by the Association and after approval by a majority vote of the Board, shall have the right but not the obligation, through its agent, contractors and/or employees, to exercise its Self Help remedy to bring the Owner's Lot or Tract into compliance with this provision.

### C. Dwelling and Improvement Exteriors

In the event any Owner of any Homesite or improvement on a Tract, fails to maintain the exterior of the Homesite or improvement (including, but not limited to, the exterior of the Dwelling, improvement, or other structures and the parking areas) in a manner consistent with the Community Wide Standard established within the Property as solely determined by the Board, the Board, after providing notice as may be required by law setting forth the action intended to be taken by the Association and after approval by a majority vote of the Board, shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter upon said Homesite or Tract and to exercise its Self Help remedy to bring the Owner's Lot or Tract into compliance with this provision.

### D. Other Hazards

To the extent necessary to prevent pest infestation, diminish fire hazards and/or diminish hazards caused by structural damage, the Association shall have the right, but not the obligation, through its agents, contractors and/or employees, to enter any unoccupied Dwelling, Tract, or other improvement located upon such Homesite or Tract, without notice to take the action necessary to prevent such pest infestation, diminish such fire hazards or diminish hazards caused by structural damage at the Owner's expense. Any such expenses, including administrative fees set by the Board, incurred by the Association shall be secured by the continuing lien created in herein.



E. Liability, Cost and Approval

Neither the Association nor its agents, contractors, or employees shall be liable, and are expressly relieved from any liability, for trespass or other tort in connection with the exercise of its Self Help remedy, including the performance of the exterior maintenance, landscaping or other work authorized in this Declaration. The cost, including administrative fees set by the Board, of such exterior maintenance, interior hazard diminution and other work shall be the personal obligation of the Owner of the Homesite or Tract on which it was performed and shall become part of the Assessment payable by the Owner and secured by the lien retained in the Declaration. Alternately, the Association or any Owner of a Homesite or Tract may bring an action at law or in equity to cause the Owner to bring said Homesite or Tract into compliance with these restrictions.

All Owners' replacement, repair and restoration practices as to the improvements on Property within the Subdivision are subject to the prior written approval of the ARC and must comply with all Guidelines which may change from time to time, as found necessary and appropriate in the discretion of the Board.

F. Casualty Losses

It shall be the Owner's obligation to have repaired or reconstructed any damage or destruction to their Dwelling, Lot or Tract. If a Dwelling, landscaping, Outbuilding or any other improvement located on a Lot or Tract is damaged by fire, storm, or any other casualty, the Owner shall bring the affected Lot or Tract and all improvements thereon, as applicable, into compliance with the Dedicatory Instruments within six (6) months of the date of the casualty, pursuant to the architectural requirements and approval process set forth in the Dedicatory Instruments. Regarding Dwellings or buildings on Tracts that are totally destroyed due to casualty, the Owner(s) of such Dwellings or buildings on Tracts must have the Dwellings, buildings on Tracts, or damaged portions thereof razed within ninety (90) days of the date of the casualty, and replaced within twelve (12) months of the date of the casualty, subject to ARC prior written approval.

**ARTICLE XI. VARIANCES**

The Board, or its duly authorized representative, may authorize variances from compliance with any of the architectural provisions of this Declaration or the Dedicatory Instruments, unless specifically prohibited, including restrictions upon height, size, placement of structures, or similar restrictions, when circumstances such as topography, natural obstruction, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing, must be approved by at least a majority of the Board, and shall become effective upon execution. The variance must be signed by a member of the Board and recorded in the Official Public Records of Montgomery County, Texas. If such variances are granted, no violation of the covenants, conditions, or restrictions contained in this Declaration and/or the Dedicatory Instruments shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration and/or the Dedicatory Instruments for any purpose

except as to the particular provision hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all applicable governmental laws and regulations.

No granting of a variance shall be relied on by any Member or Owner, or any other person or entity (whether privy or party to the subject variance or not), as a precedent in requesting or assuming variance as to any other matter of potential or actual enforcement of any provision of this Declaration and/or the Dedicatory Instruments. Action of the Board in granting or denying a variance is a decision based expressly on one unique set of circumstances and need not be duplicated for any other request by any party or the same party for any reason whatsoever.

Notwithstanding anything contained herein to the contrary, during the Development Period, the Declarant shall have the unilateral right to grant a variance of any of the covenants, conditions and restrictions contained herein so long as the variance is in keeping with the aesthetics of the Subdivision.

## **ARTICLE XII.      LIMITATION OF LIABILITY**

**NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR ANY OF THE RESPECTIVE OFFICERS, AGENTS, MANAGERS, PARTNERS, DIRECTORS, SUCCESSORS OR ASSIGNS OF THE ABOVE, SHALL BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE WHO SUBMITS MATTERS FOR APPROVAL TO ANY OF THE ABOVE-MENTIONED PARTIES, OR TO ANY OWNER AFFECTED BY THIS DECLARATION BY REASON OF MISTAKE OF JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL, DISAPPROVAL, OR FAILURE TO APPROVE OR DISAPPROVE ANY MATTERS REQUIRING APPROVAL HEREUNDER. APPROVAL BY THE ARC, THE BOARD, OR THE ASSOCIATION, OR ANY OF THEIR RESPECTIVE OFFICERS, PARTNERS, DIRECTORS, AGENTS, MANAGERS, SUCCESSORS OR ASSIGNS, IS NOT INTENDED AS ANY KIND OF WARRANTY OR GUARANTEE AS TO THE INTEGRITY OR WORKABILITY OF THE PLANS NOR THE CONTRACTORS USED.**

