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Laura Hughes
County Clerk

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STATE OF TEXAS
COUNTY OF KAUFMAN

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded in the Official Public Records of Kaufman County, Texas.

Handwritten signature of Laura Hughes in black ink.

Laura Hughes, County Clerk

Recorded By: Viviana Basurto, Deputy

ANY PROVISION HEREIN WHICH RESTRICTS THE SALE, RENTAL, OR USE OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

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128 AUSTIN AVE
WEATHERFORD, TX 76086



Community Charter

for



Kaufman County, Texas

Prepared by:

Janet L. Bozeman, Williams Teusink, LLC
The Sycamore Building
312 Sycamore Street
Decatur, GA 30030

Upon recording, return to:

CH TNC Mesquite Owner, LP
c/o The Nehemiah Company
2201 E. Lamar Blvd., Suite 115
Arlington, TX 76006

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NOTICE

PURSUANT TO THIS COMMUNITY CHARTER FOR TALIA, AS IT MAY BE SUPPLEMENTED AND AMENDED (THE "CHARTER"):

MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION: EACH OWNER OF LOT OR HOME IN TALIA ("OWNER") AUTOMATICALLY BECOMES A MEMBER OF TALIA COMMUNITY ASSOCIATION, INC. (THE "ASSOCIATION") AND REMAINS A MEMBER AS LONG AS SUCH OWNERSHIP CONTINUES. VOTING RIGHTS OF MEMBERS ARE DESCRIBED IN ARTICLE 4 AND IN THE BYLAWS ATTACHED AS EXHIBIT "E" TO THIS CHARTER, AS THEY MAY BE AMENDED.

OBLIGATION FOR ASSESSMENTS: THE ASSOCIATION IS AUTHORIZED TO LEVY ANNUAL AND SPECIAL ASSESSMENTS ON LOTS AND HOMES IN TALIA, WHICH ASSESSMENTS ARE THE PERSONAL OBLIGATION OF THE OWNER OF THE ASSESSED PROPERTY AND SECURED BY A LIEN ON THE ASSESSED PROPERTY. IF SUCH ASSESSMENTS ARE NOT PAID WHEN DUE, THE ASSOCIATION MAY SUE TO COLLECT AMOUNTS DUE, AS WELL AS LATE CHARGES, INTEREST, AND ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION, AND MAY FORECLOSE ITS LIEN IN ACCORDANCE WITH TEXAS LAW, AS PROVIDED IN ARTICLE 12 OF THIS CHARTER.

ARCHITECTURAL AND AESTHETIC CONTROLS: ALL LOTS AND HOMES IN TALIA ARE SUBJECT TO THE ARCHITECTURAL CONTROL PROVISIONS SET FORTH IN ARTICLE 5, WHICH REQUIRE COMPLIANCE WITH DESIGN AND AESTHETIC STANDARDS AND PRIOR APPROVAL FOR MODIFICATIONS TO THE EXTERIOR OF HOMES AND LOTS, INCLUDING INSTALLATION AND REMOVAL OF TREES AND LANDSCAPING, ACCESSORY STRUCTURES, DECORATIVE ITEMS, FENCES, POOLS, AND SPORTS AND PLAY EQUIPMENT, AMONG OTHER THINGS.

MAINTENANCE OF LOTS AND HOMES: ALL OWNERS ARE RESPONSIBLE FOR MAINTAINING THE LANDSCAPING AND IMPROVEMENTS ON THEIR PROPERTY IN A NEAT AND ATTRACTIVE CONDITION AND IN GOOD ORDER AND REPAIR AND FOR PROMPTLY REMOVING AND REPLACING ANY TREES (INCLUDING STUMPS), SHRUBBERY, AND OTHER PLANTS THAT ARE DEAD OR DYING.

LEASE, OCCUPANCY AND USE: THE LEASING AND OCCUPANCY OF LOTS AND HOMES IN TALIA AND THE USE THEREOF FOR SHORT-TERM LODGING AND BUSINESS ACTIVITIES IS RESTRICTED AS PROVIDED IN ARTICLE 7.

TRANSFER OF TITLE; NOTICE AND FEES: THE SALE OR OTHER TRANSFER OF TITLE TO LOTS AND HOMES IN TALIA IS SUBJECT TO THE PROVISIONS OF SECTION 7.4 OF THE CHARTER REQUIRING AT LEAST 7 DAYS' PRIOR WRITTEN NOTICE TO THE ASSOCIATION AND THE PROVISIONS OF SECTION 12.9 AND 12.11 REQUIRING PAYMENT TO THE ASSOCIATION OF A CAPITALIZATION FEE AND A LIFESTYLE FEE UPON TRANSFER. PURCHASERS AND OTHER TRANSFEREES SHOULD REQUEST A RESALE CERTIFICATE FROM THE ASSOCIATION AT LEAST 10 DAYS PRIOR TO THE DATE OF TRANSFER AS PROVIDED IN SECTION 7.4. FEES MAY BE CHARGED FOR ISSUANCE OF A RESALE CERTIFICATE AS PROVIDED IN SECTION 7.4.

COMPLIANCE AND SANCTIONS. ALL OWNERS, TENANTS AND OCCUPANTS OF HOMES IN TALIA MUST COMPLY WITH THE CHARTER AS WELL AS THE ASSOCIATION'S RULES ATTACHED AS EXHIBIT "C" AND THE DESIGN GUIDELINES ATTACHED AS EXHIBIT "F", AS THEY MAY BE AMENDED. FAILURE TO DO SO MAY RESULT IN MONETARY FINES, SUSPENSION OF RIGHTS TO USE THE ASSOCIATION'S COMMON AREAS AND AMENITIES, AND OTHER SANCTIONS AS DESCRIBED IN ARTICLE 8 OF THE CHARTER.

THIS NOTICE IS MERELY INTENDED TO DRAW ATTENTION TO CERTAIN KEY PROVISIONS OF THE CHARTER AND IS NOT A SUBSTITUTE FOR A CAREFUL READING OF THE CHARTER AND ITS EXHIBITS. EVERY OWNER IS RESPONSIBLE FOR READING AND FAMILIARIZING THEMSELVES WITH THE PROVISIONS OF THE CHARTER AND OTHER GOVERNING DOCUMENTS REFERENCED IN THE CHARTER AND WILL BE RESPONSIBLE FOR THEIR OWN COMPLIANCE AS WELL AS COMPLIANCE BY THE OCCUPANTS OF THEIR PROPERTY IN TALIA AND THEIR GUESTS.

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COMMUNITY CHARTER FOR TALIA

This Community Charter for Talia (as it may be amended, the "**Charter**") is established by CH TNC MESQUITE OWNER, LP, a Delaware limited partnership, on behalf of itself, its successors, successors-in-title and assigns (with its successors and assigns, the "**Founder**").

BACKGROUND STATEMENT

Talia is a master planned community located in the city of Mesquite, Kaufman County, Texas. This Charter sets forth various covenants, easements, restrictions, rights and obligations that together establish a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of certain property within Talia described herein.

The Founder has organized Talia Community Association, Inc., a Texas nonprofit corporation (with its successors and assigns, the "**Association**"), to administer and enforce this Charter and the other Governing Documents referenced in this Charter and to own, operate, and/or maintain various common areas and community improvements in Talia as the Founder may designate in accordance with this Charter. The record owner of each lot or home now and hereafter made subject to this Charter is automatically a member of the Association, as further described in Article 4 of this Charter.

This document provides for automatic and mandatory membership in a property owners association as defined in Tex. Prop. Code § 202.001.

DECLARATION

The Founder, as the owner of the property described in Exhibit "A" to this Charter, hereby declares that such property and any additional property made subject to this Charter in the future by amendment or supplement, shall constitute the "**Community**" known as "**Talia**," as such terms are used in this Charter. This Charter shall run with the title to such property, shall govern the development and use of the Community, and shall be binding upon and inure to the benefit of the Founder, the Association, and the current and future owners of any portion of the Community, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter holds any legal, equitable, or beneficial interest in any portion of the Community.

PART ONE: INTRODUCTION TO THE COMMUNITY

ARTICLE 1 GOVERNING DOCUMENTS

This Charter and the other governing documents for the Community set forth the rights and obligations of the owners and occupants of property in the Community as well as the rights and responsibilities of the Founder and the Association. The governing documents also contain certain limitations on the owners' property rights for the benefit of the Community as a whole.

1.1. Scope and Applicability

The Community has been established and is administered pursuant to various documents that have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents, collectively referred to in this Charter as the "**Governing Documents**," include this Charter and the other documents described in Table 1.1 below, as they may be amended and supplemented.

Table 1.1 - Governing Documents

Governing Documents	
Charter: (recorded)	this Community Charter for Talia, which creates obligations that are binding upon the Association and all current and future owners of property in the Community
Supplement: (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property, designate special areas as described in Article 3, or any of the foregoing
Certificate of Formation: (filed with the Texas Secretary of State; copy attached as Exhibit "D")	the Certificate of Formation of Talia Community Association, Inc., as it may be amended, which establishes the Association as a nonprofit corporation under Texas law
Bylaws: (Board adopts; copy attached as Exhibit "E")	the Bylaws of Talia Community Association, Inc., adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc.
Design Guidelines: (Founder adopts; initial set attached as Exhibit "F")	the design guidelines and any supplemental architectural and aesthetics standards adopted pursuant to Article 5, as they may be amended, which govern new construction and modifications to Units, including structures, landscaping, and other items on Units
Rules: (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Section 7.5, which regulate use of property, activities, and conduct within the Community

All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents, as well as resolutions adopted by the Association's board of directors pursuant to the Governing Documents. All owners and occupants shall be held accountable and liable for the actions of their tenants, guests, and invitees.

1.2. Neighborhood Covenants

Certain portions of the Community may be subject to additional covenants, restrictions and easements as may be approved by the Founder pursuant to Section 17.4 ("**Neighborhoods Covenants**"). The Association shall have standing and the power, but not the obligation, to enforce any such Neighborhood Covenants.

1.3. Conflicts and Ambiguities

If there are conflicts between any of the Governing Documents and applicable federal or state law, federal or state law shall control, as applicable. If there are conflicts between or among any of the Governing Documents, then they shall be given priority in the order listed in Table 1.1 above, except that to the extent that a Supplement recorded by the Founder creates an exception to the Charter applicable only to the property described in such Supplement, the Supplement shall control as to such property. If there is a conflict between the Governing Documents and any Neighborhood Covenants (or rules or policies adopted pursuant to any such Neighborhood Covenants), the Governing Documents shall control.

For purposes of this Section, a "conflict" shall exist when (a) provisions in two or more documents establish different rights and/or obligations, and (b) they are either mutually exclusive, or honoring or complying with a right, power, privilege, exemption, prohibition, or obligation established by one document would be inconsistent with the intent of a right, power, privilege, exemption, prohibition, or obligation established by another document. Where provisions in two documents address the same subject in a different manner, but both could be honored without interfering with any exemption, right, or privilege otherwise granted by the documents, they shall not be considered in conflict and both shall be given effect. The Governing Documents use diagrams and tables to emphasize or explain concepts and highlight certain key points. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

The Association's board of directors ("**Board**") may, by resolution, resolve any ambiguities in the Governing Documents, and the Board's reasonable interpretation of an ambiguous provision shall be determinative. If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

1.4. Definitions

Capitalized terms used in the Governing Documents have the meaning ascribed to them in the paragraph where they first appear in bold print. An index to defined terms may be found following the Table of Contents and List of Exhibits at the beginning of this document. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

1.5. Interpretation of Certain References

Community-Wide Standard. Where the Governing Documents require compliance with the "**Community-Wide Standard**," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Board or the Reviewer (as defined in Article 5). The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as the Community matures.

Consent or Approval. All references in the Governing Documents to "**consent**" or "**approval**" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

Discretion and Determination. All references in the Governing Documents to "**discretion**" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, anyone authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction. The exercise of discretion in granting or withholding approvals under the Governing Documents, or enforcement of the Governing Documents, shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Association or Founder from taking enforcement action in any appropriate circumstances.

Maintenance. All references in this Charter to "**maintenance**" shall refer to maintenance, repair, and replacement, unless otherwise expressly limited.

Notice. All references in this Charter to "**notice**" shall refer to notice delivered in accordance with the provisions for notice set forth in the Bylaws.

Person. References in the Governing Documents to a "**Person**" or "Persons" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

Recording. All references in the Governing Documents to a "**recorded**" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the Official Public Records of Kaufman County, Texas or such other place designated as the official location for filing documents affecting title to real estate in Kaufman County in order to make them a matter of public record.

ARTICLE 2 COMMUNITY ADMINISTRATION

Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Founder, the Association, the owners, the builders, and others have a role in the functioning of the Community and in helping to fulfill that vision. This Article identifies these stakeholders and describes their roles in administering the Community.

2.1. The Founder

The Founder has established the vision for Talia and for the Community and, through the Governing Documents, has set forth the founding principles that will continue to guide the Community during the development and sale period and thereafter. The Founder's proposed plan for development of the Community (the "**Master Plan**") encompasses all of the property described in Exhibit "A" and may include property described in **Exhibit "B."** Subject to obtaining all necessary governmental approvals, the Community may ultimately include up to 2,600 Units, as defined in Section 3.1 ("**Permitted Units**"). However, the Founder is not obligated to submit property shown on the Master Plan to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Master Plan. The Founder reserves the right to amend this Section at any time during the Development and Sale Period (as defined below) to increase the number of Permitted Units if the Community is expanded to include property other than that described in Exhibit "A" and that described by metes and bounds in Exhibit "B" to this Charter.

The Founder has reserved in the Governing Documents various rights and easements, including, without limitation, rights and easements with respect to development, expansion, marketing, sale and administration of the Community and the Association (collectively, "**Founder Rights**"). The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which shall run from the date of recording this Charter until the Founder's right to expand the Community pursuant to Section 16.1 has expired and every Unit has been improved with a Dwelling and conveyed to a Person other than a Builder (as defined in Section 2.4). A "**Founder Affiliate**" is any Person that controls, is controlled by, or is under common control with the Founder, and any Person that is an owner, a member, a partner, or a shareholder of the Founder.

Some Founder Rights may be exercised only during the "**Founder Control Period**," which is the period of time that the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). The Founder Control Period begins on the date this Charter is recorded and terminates upon the first of the following to occur:

- (a) when 90% of the Permitted Units have been made subject to this Charter, improved with a Dwelling (as defined in Section 3.1), and conveyed to Owners other than the Founder or a Builder holding title for purposes of construction and sale;
- (b) December 31, 2053; or
- (c) when, in its discretion, the Founder so determines and declares in a recorded instrument.

The Founder has certain approval rights for a limited period as provided in the Bylaws after the termination of the Founder Control Period.

The Founder may assign its status as the Founder and/or any or all of the Founder Rights to others in accordance with Section 17.7 of this Charter.

2.2. The Association and its Board

The Founder has established the Association as the primary entity responsible for administering the Community in accordance with the Governing Documents. On most matters, the Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Association's membership. Unless the Governing Documents or Texas law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

The Association may exercise all rights and powers which the Governing Documents and Texas law expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents, except as specifically limited in this Charter, the Certificate of Formation, or the Bylaws. It may also take any action reasonably necessary to effectuate any such right or privilege. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Association or its members, and shall have no authority to institute or intervene in litigation, arbitration, or other proceedings in the name of or on behalf of any Owner or Owners pertaining to the design or construction of any improvements on a Unit.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances), and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the Bylaws.

2.3. The Owners

Each Person who holds record title to a Unit, as defined in Section 3.1, is referred to in the Governing Documents as an "**Owner**." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a deed of trust, mortgage or similar security instrument) is not considered an "Owner." If a Unit is sold under a recorded contract of sale, and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Unit has more than one Owner, all co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents. Where the Governing Documents or applicable law require notice to an Owner or a member of the Association, notice given to any co-Owner of a Unit shall be deemed notice to all co-Owners of such Unit. Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in this Charter.

2.4. Builders

The "**Builders**" are those Persons who purchase one or more unimproved Units or parcels of land within the Community to construct dwellings for resale in the ordinary course of their business. The Builders have the same privileges and responsibilities as Owners during the time that they own Units for construction and resale, including the privileges of membership in the Association. In addition, the Founder may extend any of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in the Community to such Builders as it may designate.

2.5. Neighborhood Associations

Portions of the Community may have special features or requirements that lead the responsible Builder or the Founder to establish another owners association (a "**Neighborhood Association**") to administer Neighborhood Covenants applicable to that particular area ("**Neighborhood**"). Nothing in this Charter requires the creation of a Neighborhood Association (although a Supplement may). If a Neighborhood Association is created, the Owners of Units within the jurisdiction of the Neighborhood Association, as established by its Neighborhood Covenants, shall be a member of the Neighborhood Association in add to being a Member the Association.

Any Neighborhood Association shall be responsible for administering the Neighborhood Covenants applicable to the property within its jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property it owns or which is designated pursuant to such additional covenants as being for the common benefit of its members. However, the Neighborhood Association may contract with others, including the Association, to perform various services on its behalf.

2.6. Mortgagees

If a Unit is made subject to a recorded deed of trust or other form of security instrument affecting title to a Unit (a "**Mortgage**"), then the holder or beneficiary of that Mortgage (a "**Mortgagee**") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Article 14.

2.7. Improvement District

All or portions of Talia are located within the Spradley Farms Improvement District of Kaufman County (the "**SFID**"), a political subdivision of the state of Texas authorized to administer and provide funding for community improvement projects and services in the SFID. The SFID has the power to issue bonds and levy assessments on

property in the SFID to exercise its powers and accomplish its purposes. Prior to transfer of title to any Unit, the Owner shall provide to the purchaser or other transferee the statutory notification relating to the SFID required by Texas Local Government Code Chapter 372.