## **ARTICLE XIII.     ASSESSMENTS**

### **A.      Creation of the Lien and Personal Obligation of Assessments**

The Owners of any Lot, by virtue of ownership of Property within the Subdivision, covenant and agree to pay to the Association all applicable assessments and any fines, penalties, interest and costs as more particularly set forth in this Declaration and any IURD, including but not limited to the following:

1.      Annual Assessment
2.      Special Assessment
3.      Neighborhood Assessment
4.      Foundation Fee
5.      Capitalization Fee

The Annual Assessment, Special Assessment, Neighborhood Assessment, Capitalization Fee, Foundation Fee (each defined hereinafter) and any other assessment or charge set forth in this Declaration or a Dedicatory Instrument (collectively the "Assessment"), together with attorney's fees, late fees, interest and costs shall be a charge and continuing lien in favor of the Association upon the Homesite and Lot, against which each such Assessment is made. Each such Assessment, together with attorney's fees, late fees, interest and costs, shall also be the personal obligation of the person or entity who was the Owner of the land at the time when the Assessment became due. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or the Board under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association. The obligation to pay Assessments is a separate covenant on the part of each Owner of a Lot.

B. Annual Assessments

1. Purpose

The Lots within the Subdivision shall be subject to the "Annual Assessment". Annual Assessments levied by the Association shall be used for any legal purpose for the benefit of the Subdivision as determined by the Board and, in particular, may, by way of example and not limitation or obligation, include maintenance, repair or improvement of any Common Area, Area of Common Responsibility, sidewalks, pathways, fountains, parkways, private streets and roads, entry gates installed as a controlled access system, boulevards, esplanades, setbacks and entryways, patrol service, street cleaning, street lighting, mosquito control, landscape architecture, forest preserves, greenbelts, fences or walls, regulatory signage or directional signage, signalization, special pavement markings, entrances and entrance monuments, public or private art or sculptures, other services as may be in the Property's and Owner's interest and for promotion of the recreational interests of the Members which may include payment for recreational improvements on Recreational Sites, reserves, Area of Common Responsibility and/or Common Areas, including but not limited to pools, community centers, playgrounds, playing fields and all structures and equipment located thereon, and services provided therefor, all buildings, services, improvements and facilities deemed necessary or desirable by the Board in connection with the administration, management, control or operation of the Subdivision. The Association may, in its sole discretion, give one or more of the purposes set forth herein preference over other purposes, and it is agreed that all expenses incurred and expenditures and decisions made by the Association in good faith shall be binding and conclusive on all Members. Parkways, fountains, private streets, roads, esplanades, setbacks and entryways that are not contained in any Common Area may be included in the Association's maintenance if, in the sole discretion of the Board, the maintenance of such areas benefits the Association's Members. Such share agreements for maintenance and improvement shall require the consent of a majority of the total number of directors of the Association. Additionally, Annual Assessments levied by the Association may be used, in the sole discretion of the Association, to pay the Association's fair allocation for costs related to the participation in any agreement

with other property owners associations or owners or operators of nearby property for the benefit of Association Members, such as to consolidate services, reduce costs, and provide consistency and economy of scale. Approval to enter such agreements shall require a majority vote of the Board, and the Board may act unilaterally to negotiate, execute, modify, or terminate such contractual arrangements.

2. Creation

Payment of the Annual Assessment shall be the obligation of each Owner, subject to the provisions below, and shall constitute a lien on the Homesite, or Lot(s), binding and enforceable as provided in this Declaration.

3. Rate

The current Annual Assessment established by the Association is One Thousand and Fifty and 00/100 dollars (\$1050.00) per Lot. The combining of two or more Lots shall not forgive the obligation of the Owner(s) of such combined Lots to pay Annual Assessments on all Lots so combined. By way of example and not limitation, if two Lots are combined to create one Homesite, the Homesite shall be obligated to pay two Annual Assessments. Declarant shall elect annually to pay the deficit between the total approved operating budget for the year less the total amount due by Class A Members (the "Deficit"), or elect to pay Annual Assessments, so long as there is a Deficit, at the rate of fifty percent (50%) of the amount assessed Class A Members for each Lot owned. Notwithstanding anything contained herein to the contrary, the Declarant is hereby vested with the authority, without the obligation, to elect to pay the lesser of the options set forth in the previous sentence, even if the option selected results in the Declarant owing nothing. The Declarant's obligation to fund the deficit shall automatically terminate without further action or consent by any party, when Declarant no longer owns a Lot. Declarant is required to provide written notice to the Board each year by September 1<sup>st</sup> of the elected option. Failure to provide such notice will result in Declarant being billed in the manner of the last option taken by Declarant. If no option has ever been taken by Declarant, then Declarant shall be billed the difference between the total approved operating budget for the year less the total amount due by Class A Members. A Builder shall be responsible to pay one hundred percent (100%) of the Annual Assessment of other Lot Owners, for the period of time that the Builder owns a Lot. Notwithstanding anything contained herein to the contrary, any Lot being used by Declarant as a model home or sales office Lot shall not be subject to any Assessments created herein. Upon conveyance of such model home or sales office Lot to a purchaser, said Lot shall thereafter be subject to all Assessments and charges provided for in this Declaration and as secured by the lien created herein.

The rate, purpose, commencement, levying and proration of Assessments, if any, applicable to Tracts included in the Property will be set forth in an Annexation Agreement or a Dedicatory Instrument applicable to that portion of the Property.

4. Commencement

For purposes of calculation, the initial Annual Assessment for a Lot shall commence on the date of closing. Annual Assessments shall be due in advance on January 1<sup>st</sup> for the coming year and shall be delinquent if not paid in full as of January 31<sup>st</sup> of each year.