ARTICLE 3 COMMUNITY STRUCTURE AND ORGANIZATION

The Community consists of homes and home sites intended for the exclusive use of the Owners or their tenants and members of their respective households, parcels of land intended for further subdivision, as well as property intended for common use and property dedicated to the public. Units may be assigned to "Voting Districts" to facilitate voting on Association matters. Units may be assigned to Service Areas to enable the Association to provide special services and benefits to particular areas of the Community.

3.1. Units and Dwellings

(a) **Units.** A "Unit" is a portion of the Community described as a separately identified lot or parcel on a recorded subdivision plat or in a deed from the Founder conveying the same, or which constitutes a "unit" in a condominium established pursuant to Texas law, and which is improved or is intended to be improved with a Dwelling (as defined in subsection (b) below) and such related improvements as may be approved pursuant to Article 5. The term "Unit" does not include Common Areas, as defined below, common elements of any condominium or common property of any other Neighborhood Association, parcels consisting of streets, alleys, parks, or open space shown on any subdivision plat filed or approved by the Founder, or property dedicated to the public. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any airspace, structures, or other improvements within the boundaries of the Unit. A parcel of land is considered a single Unit until a subdivision plat, survey, or condominium instrument is recorded dividing it into more than one Unit. The subdivision and combination of Units is further addressed in Section 7.3.

(b) **Dwellings.** A "Dwelling" is a building or portion of a building which is suitable for human occupancy and contains complete, independent living facilities for a single household, including permanent provisions for living, sleeping, eating, cooking and sanitation. A "Dwelling" shall be deemed to come into existence at such time as it is first leased, conveyed, or actually occupied for residential purposes, whichever is earlier.

3.2. Common Area

(a) **General.** Any real property and facilities that the Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit is referred to as "**Common Area.**" The Common Area also includes any property that the Association holds under a lease and any easements in favor of the Association. The Founder and others may establish and convey Common Area to the Association as provided in Section 9.1.

(b) **Limited Common Area.** Certain portions of the Common Area may be designated as "**Limited Common Area**" and assigned for the exclusive use or primary benefit of less than all Units as provided in Section 19.1. Limited Common Areas might include such things as entry features, recreational facilities, private streets, and alleys, among other things, that benefit only certain Units within the Community.

3.3. Area of Common Responsibility

All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "**Area of Common Responsibility,**" regardless of who owns them. The Area

of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way and public parks. The initial Area of Common Responsibility is described in Section 9.2.

3.4. Other Properties

In addition to the above, the Community may include property dedicated to the public and property owned or controlled by the City of Mesquite, Texas ("**City**"), the SFID, or another governmental or quasi-governmental entity, or by another owners association for the common use and enjoyment of its members (collectively, "**Other Properties**"). Any Other Properties shall be subject to the provisions of this Charter, including, without limitation, the provisions of Part Two of this Charter relating to Community Standards, the easements set forth in Article 13, and the rights of the Founder described in Article 17, except to the extent that applicability of such provisions is specifically limited to Units; however, Other Properties shall not be subject to assessment by the Association for Common Expenses and the owners of Other Properties shall have no membership or voting rights in the Association by virtue of ownership of such Other Properties, unless such property would fall within the definition of a "Unit" under Section 3.1 if owned by any other Person, and except as otherwise provided in any applicable Supplement recorded pursuant to Article 16.

3.5. Voting Districts

Units may be grouped into "**Voting Districts**" to facilitate a system of representative voting on matters as to which the Governing Documents require approval of the Association's membership. A Voting District may be comprised of any number of Units and may include Units of more than one housing type, as well as Units that are not contiguous to one another. Each Voting District will elect one representative as its "**Voting Delegate**" to cast the votes allocated to Units in that Voting District on matters requiring a vote of the Owners, and one alternate to act in the absence of the Voting Delegate, as described in Article 4.

The Founder may assign Units to a specific Voting District (by name or other identifying designation) in Exhibit "A" to this Charter or in a Supplement. During the Development and Sale Period, the Founder may unilaterally record a Supplement, or an amendment to this Charter or any previously recorded Supplement, to designate or change Voting District boundaries. Thereafter, the Board may amend this Charter or any Supplement to re-designate Voting District boundaries; however, the Board may not combine two or more existing Voting Districts without the consent of the Owners of a majority of the Units in the affected Voting Districts.

3.6. Service Areas

Units may also be part of one or more "**Service Areas**" in which the Units share Limited Common Areas or receive special benefits or services from the Association that it does not provide to all Units within the Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

The Founder may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area in Exhibit "A" to this Charter or in a Supplement to this Charter executed and recorded in accordance with Article 16. In addition, all Units to which any Limited Common Area is assigned shall constitute a Service Area for purposes of budgeting for and allocating any costs incurred by the Association for maintaining, insuring and operating that Limited Common Area. The Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners pursuant to Section 10.2. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to designate or change Service

Area boundaries; however, any such amendment shall also be executed by the Owner of any Unit added or withdrawn from a Service Area, if the Unit is not owned by the Founder.

The Owners of Units within each Service Area may elect a "**Service Area Committee**" in accordance with the Bylaws to represent and act on behalf of the Owners within that Service Area with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

3.7 Build-to-Rent Zone

A "**Build-to-Rent Zone**" is any portion of the Community designated for such use by the Founder in an applicable Supplement, in which (i) title to all Units is held under single ownership; and (ii) all Units improved with a Dwelling are under common management and leased or offered for lease except during such periods as are reasonably necessary to undertake construction, maintenance, repairs and renovations; and (iii) all leases of such Units comply with Section 7.1 of the Charter. The designation of a portion of the Community for development and use as a "Build-to-Rent Zone" shall be subject to applicable zoning and shall be made in a Supplement or amendment thereto executed and recorded by the Founder applicable to such portion of the Community, which Supplement identifies the Units initially comprising such Build-to-Rent Zone, all of which shall be owned by a single Owner at the time of such designation. Any such designation shall require the consent of the Owner of the Unit at the time of such designation, such consent to be evidenced by such Owner's execution of such Supplement or amendment. Notwithstanding such designation, at such time as title to any Unit within such Build-to-Rent Zone (a "**Build-to-Rent Unit**" is conveyed to an Owner other than the Owner of all other Units within such Build-to-Rent Zone and/or the Unit ceases to meet the requirements of clauses (ii) or (iii) above, such Unit shall cease to be part of such Build-to-Rent Zone, but the remaining Units shall continue to constitute a Build-to-Rent Zone so long as they meet the requirements under clauses (i), (ii) and (iii) above. As used in this Charter, the Owner of the Build-to-Rent Units within a Build-to-Rent Zone is referred to as a "**Build-to-Rent Owner**."

ARTICLE 4 ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

The Association is an entity through which each Owner can participate in the governance and administration of the Community. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Community and influence the outcome of major decisions.

4.1. Membership

The Association initially has two classes of membership, as follows:

(a) Owner Membership. The Ownership Membership is comprised of all Owners, including the Founder and Builders as to any Units they own (each an "**Owner Member**"). Every Owner is automatically a member of the Association; however, there shall be only one Owner Membership per Unit. Thus, if a Unit is co-owned by two or more co-Owners, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the Bylaws. If an Owner is a corporation, a partnership, a limited liability company, or other legal entity, its membership rights may be exercised by any officer, director, partner, manager, or trustee, or by an individual the Owner designates from time to time in writing to the Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Area recreational facilities available for use by Owners.

(b) **Founder Membership.** The Founder Membership consists solely of the Founder (sometimes referred to as the "**Founder Member**"). The Founder Membership shall terminate two years after expiration of the Founder Control Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

In any Supplement submitting additional property to the terms of this Charter, the Founder may establish additional classes of membership comprised of the Owners of Units within any portion of the additional property described in such Supplement. The Founder shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

Unless otherwise indicated by the context, references in this Charter to the "**Members**" shall refer to Owner Members and the Founder Member and any other Persons holding a membership in the Association, collectively, and references to a "Member" shall refer to any of them.

4.2. **Voting**

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Charter and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 12.8.

Due to the number of Units that may be developed in the Community, the Governing Documents provide for a representative system of voting. If and when such system is invoked by the Board, the Owners of Units in each Voting District will elect a "**Voting Delegate**" and an alternate Voting Delegate, in the manner provided in the Bylaws, to cast the votes of all Units in the Voting District, other than Units owned by the Founder, on matters requiring a vote of the membership, except where the Governing Documents specifically require a vote of the Owners. However, until such time as the Board first calls for election of a Voting Delegate for a particular Voting District, each Owner of a Unit in such Voting District shall be considered a "Voting Delegate" and may personally cast the vote allocated to such Owner's Unit on any issue requiring a vote of the Voting Delegates under the Governing Documents. The Founder shall be considered the Voting Delegate for, and may personally cast the vote(s) allocated to, Units which it owns.

It is the duty of a Voting Delegate, or in the Voting Delegate's absence, the alternate Voting Delegate, to attend Association meetings and cast the votes allocated to the Units that he or she represents on any matters as to which such Voting Delegate is entitled to vote under the Governing Documents. A Voting Delegate may, but is not required to, conduct a poll of the Owners of Units in the Voting District which he or she represents prior to voting. If such a poll is conducted, the Voting Delegate shall cast the votes in accordance with the result of the poll. Any votes not accounted for in the poll may be cast in the Voting Delegate's discretion. The Voting Delegate shall not be entitled to fractionalize any single vote. Voting Delegates are subordinate to the Board, and their responsibility and authority as Voting Delegates does not extend to policymaking, supervising, or otherwise being involved in Association governance beyond voting on matters put to a vote of the membership.

In any situation in which the Governing Documents or applicable law authorize an Owner personally to exercise the vote for such Owner's Unit, or grant or withhold consent or approval to any action, if there is more than one Owner of a Unit, the vote, consent or approval for such Unit shall be exercised as the co-Owners holding a majority of the ownership interest in the Unit determine among themselves. Any co-Owner may cast the vote or grant consent or approval for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit protests promptly to the President or other person presiding over the meeting or the balloting (in the case of a vote taken outside of a meeting). In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently.

PART TWO: COMMUNITY STANDARDS

ARTICLE 5 ARCHITECTURE, LANDSCAPING, AND AESTHETIC STANDARDS

The Community derives its character from a mix of compatible architectural styles and from the cooperation of all Builders and Owners in upholding minimum standards for design, landscaping, and aesthetics. This Article explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Units.

5.1. General

All site work, landscaping, structures, improvements, modifications, and other items placed on a Unit or on Other Properties in a manner or location visible from outside of any existing structures on the Unit or Other Properties (including sports, play, and maintenance equipment, outdoor furniture and storage, and decorative items) ("**Improvements**") are subject to standards for design, development, landscaping, and aesthetics adopted pursuant to this Article ("**Design Guidelines**") and the approval procedures set forth in this Article, except to the extent that Tex. Prop. Code Chapters 202 and 209, this Article, or the Design Guidelines may otherwise specify.

No prior approval is necessary to repaint previously painted surfaces of existing structures using the most recently approved color scheme or to repair, rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures; however, the Owner shall notify the Association before undertaking such activities. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of porches and any other portions of a structure visible from outside of the structure do require prior approval.

Nothing in this Article or the Design Guidelines shall be applied or construed to prohibit or restrict the Owner of a Unit on which a Dwelling is located from using an adjacent Unit owned by such Owner for any Improvements customarily appurtenant to a residence and of a type that would be permitted on the Unit containing the Dwelling, subject to prior approval of the proposed Improvements as to size, location, shielding, and aesthetics. A Unit shall be considered "adjacent" to the Unit containing a Dwelling if it is contiguous thereto and fronts on the same street or, if the Unit containing the Dwelling is on a corner, is contiguous to the side or rear property line of such corner lot.

Any Dwelling to be constructed on a Unit shall be designed by and built in accordance with the plans and specifications of a licensed architect unless the Founder or its designee in its sole discretion otherwise approves. Approval under this Article is not a substitute for any approvals or reviews required by the City of Mesquite or Kaufman County, Texas, or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters. This Article shall not apply to the Founder's design and construction activities or to the Association's activities during the Development and Sale Period.

5.2. Design Review Authority

(a) **Founder.** The Founder shall have exclusive authority to review and act upon all applications for review of proposed Improvements until termination of the Development and Sale Period. The Founder may designate one or more persons to act on its behalf in reviewing applications hereunder and/or may appoint a committee to review applications and make recommendations to the Founder as to approval or disapproval of any application. In reviewing and acting upon any request for approval, the Founder and its designee act solely in the Founder's interest and owe no duty to any other Person.

From time to time during the Development and Sale Period, the Founder may delegate any or all of its rights under this Article to other Persons or committees, including the committee appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to the Founder's right: (i) to revoke such delegation at any time and reassume its prior control, and (ii) to veto any decision which the Founder determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this Article, the jurisdiction of others shall be limited to such matters as the Founder specifically delegates.

(b) *Design Review Committee.* Upon the Founder's delegation of any of its authority pursuant to Section 5.2(a), or upon expiration or termination of the Founder's rights under this Article, the Board shall appoint a Design Review Committee ("**Design Review Committee**" or "**DRC**") to assume jurisdiction over matters within the scope of the delegated authority or this Article, respectively. The DRC shall consist of at least three but not more than seven persons, who shall serve and may be removed and replaced in the Board's discretion. DRC members need not be Owners or representatives of Owners. The DRC may, but need not, include architects, engineers, or similar professionals. After termination of the Development and Sale Period, the DRC may not include a current Board member or current Board member's spouse or any person residing in a current Board member's household. The Association may compensate DRC members for their service on the DRC in such manner and amount, if any, as the Board may determine appropriate consistent with applicable law.

During the Development and Sale Period, the DRC shall notify the Founder in writing within five business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes pursuant to any delegation of the Founder's review authority under this Article. A copy of the application and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to the DRC.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the DRC or termination of the Development and Sale Period, whichever occurs first, the Association shall have no jurisdiction over architectural matters.

(c) *Reviewer.* For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "**Reviewer.**"

(d) *Fees; Assistance.* The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application and conduct a final inspection for compliance with approved plans. The Board may include the compensation of such persons in the Association's annual operating budget.

(e) *Construction Deposit.* As a condition of approval of any application hereunder, the Reviewer may require the applicant to post a construction deposit. The Association shall be entitled to draw upon the construction deposit to cover costs which it incurs in cleaning up trash, dirt or debris and repairing damage to any subdivision improvements or Common Areas which the Board determines, after notice to the applicant and an opportunity for a hearing in accordance with the Bylaws, is attributable to the construction activities of the applicant or its contractors, subcontractors, suppliers, or others providing goods or services in conjunction with the construction activities on the applicant's property. The applicant shall provide funds to restore the construction deposit to its original amount within 10 days after written request from the Association notifying the applicant of the amount of any disbursement from the applicant's construction deposit. Upon completion of all work in accordance with the approved plans, the applicant shall be entitled to a refund of the applicant's construction deposit (or if any portion has been applied to cover the Association's costs pursuant to this Section and not restored, then the balance remaining, if any).

5.3. Design Guidelines and Procedures

(a) *Design Guidelines.* Initial Design Guidelines are attached as Exhibit "F," but are subject to amendment as provided in this Section. The Design Guidelines may contain general provisions applicable to the entire Community as well as specific provisions that vary among uses, housing types, or locations within the Community and may also include rules governing construction activities within the Community. The Design Guidelines are intended to provide guidance to Owners, architects, and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Founder shall have sole and full authority to amend the Design Guidelines for during the Development and Sale Period, notwithstanding any delegation of review authority to the DRC, unless the Founder also expressly delegates the power to amend to the DRC. Upon termination or delegation of the Founder's right to amend, the DRC may amend the Design Guidelines with the Board's consent. No amendment shall be inconsistent with the provisions of Tex. Prop. Code Chapter 202, as it may be amended.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. Except as otherwise provided in this Declaration or limited by Texas law, there shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive. Any amendment to the Design Guidelines shall be effective upon recording.

The Reviewer shall make the Design Guidelines available to Owners and their architects and contractors upon request.

(b) *Procedures.* Except as this Charter or the Design Guidelines otherwise provide, no activities within the scope of this Article (as described in Section 5.1) may begin on any property within the Community until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner and other applicant, by accepting title to a Unit or making application hereunder, acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

Subject to the provisions of Tex. Prop. Code Chapter 202, as it may be amended, and this Charter, the Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Article 18 or judicial review so long as they are made in good faith and in accordance with required procedures, Tex. Prop. Code Chapter 202, and applicable laws and restrictive covenants.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Reviewer may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 30 days after its receipt of a completed application and all required submissions, except that, with respect to any DRC determination subject to the Founder's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 40 days after its receipt of the completed application and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond in a timely manner, the applicant may notify the Reviewer in writing by certified mail, return receipt requested, demanding a response and, if the Reviewer fails to respond within 14 days after receipt of such demand, approval shall be deemed given, but only to the extent that the application is in conformance with the Design Guidelines. No approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.6.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing.

Upon completion of all work for which approval has been granted, the applicant shall notify the Reviewer in writing that construction is complete. The Reviewer may conduct an inspection within 30 days thereafter and notify the applicant in writing as to any deviations or deficiencies noted from the approved plans. If deviations or deficiencies are noted, the applicant shall promptly take such action as the Reviewer has specified in such notice to conform the work to the approved plans.

Notwithstanding the above, during the Development and Sale Period, the Founder may approve plans and specifications for construction by any Builder pursuant to the terms of the agreement of sale between the Founder and such Builder. Any such plans shall be deemed approved hereunder without the necessity of submitting an application to the Reviewer, provided that such approval is set forth in a written instrument signed by the Founder or its authorized representative specifically identifying the approved plans and specifications, and then subject to any conditions set forth in such instrument. However, if the approved plans are only preliminary or only part of the submittals required under this Article and the Design Guidelines, or if there are any modifications to or deviations from such plans and specifications, the rest of the submittals required for final approval, and any modifications or deviations from the approved plans, shall be subject to the application and approval procedures set forth in this Article.