5. Proration

An Owner's initial Annual Assessment shall be made for the balance of the calendar year as determined on a pro-rata basis and shall become due and payable on the commencement date described above. The Annual Assessment for any year after the first year shall be due and payable on the first day of January. Any Owner who purchases a Lot or Lots after the first day of January in any year shall be personally responsible for a pro-rated Annual Assessment amount for that year.

6. Levying of the Annual Assessment

The Annual Assessment shall be levied at the sole discretion of the Board. The Board shall determine the sufficiency or insufficiency of the then-current Annual Assessment to reasonably meet the expenses for providing services and capital improvements in the Subdivision and may, at its sole discretion and without a vote by the Members, increase the Annual Assessment in an amount up to ten percent (10%) annually. The Annual Assessment may only be increased by more than ten percent (10%) annually if such increase is approved by Owners of a majority of the Lots present, in person or by proxy, at a meeting called for said purpose at which a quorum is present in person or by proxy. The Annual Assessment shall not be adjusted more than once in a calendar year nor shall any increase be construed to take effect retroactively, unless otherwise approved by Owners of a majority of the Lots subject to such Annual Assessments present at a meeting called for said purpose at which a quorum is present in person or by proxy.

Annual Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price and method of payment differentials. The Board may require advance payment of Annual Assessments at closing of the transfer of title to a Lot, and impose special requirements for Owners with a history of delinquent payment.

The annexation of all or a portion of property adjoining Woodforest may result in the Board adjusting the rate of Annual Assessments to be charged to the annexed property such that the adjusted Annual Assessments may not be uniform with the Annual Assessments being charged to other Owners. The Board shall have the absolute discretion to determine any such adjustment on a case-by-case basis.

C. Special Assessments

In addition to the Annual Assessment authorized above, the Association may levy a “Special Assessment” applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, modification, repair or replacement of a capital improvement in the Common Area or Area of Common Responsibility or any unbudgeted expenses or expenses in excess of those budgeted, or an unusual or infrequent expense benefiting the Association, provided that any such Special Assessment shall have the approval of both (i) the Owners of a majority of the Lots present at a meeting duly called for this purpose at which a quorum is present in person or by proxy; and (ii) the written approval of the Declarant during the Development Period. Such Special Assessments will be due and payable as set forth in the resolution authorizing such Special Assessment and shall be levied only against those Owners subject to the Annual Assessment as set forth hereinabove and shall be prorated in accordance therewith. The Association, if it so chooses, may levy a Special Assessment against only those Lots benefited by or using the capital improvement for which the Special Assessment is being levied. Special Assessments shall be due upon presentment of an invoice, or copy thereof, for the same to the last-known address of the Owner. Declarant shall not be obligated to pay Special Assessments.

D. Neighborhood Assessments

If a Neighborhood chooses to establish Neighborhood Facilities or Neighborhood Wide Services as evidenced by a petition signed by Owners representing at least two-thirds (2/3<sup>rd</sup>) of the Lots in a Neighborhood, Neighborhood Assessments must be imposed to pay for Neighborhood Expenses. Notwithstanding anything contained herein to the contrary, Declarant may designate a Neighborhood and determine related Neighborhood Expenses, Neighborhood Wide Services and applicable Neighborhood Assessments via an IURD. Payments of such Neighborhood Assessments shall be the exclusive obligation of all Owners owning Property within such Neighborhood and will not be charged to Members not owning property within such Neighborhood. Neighborhood Assessments shall be governed by this document or as supplemented by an IURD or Annexation Agreement creating such Neighborhood Assessment. Notwithstanding anything contained herein to the contrary, if/when a Neighborhood Assessment is established, it shall require the written approval of the Owners representing at least two-thirds (2/3<sup>rd</sup>) of the Lots within that Neighborhood to thereafter decrease or terminate the Neighborhood Assessment; provided however, during the Development Period, the Declarant must also approve such establishment and termination of Neighborhood Assessment. For the purposes of the approvals required in this subsection, each Lot within a Neighborhood shall be entitled to cast one (1) vote. Owners shall exercise their votes pursuant to the Bylaws, and as set out in this Declaration.

E. Capitalization Fee

Each purchaser of a Lot within the Property, other than the Declarant, covenants and agrees to pay to the Association a one-time payment, which shall be an amount equal to one hundred percent (100%) of the then-current Annual Assessment, as applicable (the “Capitalization Fee”), at the time of the first transfer of title to a Lot. The Capitalization Fee

shall be paid by an Owner (other than the Declarant) to the Association at the first transfer of a Lot or Tract to an Owner other than the Declarant, unless otherwise determined by the Board. Such Capitalization Fee shall be payable to the Association at the closing of the transfer of title to a Lot and shall not be prorated. The Capitalization Fee shall be in addition to, not in lieu of, the Annual Assessment and shall not be considered an advance payment of such Annual Assessments. The payment of the Capitalization Fee shall be secured by the continuing lien set forth herein and shall be collected in the same manner as Assessments.

The transferring Owner shall notify the Association's Secretary, or managing agent, of a pending title transfer at least seven days prior to the transfer. Such notice shall include the name of the purchaser, the date of title transfer, and other information as the Board may require. The Capitalization Fee may be used by the Association for any purpose, which in the Association's sole discretion is for the benefit of the Subdivision, including the placement of such Capitalization Fee in a reserve account.