The Reviewer may exempt certain activities from the application and approval requirements of this Article if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

5.4. Right to Appeal Denial to Board

After termination of the Founder's review authority under Section 5.2(a), any decision by the DRC denying an application for proposed improvements may be appealed to the Board. A written notice of the denial must be provided to the Owner by certified mail, hand delivery, or electronic delivery and shall:

(a) describe the basis for the denial in reasonable detail and changes, if any, to the application or improvements required as a condition to approval; and

(b) inform the Owner that the Owner may request a hearing before the Board on or before the 30th day after the date the notice was mailed to the Owner.

The Board shall hold a hearing under this Section not later than the 30th day after the date the Board receives the Owner's request for a hearing and shall notify the Owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. Only one hearing is required on any application. During a hearing, the Board or the Association's designated representative and the Owner or the Owner's designated representative shall each have the opportunity to discuss, verify facts, and attempt to resolve the denial of the Owner's application, and the changes, if any, requested by the DRC in the notice of denial provided to the Owner. Either the Board or the Owner may request a postponement of the hearing for up to 10 days and such request shall be granted. Additional or longer postponements may be granted by agreement of the parties. The Association or the Owner may make an audio recording of the meeting. The Board may affirm, modify, or reverse, in whole or in part, any decision of the DRC.

5.5. No Waiver of Future Approvals

The people reviewing applications under this Article will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.6. Variances

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify such a variance; however, the Reviewer shall under no circumstances be obligated to grant variances. No variance shall (a) be effective unless in writing; (b) be contrary to this Charter, the requirements of the City of Mesquite, or the provisions of any applicable development agreement; or (c) prevent the Reviewer from denying a variance in other circumstances. Any variance requires the Founder's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

5.7. Limitation of Liability

This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Founder, the Association, the Reviewer, any committee appointed hereunder, and any director, officer, member, shareholder, employee or agent of any of the foregoing, shall not be liable for (a) soil conditions, drainage, or other general site work performed by Builders, Owners, their contractors or subcontractors; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor as a Builder; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction or modifications to any Unit. In

all matters arising under this Article, the Association shall defend and indemnify the Board, the Founder, the DRC, any Reviewer, and the members, officers, and directors of each, as provided in the Bylaws.

5.8. Certificate of Compliance

Any Owner may request in writing that the Reviewer issue a certificate of compliance certifying that there are no known violations of this Article or the Design Guidelines with regard to such Owner's Unit. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. Issuance of such a certificate shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of such certificate.

ARTICLE 6 MAINTENANCE, REPAIR, AND REPLACEMENT

The commitment among property owners and residents in a planned community to maintain their property in a neat, attractive, and well-landscaped condition enhances the overall beauty and aesthetic appeal of the community and helps to maintain property values for all. This Article describes the Owners' responsibilities for maintenance and repair of their Units and for insuring their Units against property damage so that funds will be available for repair and restoration if needed.

6.1. Maintenance of Units and Other Properties

(a) Units. Except to the extent that such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to this Charter or any applicable Supplement or Neighborhood Covenants, each Owner shall maintain:

(i) such Owner's Unit, including all structures, landscaping, and other improvements comprising the Unit, except that nothing herein shall obligate an Owner to maintain any utilities installed within public or private utilities easements for the benefit of other properties; and

(ii) the landscaping and any irrigation equipment and sidewalk within that portion of any Common Area or street right-of-way lying between the Unit boundary and the nearest curb of any street or alley within 10 feet of such Unit boundary.

(b) Other Properties. Except to the extent that such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Charter or separate agreement, a Neighborhood Association and any other entity which owns or has responsibility for Other Properties shall maintain,:

(i) its property, and any other property for which it has maintenance responsibility pursuant to Neighborhood Covenants or applicable law; and

(ii) the landscaping and any irrigation equipment and sidewalk within that portion of any Common Area or street right-of-way lying between the boundary of property for which it is responsible under subsection (a)(i) and the nearest curb of any street or alley within 10 feet of such boundary.

(c) Standard of Performance. All maintenance under subsections (a) and (b) of this Section shall be performed in a manner consistent with the Governing Documents, the Community-Wide Standard, and all other applicable covenants. Nothing herein shall authorize any Person to add or remove trees, shrubs, or similar landscape material (except for mowing and pruning consistent with the Community-Wide Standard) or to modify the

exterior of any structure on a Unit, Common Area, right of way, or Other Properties in a manner inconsistent with the plans approved pursuant to Article 5 without prior approval pursuant to Article 5.

6.2. Assumption of Maintenance Responsibility by Association

The Association may assume maintenance responsibility for property in any Neighborhood Association or Other Properties by agreement with the Neighborhood Association or owner of such Other Properties, as applicable, or upon the Board's determination, pursuant to Article 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. In addition, the Association shall assume maintenance responsibility to the extent provided in any Supplement recorded by Founder. Unless otherwise provided in an applicable Supplement, the Association may assess the cost of such maintenance against the Units within such Neighborhood Association or Other Properties as a Specific Assessment pursuant to Section 12.4, or if authorized by a recorded Supplement designating a Service Area, against all Units in the benefited Service Area as a Service Area Assessment, as provided in Section 12.2(c). The Association need not treat all similarly situated Neighborhood Associations or properties the same.

6.3. Responsibility for Repair and Replacement; Insurance

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on such Owner's Unit, less a reasonable deductible, unless either a Neighborhood Association (if any) or the Association carries such insurance pursuant to the terms of an applicable Supplement or Neighborhood Covenants. Likewise, any entity which owns Other Properties shall carry property insurance for the full replacement cost of all insurable improvements on such Other Properties, less a reasonable deductible. The Association may, but shall have no obligation to, monitor compliance with this requirement. Each Owner or entity required to maintain insurance hereunder shall furnish a certificate evidencing such insurance to the Association within 10 days of the Association's request. If the Association assumes responsibility for insuring a Unit, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner thereof, or if authorized by a recorded Supplement designating a Service Area, against all Units in the benefited Service Area as a Service Area Assessment, as provided in Section 12.2(c).

Within 90 days after any damage to or destruction of a structure on a Unit or Other Properties, the Owner, Neighborhood Association, or other Person responsible for repair and replacement thereof shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Article 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, within such 90-day period, the Owner or other responsible Person shall clear the Unit or other property of debris and thereafter maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner or other Person responsible for repair and replacement hereunder shall pay any costs of repair and replacement that insurance proceeds do not cover.

Additional recorded covenants applicable to any Neighborhood Association or Service Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This Section shall apply to a Neighborhood Association with respect to common property of the Neighborhood Association and to any Person which owns or is responsible for maintaining Other Properties, in the same manner as if the Neighborhood Association or other Person were an Owner and its property were a Unit.

6.4. Maintenance and Repair of Party Walls and Similar Structures

Except as may otherwise be provided by law, a written agreement between Owners of adjacent Units, an applicable Supplement, Neighborhood Covenants, or other recorded documents applicable to adjacent Units:

(a) **Party Structure.** Each wall, fence, driveway, or similar structure built as part of the original construction on the Units that serves and/or separates any two adjoining Units, and any replacements thereof, shall be considered a "**Party Structure.**" In addition, if an Owner installs, constructs, or erects a fence on the common boundary line between such Owner's Unit and an adjacent Unit, and the Owner of the adjacent Unit thereafter attaches another section of fence to it or otherwise makes use of such fence for the purpose of enclosing all or a portion of its Unit, then such fence shall become a Party Structure for the purpose of each Owner's responsibility for contributing to the maintenance, repair, and replacement of such fence. However, nothing herein shall confer any ownership interest in or right to remove any such fence on the Owner of the adjacent Unit.

(b) **Allocation of Costs.** The cost of reasonable repair and maintenance of a Party Structure shall be shared equally by the Owners who share the use of, or whose Units are served by, the Party Structure (each a "**Benefited Unit**"), except that (i) the cost of maintenance or repairs that affect only one side of a Party Structure shall be the sole responsibility of the Owner of the Unit undertaking such maintenance or repairs; and (ii) if any maintenance or repairs are necessitated by the negligence or conduct of the Owners, occupants or guests of only one of the Benefited Units, then the Owner of the Unit whose negligence or conduct (or occupant's or guest's negligence or conduct) necessitated the maintenance or repairs shall be liable for the full cost of any maintenance or repairs necessitated thereby.

Upon not less than 10 days prior written notice from the Owner(s) of any Benefited Unit to the Owner of each other Benefited Unit, specifying the need for maintenance or repairs to a Party Structure and the estimated cost thereof, the Owner giving such notice may perform any necessary maintenance or repair. Maintenance or repair specified in such notice shall be presumed "necessary" unless an Owner of a Benefited Unit gives written notice within such 10-day period to the Owners of each other Benefited Unit and to the Board, challenging the necessity of such maintenance or repair, in which case the Board may determine whether the maintenance or repair is necessary and appropriate, and the Board's determination shall be final and binding. Within 30 days after receipt of a written request for reimbursement for any necessary maintenance or repair, accompanied by evidence of the total cost incurred, the Owner(s) of the other Benefited Units served by such Party Structure shall reimburse the Owner who has incurred such cost for their pro rata share of the reasonable cost it has incurred in performing such maintenance or repair. If an Owner responsible for reimbursement fails to pay the amount due within 30 days after receipt of such request, the Owner who has incurred the cost shall have the right to file a lien against the Benefited Unit of the Owner from whom the reimbursement is due to secure the amounts due plus interest at the lesser of 10% per annum or the highest rate allowed by Texas law from the 30th day after the date of such request, which lien may be filed in the same manner as a construction lien under Texas law and subject to the same notice requirements.

The right to and the obligation of contribution between Owners, as provided in this Section, shall be appurtenant to the land and shall pass to such Owners' successors-in-title.

(c) **Applicable Law; Disputes.** To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or

omissions shall apply to any Party Structure. Any dispute concerning a Party Structure shall be subject to the provisions of Article 18.

(d) **Failure to Maintain.** In the event that the Owners who share a Party Structure fail to provide necessary maintenance or repairs to a party structure within 10 days after the date of written notice from the Association advising of the need for such maintenance or repairs, the Association shall have the right to provide the necessary maintenance or repairs and assess the costs incurred against the responsible Owners and their Units.

ARTICLE 7 USE, LEASE AND TRANSFER OF UNITS; RULEMAKING

This Article sets forth basic standards regarding use, occupancy, and transfer of interests in Units. In addition, it provides a procedure by which the rules regulating use, conduct, and activities within the Community may be expanded and modified to address particular needs and desires of the Community over time.

7.1. Residential and Related Uses

(a) Except as otherwise provided in subsection (b), Units may be used only for residential and related purposes. A business activity shall be considered "related" to a residential use for purposes of this Section only if conducted by a person or persons residing in a Dwelling on the Unit and only if the business activity:

- (i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;
- (ii) complies with all other provisions of the Governing Documents, as well as applicable zoning requirements and building codes;
- (iii) does not involve the sale of controlled substances or firearms, or the propagation, growing, sale, or distribution of cannabis or cannabis derivatives for any purpose, whether or not legal;
- (iv) does not involve regular visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and
- (v) is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

(b) Notwithstanding the above, the following activities shall not be considered a violation of subsection (a):

- (i) the occasional outdoor sale of lemonade or other nonalcoholic beverages by a person under 18 years of age from a table or stand temporarily placed on a Unit with the permission of the Owner thereof or on Common Area with the permission of the Association; or

(ii) the provision of child care on a limited basis for a fee, so long as the child care provider: (A) resides in the home where the child care is provided; (B) does not employ other persons to assist in the provision of child care; and (C) does not provide child care to more than two children at a time who do not reside in the home where the child care is provided, or more than four children total, including the children of the child care provider. The Board is specifically authorized to adopt rules regulating child care operations within the Community, including rules limiting parking of vehicles, traffic flow, and use of recreational facilities in connection with child care operations, in order to minimize the impact of such operations upon any portion of the Community; or

(iii) leasing a Unit for residential purposes in strict compliance with Section 7.2(a) and (b), advertising and showing such Unit to prospective lessees, and inspecting and maintaining such Unit;

(iv) use of a Dwelling in a Build-to-Rent Zone as a model, and/or as leasing or management office, if permitted by applicable zoning;

(v) lease or operation of a Unit as a "Community Home" as defined in the Community Homes for Persons with Disabilities Act, Tex. Hum. Res. Code Chapter 123, or similar residential use protected by applicable law, to the extent that this Section would be inconsistent with such law;

(vi) construction of improvements on a Unit in accordance with plans approved pursuant to Article 5 hereof; and

(vii) such activities as the Founder may authorize with respect to development, construction, marketing, and sales activities of the Founder and Builders it designates, including, without limitation, those activities expressly authorized by Section 17.2.

7.2. Leasing and Occupancy of Units

(a) *Leasing.* For purposes of this Charter, the terms "lease" and "leasing" shall refer to an agreement granting, or the granting of, a right of exclusive occupancy of all or a portion of a Dwelling on a Unit to any Person other than (i) the Owner; or (ii) the Owner's parent or adult child or the trustee or beneficiary of an Owner which is a trust (any of which shall be an "Owner Substitute"); when the Owner or an Owner Substitute is not residing in the Unit, and for which the Owner receives any rent or other monetary consideration. For purposes of this Section, an Owner or Owner Substitute shall be considered to be residing in the Unit only if they furnish and maintain the Unit as their principal residence and regularly reside in the Unit. All leasing of Units shall be subject to the following:

(i) Any Dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased; however, any detached "in-law suite" or "guest house" approved pursuant to Article 5 may be leased separate from the main Dwelling.

(ii) All leases shall be in writing and shall have an initial term of at least six months. If the lease terminates or the tenant vacates the Unit for any reason prior to the end of the initial 6-month term ("**Early Termination**"), the Unit may not be leased or subleased to another tenant until expiration of such initial 6-month term, unless otherwise approved in advance by the Board. Such Board approval shall not be granted unless the Board determines, after consideration of the facts and circumstances, that the Owner acted in good faith, with no intent to circumvent the requirements of this subsection (ii), and could not reasonably have anticipated the early termination of the previous lease at the time the lease was signed. Such Board approval shall not be granted for the same Unit more than once in any 12-month period. However, no Board approval shall be required for a Build-to-Rent Owner to enter into a new lease of a Build-to-Rent Unit following Early Termination and eviction of a tenant due to nonpayment of rent or breach of the lease terms.

(iii) All leases shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

(iv) Within 10 days of a lease being signed, the Owner of the leased Unit shall notify the Board or the Association's managing agent of the lease and provide (A) the commencement date and term of the lease; (B) the name and contact information for the tenant, including the tenant's mailing address, phone number, and e-mail address, and the name of each person who will reside in the Unit under the lease; (C) the name of the management agent engaged by the Owner to manage the leasing of the Unit and such agent's contact information, including a mailing address, email address and phone number; and (D) any additional information the Board may reasonably require consistent with Tex. Prop. Code §209.016. The Owner must give the tenant copies of the Governing Documents prior to the tenant taking occupancy of the Unit. The Board and Association's managing agent shall have no obligation to communicate directly with any tenant. The Owner of a leased Unit shall advise its lessee that all issues and concerns are to be directed to the Owner so that the Owner may address them with the Association as appropriate.

(v) The Owner of a Unit which is leased shall regularly visit and inspect the Unit to confirm that the landscaping and other improvements on the Unit are being maintained to the Community-Wide Standard and shall promptly take corrective action if needed to bring the Unit into compliance with the Community-Wide Standard. The Owner may not avoid this obligation by delegating it to the lessee.

(vi) No signs shall be posted in the Community or in any right-of-way adjacent to the Community advertising the availability of the Unit for rent, except that the Owner of a Unit being offered for lease may post one standard real estate sign on such Unit advertising the Unit for rent during any period that the Unit is vacant and authorized to be rented hereunder and within the 90 day period immediately prior to expiration of the term of any lease which is not being renewed, provided that such sign complies with the Design Guidelines and any applicable sign ordinances.

(vii) The leasing of multiple Units by a single Owner, or the leasing of multiple Units by two or more Owners related by blood, adoption, or marriage, or by Owners with a common ownership interest, or by a group of Owners under the control or direction of a single Owner, shall be prohibited, except as may be specifically authorized in a Supplement applicable to such Units recorded by the Founder pursuant to Article 16 prior to conveyance of any such Units by the Founder and then subject to such conditions as may be set forth in such Supplement; provided, this prohibition shall not apply to restrict the leasing of two or more Units: (A) by an institutional lender upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure; or (B) by a Build-to-Rent Owner within a Build-to-Rent Zone, if permitted by applicable zoning ordinances.

(viii) No Unit shall be offered for lease or rental, or leased or rented, for use for parties, events, filmmaking, or other commercial purposes.

In addition to, but consistent with this subsection, the Founder, the Board, or the Members may adopt Rules governing leasing and subleasing, subject to the provisions of Section 7.5 and applicable law. The Board and Association's managing agent shall have no obligation to communicate directly with any lessee. The Owner of a leased Unit shall advise its lessee that all issues and concerns are to be directed to the Owner so that the Owner may address them with the Association as appropriate.

(b) Short-Term Lodging Use; Timesharing. Except as otherwise provided herein, no Person shall list, advertise, or offer, via the internet or any other form of media, or operate, any Unit or portion of a Unit as a

hotel, inn, "bed and breakfast," vacation rental, or other form of overnight lodging or temporary accommodation ("**Short-Term Lodging**") for a person or persons other than (i) the Owner, an Owner Substitute, or a tenant who resides in the Unit pursuant to a lease complying with Section 7.2(a), (ii) members of their respective households, and (iii) their occasional, non-paying overnight guests while a permanent resident of the Unit is present in the Unit). However, this shall not prohibit use of the internet or other media to list, advertise or offer a Unit for lease as a personal residence for a minimum initial term of at least six months in compliance with the provisions of Section 7.2(a). No Unit shall be used for operation of any type of timesharing, fraction-sharing, residence club, vacation club, destination club, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule, on a reservation basis, or on such other basis as may be set forth in the terms of the program.