F. Collection and Remedies for Assessments

1. The Assessments, together with attorneys' fees, interest, late fees and costs as necessary for collection, shall be a charge on and a continuing lien upon the land in favor of the Association against which each such Assessment is made. Each such Assessment, together with attorney's fees, interest, late fees, and costs, shall also be the personal obligation of the Owner of the Lot at the time the Assessment became due.

2. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of (1) eighteen percent (18%) or (2) the maximum non-usurious rate of interest. No Owner may waive or otherwise escape liability for the Assessments provided for in this Declaration by reason of non-use or abandonment.

3. In order to secure the payment of the Assessments levied, a lien is created in favor of the Association and shall run with title to each Lot in the Subdivision, which lien may be foreclosed upon by the Association pursuant to the laws of the State of Texas; each Owner grants a power of sale to the Association to sell such property upon default in payment by any amount owed. Alternatively, the Association may judicially foreclose the lien or maintain an action at law to collect the amount owed.

4. The President of the Association or his or her designee is hereby appointed Trustee to exercise the Association's power of sale. Trustee shall not incur any personal liability hereunder except for his or her own willful misconduct.

5. Although no further action is required to create or perfect the lien, the Association may, as further evidence give notice of the lien, by executing and recording a document setting forth notice that delinquent sums are due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not, to any extent, affect the validity, enforceability, or priority of the lien. If required by law, the Association shall also give notice and an opportunity to cure delinquency to any

holder of a lien that is inferior or subordinate to the Association's lien, pursuant to Section 209.0091 of the Texas Property Code, or its successor statute.

6. In the event the Association has determined to foreclose its lien provided herein and to exercise the power of sale hereby granted, such foreclosure shall be accomplished pursuant to the requirements of Sections 209.0091 and 209.0092 of the Texas Property Code by first obtaining a court order in an application for expedited foreclosure under the rules adopted by the Supreme Court of Texas. Notwithstanding anything contained herein to the contrary, in the event that the laws of the State of Texas are changed to no longer require a court order in an application for expedited foreclosure, the Association may pursue foreclosure of its lien via any method established herein, including but not limited to nonjudicial foreclosure, as may be permitted by the then-current law, without the necessity of amending this Declaration.

7. At any foreclosure proceeding, any person or entity, including but not limited to the Declarant, Association or any Owner, shall have the right to bid for such Lot at the foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period such foreclosed Lot is owned by the Association following foreclosure, (1) no right to vote shall be exercised on its behalf; and, (2) no Assessment shall be levied on it. Out of the proceeds of such sale, there shall be paid all expenses incurred by the Association in connection with such default, including attorneys' fees and trustee's fees; second, from such proceeds there shall be paid to the Association an amount equal to the amount of Assessments in default inclusive of interest, late charges and attorneys' fees; and, third, the remaining balance, if any, shall be paid to such Owner. Following any such foreclosure, each Occupant of any such Lot foreclosed on and each Occupant of any improvements thereon shall be deemed to be a tenant-at-sufferance and may be removed from possession by any lawful means.

G. Subordination of the Lien to Purchase Money Mortgages

The lien for Assessments, including interest, late charges, costs and attorney's fees, provided for herein shall be subordinate to the lien of any purchase money mortgage (including any renewal, extension, rearrangement or refinancing thereof) on any Lot or Homesite. The sale or transfer of any Lot or Homesite shall not affect the lien. The sale or transfer shall not relieve such Lot or Homesite from lien rights for any Assessments thereafter becoming due. Where the mortgagee holding a purchase money mortgage of record or other purchaser of a Lot or Homesite obtains title pursuant to foreclosure of the mortgage, it shall not be liable for the share of the Assessments or other charges by the Association chargeable to such Lot or Homesite that became due prior to such acquisition of title. However, from the date of foreclosure forward, such Assessments shall again accrue and be payable to the Association.

H. Exempt Properties

All properties dedicated to any accepted use by a municipal, county, federal, or other governmental authority and all properties owned by charitable or non-profit organizations that are exempt from taxation by federal laws shall be exempt from the Assessments created herein and the Owners thereof shall have no voting rights with respect thereto.



I. Assessments regarding Tracts

Assessments, if any, owed by Tracts subject to this Declaration are set forth in the applicable Annexation Agreement or Dedicatory Instrument governing same.

J. Notice of Delinquency

When the Association or its agent or designee gives a written notice of the Assessment to any Owner who has not paid an Assessment that is due under this Declaration, such notice will be mailed to the Owner's last known address. The address of the Lot or Homesite shall be presumed to be the address for proper notice unless written notice of another address has been provided by the Owner to the Association.

**ARTICLE XIV. FOUNDATION FEES**

Pursuant to the authority vested in the Board, the Woodforest Foundation Committee (the "Foundation Committee") has been created in order to assist the Board with the administration of Foundation Fees, including making recommendations to the Board regarding grants from Foundation Fees as well as establishing the means and methods of distributing such grants from Foundation Fees. The purposes of the Foundation Fees are to invest in the future of Woodforest and the surrounding community, to supplement and complement the functions of the Association and to enhance services and resources to the community through the sponsorship of programs, activities and events in and around Woodforest.

Foundation Fees shall be levied on every real estate transaction (unless excluded) as set out below:

A. Authority

The Board shall have the authority to establish and collect a Foundation Fee from the transferring Owner upon each transfer of title to a Lot within Woodforest (except transfers which are specifically hereafter exempted). Such Foundation Fee shall be payable to the Association at the closing of the transfer of the Lot and is secured by the Association's lien for Assessments established in this Declaration. The transferring Owner shall notify the Association's Secretary or managing agent of a pending title transfer at least seven (7) days prior to the transfer. Such notice shall include the name of the transferee, the date of title transfer, and other information as the Board may require.