7.3. Division and Combination of Units

No Person other than the Founder and Builders whom the Founder may authorize shall divide, subdivide, or change the boundary lines of any Unit or combine Units without the Board's prior written approval and the prior written approval of the Founder during the Development and Sale Period. Any such action that the Board approves shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). The Board's approval may set forth a determination of how combined Units shall be treated for purposes of voting or assessment. In the absence of such a determination, adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling.

7.4. Transfer of Title; Resale Certificate

(a) Any Owner other than the Founder or a Founder Affiliate intending to sell or otherwise transfer title to such Owner's Unit shall give the Association at least seven 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 transferring title shall be jointly and severally responsible with the Person accepting title for all assessments accruing after the date of closing until the date upon which the Association receives such notice, notwithstanding the transfer of title. The Person transferring title shall also be responsible for payment of the Lifestyle Fee required under Section 12.11 of this Charter, as applicable.

(b) Within 10 business days after the Association's receipt of a written request from an Owner, an Owner's agent, a purchaser of a Unit, a purchaser's agent, or a title insurance company acting on behalf of the Owner or purchaser of a Unit, specifying the name and address of the person to whom it is to be delivered, the Association shall deliver to the person specified in such request a resale certificate containing all information required by Tex. Prop. Code Section 207.003(b) ("**Resale Certificate**"), along with a current copy of the Governing Documents. If the requestor is a purchaser or purchaser's agent, the Association may require reasonable evidence that the purchaser has a contractual or other right to acquire the Unit prior to preparing the Resale Certificate. The Resale Certificate shall be prepared as of a date which is not more than 60 days prior to the date of delivery and delivered by mail, hand delivery, or such alternative method of delivery as may be specified in the written request. At any time within 180 days after the date of the initial request, the requestor may request an update to such certificate, which update shall contain the information required by Tex. Prop. Code Section 207.003(f) and shall be delivered not later than the seventh business day after the date of such request. The Association may charge a reasonable fee, not to exceed the limitations set forth in Tex. Prop. Code Section 207.003(c), to prepare, assemble, copy, and deliver a Resale Certificate and accompanying information and any update thereto, and may require such fee to be paid before preparing the Resale Certificate or update.

If the Resale Certificate indicates that there are known conditions on the Unit which violate the Governing Documents, or that there are amounts due and unpaid to the Association on account of the Unit, the Owner shall be responsible for curing such violations and paying any such amounts due prior to transfer of title and, upon doing so, may request an update to the Resale Certificate to reflect such action. If the transferring Owner fails to cure violations or pay amounts due prior to transfer of title, the new Owner shall be jointly and severally responsible with the prior Owner for curing such violations and paying any amounts due and unpaid.

Upon acceptance of title to a Unit, the new Owner of the Unit shall pay to the Association a reasonable administrative fee in such amount as the Board may determine necessary to cover the costs the Association incurs to update the Association's records, not to exceed the limitations set forth in Tex. Prop. Code Section 207.003(c).

7.5. Rulemaking Authority and Procedures

(a) *Applicability.* The Governing Documents establish a framework of covenants, conditions, easements and restrictions that govern the Community, which framework includes the initial Rules attached as Exhibit "C" to this Charter. This Article establishes the authority and procedures for modifying and expanding the initial Rules set forth in Exhibit "C." This Article does not apply to policies relating to use and operation of the Common Area (such as operating hours, pool rules, etc.), which the Board may adopt by resolution, nor to administrative or other policies consistent with the Governing Documents which the Board may adopt from time to time, notwithstanding that such policies may be referred to as rules and/or published for informational purposes as part of the Rules.

(b) *Authority.* Subject to the limitations set forth in subsection (e):

(i) *Founder Authority.* So long as the Founder has the right to amend this Declaration pursuant to Section 20.2(a), the Founder may unilaterally amend Exhibit "C" to add new Rules or to modify or rescind existing Rules.

(ii) *Board Authority.* Subject to the notice requirements in subsection (c) and the Board's duty to act in a reasonable, fair and nondiscriminatory manner, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any duly called Board meeting; however, during the Development and Sale Period, any such action shall be subject to the Founder's written consent.

(iii) *Membership Authority.* Subject to the notice requirements in subsection (c), Voting Delegates entitled to cast a majority of the votes in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, during the Development and Sale Period, any such action shall be subject to the Founder's written consent.

(c) *Notice of Proposed Rule Change.* The Board shall give the Members prior notice in accordance with the Bylaws of any meeting of the Board or the membership at which a proposed Rules change is to be considered and the notice shall state the general nature of the Rules change to be considered. At any such meeting, Members shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

(d) *Effective Date.* A Rules change adopted under this Section shall be effective upon its adoption unless otherwise stated therein, but no Person shall be considered in violation of a Rule adopted or modified pursuant to this Section until 30 days after notice of its adoption has been given to the Members in accordance with the notice provisions in the Bylaws.

(e) **Limitations on Rulemaking Authority.** Except as may be set forth in this Charter or any Supplement (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," the rulemaking authority set forth in Section 7.5(b) shall be subject to the following limitations:

(i) **No Discrimination.** Rules may not discriminate among Owners or occupants based on race, color, religion, gender, disability, familial status, national origin, or any other class protected under state or federal fair housing law; however, this shall not preclude portions of the Community from being marketed, sold, leased and operated as housing for older persons in accordance with specific exemptions under federal and state fair housing laws..

(ii) **Leasing and Transfer of Units.** No Rule shall prohibit the transfer of any Unit, or require consent of the Association or Board for the transfer of any Unit. No Rule shall require approval by the Association or its agent of any prospective tenant prior to leasing of a Unit, or require a lease application or credit report to be submitted to the Association or its agent in connection with any lease or transfer of a Unit; however, all leasing shall comply with Section 7.2, and Rules may require that Owners include specific language consistent with Section 7.2 to be included in leases entered into after the date of notice of such Rule, in order to protect the Association's interests.

(iii) **Similar Treatment.** Similarly situated Units shall be treated similarly; however, the Rules may vary by phase, location, Service Area, neighborhood, housing type, or other distinct characteristics that the Founder or Board deems to justify such variation, except that no Rule shall materially adversely affect the right of any Build-to-Rent Owner to continue to lease its Build-to-Rent Units for residential purposes in a manner consistent with this Charter and to honor the terms of such leases.

(iv) **Flags.** No Rule shall prohibit an Owner or occupant of a Unit from displaying on such Unit the official flag of the United States of America in accordance with 4 U.S.C. Sections 5-10, the flag of the State of Texas in accordance with Chapter 3100 of the Texas Government Code, or an official or replica flag of any branch of the United States armed forces; however, Rules or the Design Guidelines may regulate the location, size, use and manner of display of such flags and flagpoles and associated lighting to the extent permitted by Tex. Prop. Code Chapter 202.

(v) **Political Signs.** No Rule may regulate the content of political signs, except that the Rules or Design Guidelines may impose time, place, and manner restrictions with respect to such political signs as are visible from outside structures on the Unit, including reasonable limitations on size and, number, and time period within which they may be displayed, consistent with Tex. Prop. Code Chapter 202 and any other applicable provisions of Texas law.

(vi) **Other Displays.** No Rule shall prohibit an Owner or occupant of a Unit from displaying on such Unit:

(A) one or more religious items, the display of which is motivated by the Owner's or occupant's sincere religious belief, provided that such display does not threaten the public health or safety, violate a law other than a law prohibiting the display of religious speech, or violate any applicable building line, setback requirement, or easement, is not attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole or fixture, and is not, in the Board's determination, patently offensive to a passerby for reasons other than its religious content; or

(B) holiday symbols and decorations of the kinds normally displayed in single-family residential neighborhoods. However, the Design Guidelines or Rules may impose time, place, and manner restrictions

with respect to holiday symbols, decorations and displays visible from outside structures on the Unit, including reasonable limitations on size and number.

(vii) Golf Carts and other Personal Property. No Rule shall regulate the operation or licensing of a golf cart in a manner inconsistent with rights afforded under Tex. Trans. Code §551.403. No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Governing Documents in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

(viii) Conflicts with Design Review Authority. No action taken under this Section shall conflict with the Design Guidelines or usurp authority over architectural and aesthetic matters granted to the Reviewer under this Charter unless approved in writing by the Reviewer.