B. Levying of the Foundation Fee for Lots

1. The Board from time to time shall determine the amount of the Foundation Fee for Lots. The Foundation Fee may be based upon a sliding scale which varies in accordance with the "Gross Selling Price" of the Lot or Homesite or another factor as determined by the Board; provided, any such Foundation Fee shall be an amount not greater than one-quarter of one percent (0.25%) of the Gross Selling Price of the Lot or Homesite upon the conveyance of a Lot or Homesite from a Builder to an Owner, or one-half of one percent (0.50%) of the Gross Selling Price of the Lot or Homesite upon the conveyance of said Lot or Homesite by an Owner other than a Builder to another person.

For the purpose of determining the amount of the Foundation Fee, the Gross Selling Price shall be the total cost to the transferee of the Lot or Homesite including improvements, as indicated on the title company's closing statement, if produced as part of such transaction

2. The Foundation Fee shall be charged to the transferor on the date of the sale of a Lot. Foundation Fees shall be due on the day of closing of a Lot and shall be delinquent if not paid in full on the day of closing for said Lot. Foundation Fees shall not be prorated.

C. Exempt Transfers

Notwithstanding the above, no Foundation Fee shall be levied upon transfer of title to a Lot or Homesite:

1. by a co-Owner to a person who was a co-Owner immediately prior to such transfer;
2. to the Owner's estate, trust, surviving spouse, or child upon the death of the Owner;
3. to any entity wholly owned by the Declarant; provided, upon any subsequent transfer of ownership interest in such entity, the Foundation Fee shall become due;
4. to an institutional lender pursuant to a mortgage or upon foreclosure of a mortgage;
5. to Declarant (if Declarant repurchases a Lot);
6. by Declarant; and
7. by the Association to a purchaser.

**ARTICLE XV. MODIFICATION AND TERMINATION OF COVENANTS**

This Declaration may be amended, modified, or terminated by the filing of a recorded instrument executed by the Association or its legal representatives, successors or assigns. During the Development Period, approval of two-thirds (2/3) of the combined total votes of Class A and Class B Membership shall be required to amend, modify or terminate this Declaration. However, during the Development Period, the Declarant may unilaterally amend this Declaration at any time without the joinder or consent of any Owners, entity, Lender or other person to amend this Declaration including any such amendment that is (a) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on Lots and Homesites; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the

Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots or Homesites; (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on Lots or Homesites; or (e) for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein; provided, however, any such amendment shall not adversely affect the title to any Lots or Homesites unless the Owner shall consent thereto in writing. Any amendment made by the Declarant shall become effective upon recording unless otherwise specified in the amendment.

After the termination of Class B membership, approval by the Owners of two-thirds (2/3) of the Class A Membership votes shall be required to amend, modify or terminate this Declaration. Upon approval of the Owners, as set out above of said amended declaration (as evidenced by the President's or Vice-President's signature) the amended declaration shall be recorded in the Official Public Records of Montgomery County, Texas, whereupon to the extent of any conflict with this Declaration, the amendment or the amended declaration shall control. For purposes of this section, the approval of multiple Owners of a Lot or Tract may be reflected by the signature of any one Owner of such Lot or Tract. Notwithstanding anything contained herein to the contrary, the Association shall be entitled to use any combination of the following methods to obtain approval of the Owners for an amendment to the Declaration:

A. by written ballot, or electronic ballot as same may be established by the Board, that states the substance of the amendment and specifies the date by which a written or electronic ballot must be received to be counted;

B. at a meeting of the Members of the Association, if written notice of the meeting stating the purpose of the meeting is delivered to the Owners of the Lots and Tracts; such notice may be hand-delivered to the Owners, sent via regular mail to the Owner's last known mailing address, as reflected in the Association's records, or via email to the Owner's email address as reflected in the Association's records;

C. by door-to-door circulation of a petition by the Association or a person authorized by the Association; and/or

D. by any other method permitted under this Declaration. Any limitation of amendment to the Declaration related to said Property shall not limit the rights of the Declarant pertaining to the Declaration as otherwise herein reserved. Particularly reserved to the Declarant, is the right and privilege of Declarant to designate the use and architectural restrictions applicable to any portion of the Properties, as provided in this Declaration hereof; and such designation, or subsequent change of designation, shall not be deemed to adversely affect any substantive right of any existing Owner.

Notwithstanding anything contained in this Declaration to the contrary, in the event this Declaration or an IURD is amended and restated in the future, such amendment and restatement shall not affect or disturb the lien created herein or any annexation accomplished by the IURD, which lien and annexation shall continue to be in full force and effect from the date the Declaration and IURD were recorded.

## ARTICLE XVI. ALTERNATE DISPUTE RESOLUTION

It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Subdivision and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the following dispute resolution procedures control to attempt to resolve all claims, grievances or disputes involving the Subdivision, including, without limitation, claims grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Dedicatory Instruments.

### A. Dispute Resolution

No dispute between any of the following entities or individuals shall be commenced until the parties have submitted to non-binding mediation: Owners; Members; the Board of Directors; officers in the Association; or the Association.

Disputes between Owners that are not regulated by the Declaration shall not be subject to the dispute resolution process.

### B. Outside Mediator

In a dispute between any of the above entities or individuals, the parties must voluntarily submit to the following mediation procedures before commencing any judicial or administrative proceeding. Each party will represent himself/herself individually or through an agent or representative, or may be represented by counsel. The dispute will be brought before a mutually selected mediator. Such mediator will either be an attorney-mediator skilled in community association law, a Professional Community Association Manager as certified by the Community Associations Institute, or a Certified Property Manager as certified by the Institute of Real Estate Managers. In order to be eligible to mediate a dispute under this provision, a Mediator may not reside in the Subdivision, work for any of the parties, represent any of the parties, nor have any conflict of interest with any of the parties. The Board shall maintain a list of no less than five (5) potential mediators, but the parties will be in no way limited to their choice by this list. Costs for such mediator shall be shared equally by the parties. If the parties cannot mutually agree upon the selection of a mediator after reasonable efforts (not more than thirty (30) days), each party shall select their own mediator and a third will be appointed by the two selected mediators. If this selection method must be used, each party will pay the costs of their selected mediator and will share equally the costs of the third appointed mediator.

### C. Mediation is Not a Waiver

By agreeing to use this Dispute Resolution process, the parties in no way waive their rights to extraordinary relief including, but not limited to, temporary restraining orders or temporary injunctions, if such relief is necessary to protect or preserve a party's legal rights before a mediation may be scheduled.

D. Assessment Collection and Lien Foreclosure

The provisions of this Declaration dealing with Alternate Dispute Resolution shall not apply to the collection of Assessments and/or the foreclosure of the lien by the Association as set out in the Declaration.

E. Term

This Article shall be in full force and effect during the Development Period. Thereafter, this Article shall remain in full force and effect unless, at the first open meeting of the Association after such initial period, a majority of the Board votes to terminate the provisions of this Article.

**ARTICLE XVII. OTHER OWNERS ASSOCIATIONS**

A. In General

Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Woodforest Subdivision administered by a condominium or non-condominium homeowners association which is separate and apart from the Association hereunder. For example, if the Declarant desires to subject a portion of the Property to a condominium regime, the Declarant will record a condominium declaration with respect to such portion of the Property which condominium declaration will provide for the creation of a non-profit corporation to administer and maintain the condominium property. Similarly, the Declarant may record a non-condominium declaration with respect to a particular portion of the Property which will provide for the creation of a non-profit corporation to administer and maintain such portions of the Property. By way of illustration and not limitation, the Declarant may create a separate owners association to administer a portion of the Property where the Lots or Tracts which are made part of the Property will require services which are quantitatively or qualitatively different than those which will be furnished by the Association hereunder. For purposes hereof, any separate declaration which is recorded against a portion of the Properties shall be referred to as a "Local Area Declaration" and the association which administers the real estate which is subject to the Local Area Declaration shall be referred to as a "Local Area Association."

B. Local Area Associations

It is intended that each Local Area Association shall operate independent of the Association hereunder. Thus, to the extent that a Local Area Association is granted the power and authority to maintain the Dwellings or portions of the Property which serve such Dwellings, the Association hereunder shall not be obligated to maintain such areas or furnish such services.

## ARTICLE XVIII. GENERAL PROVISIONS

### A. Severability

The invalidity of any one or more of the provisions of this Declaration shall not affect the validity of the other provisions thereof.

### B. Compliance with Laws

At all times, each Owner shall comply with all applicable federal, state, county, and municipal laws, ordinances, rules, and regulations with respect to the use, occupancy, and condition of the Lot, Homesite or Tract and any improvements thereon. If any provision contained in this Declaration or any supplemental declaration or amendment is found to violate any law, then the provision shall be interpreted to be as restrictive as possible to preserve as much of the original provision as allowed by law.

### C. Gender and Number

The singular wherever used herein shall be construed to mean or include the plural when applicable, and the necessary grammatical changes required to make the provisions hereof applicable either to corporations (or other entities) or individuals, male or female, shall in all cases be assumed as though in each case fully expressed.

### D. Headlines

The titles and captions for this Declaration and the sections contained herein are for convenience only and shall not be used to construe, interpret, or limit the meaning of any term or provision contained in this Declaration.

### E. Governing Law

The provisions in this Declaration shall be governed by and enforced in accordance with the laws of the State of Texas, and mandatory venue shall be in Montgomery County, Texas. Any and all obligations performable hereunder are to be performed in Montgomery County, Texas.

### F. Fines for Violations

The Association may assess fines for violations of the Dedicatory Instruments, other than non-payment or delinquency in Assessments, in amounts to be set by the Board, which fines shall be secured by the continuing lien set out in this Declaration.

### G. Books and Records

The books, records and papers of the Association shall, upon written request and by appointment, during normal business hours, be subject to inspection by any Member, pursuant to a Records Production and Copying Policy adopted by the Association.

#### H. Notices

Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

#### I. Mergers

Upon a merger or consolidation of the Association with another association as provided in its Certificate of Formation, the Association's properties, assets, rights and obligations may be transferred to another surviving or consolidated association or, alternatively, the properties, assets, rights and obligations of another association may be transferred to the Association as a surviving corporation or to a like organization or governmental agency. The surviving or consolidated association shall administer any restrictions together with any Declarations of Covenants, Conditions and Restrictions governing these and any other properties, under one administration. No such merger or consolidation shall cause any revocation, change or addition to this Declaration.

#### J. Current Address and Occupants

Owners are required to notify the Association in writing of their current address if other than the physical address of the Lot, Homesite, or Tract at all times. If an Owner fails to notify the Association of their current address, the Association shall use the address of the Lot, Homesite, or Tract as the current address. If Owner leases the property, he shall supply the name of the Occupant present upon the execution of any lease.

#### K. Security

NEITHER THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, NOR THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR SUCCESSOR DECLARANT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT OR TRACT, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT DOES NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER AND OCCUPANT OF ANY LOT OR TRACT, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS AND THAT EACH OWNER AND OCCUPANT OF ANY LOT, TRACT OR DWELLING, OR OWNER OR USER OF AN IMPROVEMENT, ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS,

TRACTS AND DWELLINGS AND IMPROVEMENTS AND TO THE CONTENTS OF DWELLINGS AND IMPROVEMENTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS DIRECTORS, OFFICERS, MANAGERS, AGENTS, OR EMPLOYEES, DECLARANT OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES NOR HAS ANY OWNER OR OCCUPANT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.

L. Trademark

Declarant is the prior and exclusive owner and proprietor of, and reserves all rights with respect to the trademark for the residential and commercial property development for Woodforest (“Trademark”). Unless and until a written license agreement has been sought and obtained from Declarant (and in this connection Declarant may withhold consent in its sole and absolute discretion), no person or entity may at any time and/or for any reason whatsoever, use, depict, draw, demonstrate, reproduce, infringe, copy or resemble, directly or indirectly, the Trademark. Notwithstanding anything contained herein to the contrary, Declarant hereby specifically grants to the Association, a non-profit association which may hereafter be formed, or a non-profit master association which may hereafter be formed with jurisdiction over the Property (each such non-profit corporation is hereinafter referred to as an “Authorized User”), the right to use the Woodforest Trademark on a limited basis in the administration, consistent with the Dedicatory Instruments of the Subdivision, and enforcement of restrictive covenants encumbering the real property located within the Subdivision located in Montgomery County, Texas. The right to use the Woodforest Trademark may continue for so long as an Authorized User (i) operates as a Texas non-profit corporation in conformance with its Dedicatory Instruments and pursuant to its purpose; and (ii) does not engage in the development and/or sale of real property in the Subdivision.

M. View Impairment

Neither the Declarant, nor the Association, guarantee or represent that any view over and across the Lots, Tracts, Common Areas, Area of Common Responsibility, reserves or open space within the Subdivision will be preserved without impairment. The Declarant and the Association shall have no obligation to relocate, prune, or thin trees or shrubs or other landscaping. The Association has the right, without the obligation, to relocate, prune, thin, or add trees and other landscaping or improvements to the Common Area. There shall be no express or implied easements for view purposes or for the passage of light and air. No Owner has the right to object to the construction of improvements on any adjacent or nearby Lot, Tract, Area of Common Responsibility or the Common Area, based on the impact of such improvements on the Owner’s view.

N. Use of Woodforest Amenities

The Declarant shall have the unilateral right to enter into use agreements with other owners associations whereby owners within the other communities may have the right to use the Woodforest amenities in exchange for payment of a user fee. The Association shall have the



right, pursuant to any such use agreement, to charge the other owners association the appropriate user fee as set out in such use agreement. After the expiration of the Development Period, the right retained in this Section by the Declarant, shall automatically vest in the Association.

O. Video, Data and Communication Service Agreements

Subject to the approval of the Declarant during the Development Period, the Association has or may hereafter enter into an agreement with a service provider for the provision of cable television and/or other communication services in order to obtain access to benefits and services for the benefit of Owners and Dwellings located in the Subdivision. Payment for services and benefits provided pursuant to video, data and/or communication service agreements executed pursuant to this provision will be made from Assessments levied and collected by the Association pursuant to the authority granted herein, and such Assessments shall be supported by the lien created herein. While Owners are free to obtain the same or similar services from a provider of their choice, no Owner may avoid paying any portion of Assessments levied based on non-use of video, data or communication services provided and paid for by the Association with Assessments.

P. Occupants Bound

All provisions of the Dedicatory Instruments applicable to the Property and Owners, shall also apply to all Occupants of any Lot, Tract or Dwelling. Every Owner shall cause all Occupants to comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is jointly and severally liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not be allowed to return to the Subdivision and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated.

Q. Transfer of Title; Resale Certificate; Certificate of Compliance

1. Transfer of Title: Any Owner, other than the Declarant, desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The person, other than the Declarant, transferring title shall continue to be jointly and severally responsible with the person accepting title for all obligations of the Owner, including Assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

Upon acceptance of title to a Lot or Tract, the new Owner of the Lot or Tract shall pay to the Association an administrative transfer fee to cover the administrative expenses associated with updating the Association's records, which transfer fee is supported by the lien created herein. Such fees shall be in such amount as the Board may reasonably determine necessary to cover its costs, including but not limited to, and fees charged by a management company retained by the Association for updating its records.

2. Resale Certificate: No Owner, other than the Declarant, shall transfer title to a Lot or Tract, together with the improvements thereon, unless and until he or she has requested and obtained a resale certificate signed by a representative of the Association as described in Chapter 207 of the Texas Property Code, or its successor statute (“Resale Certificate”) indicating, in addition to all other matters described in Chapter 207, the information required in Section 5.012 of the Texas Property Code.

The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Resale Certificate and accompanying information and any update to a Resale Certificate, which charge is supported by the lien created herein.

3. Certificate of Compliance: No Owner, other than the Declarant, shall transfer title to a Lot or Tract, together with the improvements thereon, unless and until he or she has requested and obtained a Certificate of Compliance (“Certificate of Compliance”) signed by a representative of the Association indicating that the Dwelling, as visible from the street, appears to have been built according to the plans submitted to and approved by the ARC, and identifies any Deed Restriction Violations currently existing on the Lot or Tract. The Association may charge a reasonable fee to prepare, assemble, copy, and deliver a Certificate of Compliance and accompanying information and any update to a Certificate of Compliance, which charge is supported by the Assessment lien created herein. The Association shall deliver a Certificate of Compliance, within ten (10) business days after the Association’s receipt of a written request from an Owner or Owner’s agent, or a title insurance company acting on behalf of the Owner.

R. Rebate of Fees

The Association shall have the authority to credit to an Owner’s Assessment account a pro-rata portion of a rebate it receives from a municipality, for a particular service, when the cost for that service is paid by the Owners as part of the Annual Assessment, when such services are being provided to all or a portion of the Property by a private vendor if/as/when the cost for such services are fully or partially offset and rebated by the municipality. By way of example and not limitation, if Montgomery County rebates to the Association a per Lot amount for trash pickup, and the Association has paid a private vendor for trash service, the Association may credit an Owner’s Assessment account with a prorated portion of the rebate received from Montgomery County.

S. Master Plan

“Master Plan” means the land use plan for the development of Woodforest, if any, prepared by or at the request of Declarant, as it may be amended by Declarant in its sole and absolute discretion, from time to time, which plan includes the Property encumbered by this Declaration. The Association is not a party to the Declarant’s Master Plan and has no authority regarding Declarant’s land use decisions. Said Master Plan may include all, none, or a portion of property owned by Declarant, which Declarant may, without the obligation to do so, from time to time subject to this Declaration by a subsequently recorded written document. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property owned by Declarant from the Master Plan bar its later annexation in accordance with this Declaration. Additionally, any

use indicated on the Master Plan is tentative and subject to change by the Declarant without notice to the Owners.

T. Number of Lots Subject to Declaration

The number of residential Lots that may be created in the Subdivision and made subject to this Declaration is 5,500.

U. Water Management

Each Owner acknowledges and agrees that some or all of the water features, which may include but are not limited to, rivers, bayous, ponds, streams, creeks, lakes and/or any wetlands in or adjacent to the Subdivision may be designed as water management areas and are not designed solely as aesthetic features. Due to fluctuations in water elevations with the immediate area and as a result of natural events such as hurricanes or tropical storms, water levels will rise and fall. Each Owner further acknowledges and agrees that neither the Association nor Declarant has, and neither is obligated to, exert control over such elevations. Therefore, each Owner agrees to, by purchase of a Lot or Tract, release and discharge Declarant and Association, including their officers and directors, from and against any and all losses, claims, damages (compensatory, consequential, punitive or otherwise), injuries or deaths, and expenses of whatever nature or kind, including without limitation legal costs related to or arising out of any claim relating to such fluctuations in water elevations. Owners may not alter, modify, expand, fill or otherwise adversely affect any water features, wetlands or waterways located within or in the vicinity of the Subdivision without the prior written approval of the authorities as may have relevant jurisdiction over such matters.

[SIGNATURE PAGES FOLLOW]



IN WITNESS WHEREOF, the undersigned Woodforest Owner joins this Declaration this 2nd day of May, 2018, to witness its acceptance of the covenants, conditions and restrictions placed on the Property.

**WOODFOREST OWNER:**

WOODFOREST PARTNERS, L.P. a Texas limited partnership

By: Woodforest GP, L.L.C., its general partner

By: Virgil W. Yoakum  
Print Name: Virgil W. Yoakum  
Print Title: VP/GP

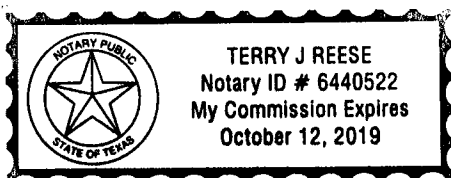
THE STATE OF TEXAS §

COUNTY OF Montgomery §

BEFORE ME, the undersigned authority, on this day personally appeared Virgil Yoakum, the V.P. of Woodforest GP, L.L.C a Texas corporation, the general partner of Woodforest Partners, L.P., known by me to be the person whose name is subscribed to this instrument, acknowledged to me that s/he executed the same for the purposes herein expressed, and in the capacity herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 2nd day of May, 2018.

Terry Reese  
Notary Public – State of Texas



LIENHOLDER CONSENT AND SUBORDINATION

WOODFOREST NATIONAL BANK, a national banking association, being the sole beneficiary of a mortgage lien and other liens, assignments and security interests encumbering all or a portion of the Property hereby consents to the terms and provisions of this First Amended and Restated Declaration to which this Lienholder Consent and Subordination is attached and acknowledges that the execution thereof does not constitute a default under the lien document or any other document executed in connection with or as security for the indebtedness above described, and subordinates the liens of the lien document and any other liens and/or security instruments securing said indebtedness to said First Amended and Restated Declaration (and the covenants, conditions and restrictions herein), and acknowledges and agrees that a foreclosure of said liens and/or security interests shall not extinguish this First Amended and Restated Declaration (or the covenants, conditions and restrictions herein). No warranties of title are hereby made by lienholder, lienholder's joinder herein being solely limited to such consent and subordination.

SIGNED AND EXECUTED THIS on May 3rd, 2018.

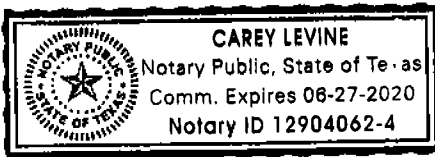
WOODFOREST NATIONAL BANK, a national banking association

By: [Signature]  
Title: Jude R. McNamara III, SVP

STATE OF TEXAS §

COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 3 day of May 2018, by JUDE R. McNAMARA III SVP of WOODFOREST NATIONAL BANK, a national banking association, on behalf of said entity.



[Signature]  
Notary Public – State of Texas



**E-FILED FOR RECORD**

**05/03/2018 11:08AM**



COUNTY CLERK  
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS,  
COUNTY OF MONTGOMERY

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

**05/03/2018**



County Clerk  
Montgomery County, Texas