(ix) Interference with Rights to Develop and Sell. No Rule adopted pursuant to Section 7.5(b) or (c) may (A) impede the Founder's or any Builder's right to develop, market, and sell property in the Community, or (B) restrict the rights of the Founder and Builders it may so authorize under Section 17.2, or (C) materially interfere with the right of a Build-to-Rent Owner to lease Build-to-Rent Units within a Build-to-Rent Zone in compliance with this Declaration and the Rules in effect prior to the adoption of such Rule. However, the adoption and enforcement of Design Guidelines or construction rules as contemplated by Article 5 shall not be subject to this subsection (ix).

By accepting a deed to a Unit, each Owner acknowledges and agrees that the use, enjoyment, and marketability of such Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Association may have adopted changes to the Rules attached as Exhibit "C." A copy of the current Rules and all administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost, subject to the limitations in Tex. Prop. Code Section 207.003(c), as it may hereafter be amended.

ARTICLE 8 COMPLIANCE AND ENFORCEMENT

The covenants, standards, and rules set forth in the Governing Documents are for the benefit of all Owners and occupants of the Community. However, if they are to have any real meaning, there must be a commitment by the Owners in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This Article sets forth the obligation to comply and the remedies available to the Association for noncompliance.

8.1. Compliance

Every Owner, occupant, and tenant of a Unit, and their guests and invitees, and every Person which owns or controls Other Properties must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Article. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units, and for any damage to the Area of Common Responsibility that such Persons may cause.

8.2. Remedies for Non-Compliance

The Association, the Founder and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents, subject to the terms of Article 18 of this Charter and Article 9 of the Bylaws,

as applicable. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents.

(a) *Sanctions Requiring Compliance with Enforcement Provisions of Bylaws.* Subject to compliance with the enforcement provisions set forth in Article 8 of the Bylaws, the Board may:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(ii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iii) suspend services the Association provides to the Unit or occupants thereof;

(iv) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

(v) without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article 5, including the Design Guidelines, from continuing or performing any further activities in the Community;

(vi) levy Specific Assessments pursuant to Section 12.4 to cover costs the Association incurs in bringing a Unit or Other Properties into compliance with the Community-Wide Standard or other requirements under the Governing Documents or to reimburse the Association for property loss or damage arising from the conduct of the Owner or occupants of the Owner's Unit or their guests;

(vii) record a notice of violation with respect to any Unit on which a violation exists;

(viii) subject to Tex. Prop. Code §§ 209.006(a) and 209.0065, as applicable, report any delinquency in paying amounts due to the Association to a credit reporting agency; and

(ix) file a suit at law or in equity against an Owner for any action which, by the terms of Article 8 of the Bylaws, is subject to the procedures set forth therein.

Notwithstanding the above, if within six months after the Owner has been given notice and the opportunity to exercise any rights to which the Owner was entitled under Article 8 of the Bylaws, the violation continues, is repeated, or recurs, the Board may impose any of the above sanctions without further compliance with Article 8 of the Bylaws.

(b) *Other Sanctions.* The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing, and the enforcement procedures in Article 9 of the Bylaws shall not apply to these actions:

(i) exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and

regulations) and levy a Specific Assessment against the Unit and the Owner thereof for all costs reasonably incurred in so doing, except that any action to collect such Specific Assessment shall be subject to compliance with the procedures set forth Article 8 of the Bylaws;

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or a Neighborhood Association or other Person responsible for maintenance under Article 6, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on other property for which such Person is responsible, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents, to correct deficiencies or deviations from the plans approved pursuant to Article 5 and, in an appropriate case, to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner, Neighborhood Association, or other Person responsible for maintenance pursuant to Article 6, fails to take action as required pursuant to subsection (iii) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) file a lawsuit: (A) to collect Base Assessments, Special Assessments, Service Area Assessments, or Specific Assessments under Section 12.4(a), (d) or (e); (B) to foreclose the Association's lien under Article 12; (C) to obtain temporary restraining order or temporary injunctive relief; or (D) in any situation in which the subject of the lawsuit is a continuation, repetition, or recurrence of a violation for which the Owner has been given notice under Article 8 of the Bylaws and the opportunity to exercise any rights to which the Owner was entitled under such Article in the preceding six months.

(c) Additional Powers Relating to Neighborhood Associations. In addition to the foregoing sanctions, the Association shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) 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

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

8.4. Attorneys' Fees and Costs

In any action to enforce the Governing Documents the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

PART THREE: ASSOCIATION OPERATIONS

ARTICLE 9 PROPERTY MANAGEMENT

One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of the Community. This Article establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of the Community or, in the case of Limited Common Area, for the benefit of the Units it serves.

9.1. Acceptance and Control of Association Property

(a) Transfers and Conveyances by Founder. The Founder and its designees may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests, and may be conveyed subject to other covenants, conditions, restrictions and easements, including, without limitation, easements permitting persons who are not Members of the Association to use and enjoy such Common Area upon payment to the Association of reasonable use fees.

Upon the Founder's written request, the Association shall reconvey to the Founder, or any third party designated by the Founder, any unimproved real property that the Founder or a Founder Affiliate 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.

The Founder may also transfer and assign to the Association, in this Charter, any Supplement, or by separate assignment, any continuing obligations and responsibilities under development agreements or conditions of development approvals relating to the Community, including any obligation to maintain public improvements within the Community and post or maintain maintenance bonds on improvements within public rights-of-way or other portions of the Area of Common Responsibility. The Association shall accept, assume, and fulfill all such obligations and responsibilities as the Founder shall assign to it.

(b) Management and Control. The Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

9.2. Maintenance of Area of Common Responsibility

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard, except to the extent that such maintenance is the legal responsibility of, or otherwise assumed by, a governmental or quasi-governmental entity, utility provider, or other Person. The Area of Common Responsibility includes, but is not limited to:

- (a) the Common Area and all improvements thereon;
- (b) landscaping within public rights-of-way within or abutting the Community to the extent that responsible governmental or quasi-governmental authorities do not maintain it to the Community-Wide Standard;
- (c) any streets and alleys within the Community that serve two or more Units, until such time as they are dedicated to and accepted by a governmental or quasi-governmental body which assumes responsibility for their maintenance, except that the Association shall have no responsibility for streets or alleys within the jurisdiction of any Neighborhood Association, unless otherwise provided in a recorded Supplement applicable to such Neighborhood or in an agreement between the Association and the Neighborhood Association; and
- (d) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association; and
- (e) any property and facilities that the Founder owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Founder 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 Founder 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, Units, property dedicated to the public, or property owned or maintained by a Neighborhood Association, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. 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 except to the extent that it has been negligent in performing its maintenance responsibilities.

9.3. Discontinuation of Operation

The Association shall maintain the Common Area facilities in continuous operation unless the Founder, during the Development and Sale Period, and Voting Delegates representing at least 75% of the total votes in the Association, consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least 67% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. This Section shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, nor to preclude temporary closures or interruptions in operation as the Board may determine appropriate to perform cleaning, maintenance or repairs.

9.4. Restoring Damaged Improvements

In the event of damage to or destruction of any portion of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims; provided, the Board may use its judgment in determining whether to file an insurance claim or repair the damage out of available funds in order to avoid deductibles and potential negative impact on the Association's

claims history. Whether or not the Board elects to file a claim, the Board shall obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements unless:

- (a) this Charter is terminated pursuant to Section 20.1;
- (b) repair or restoration would be illegal under any state or local statute or ordinance governing health or safety;

(c) the Founder, during the Development and Sale Period, and Voting Delegates entitled to cast at least 75% of the total votes in the Association decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area, any decision not to restore the damaged improvements shall also require the approval of at least 75% of the Owners of Units to which such Limited Common Area is assigned. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information is available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed, except that nothing herein shall limit the contractual rights of any holder of a deed of trust encumbering the Common Area to participate in such determination under the terms of such deed of trust or any security agreement referenced therein.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The insurance proceeds attributable to any Units or Limited Common Areas that are not rebuilt shall be distributed to the Owners of the damaged Units or the Units to which such Limited Common Areas were assigned, or their respective lien holders, as their interests may appear, in proportion to their relative liability for Association expenses. The Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within an affected Service Area, as applicable, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Delegates, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

9.5. Relationships with Other Properties

The Association may contract with the City of Mesquite, SFID, any Neighborhood Association or other owners association, or the owner of any property adjacent to or in the vicinity of the Community, to provide for sharing of maintenance responsibility and/or costs associated with (a) maintenance and operation of mutually beneficial properties or facilities, or (b) provision of mutually beneficial services.

ARTICLE 10
PROVISION OF SERVICES

10.1. Provision of Services to Units

The Association may arrange for or provide services to Owners and their Units, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to (a) all Units, or (b) less than all Units (*e.g.*, only to Units within certain areas of the Community, or only to Units with a completed Dwelling, occupied homes, etc.). It may offer various services at the option of each Owner. By way of example and not limitation, such services might include such things as utilities, trash collection, landscape maintenance, and technology services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as part of the Base Assessment, Service Area Assessment, or any Specific Assessment levied pursuant to Article 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

10.2. Provision of Services to Service Areas

(a) *Service Areas Designated by Founder.* The Association shall provide services to Units within any Service Area designated by the Founder pursuant to Section 3.6 as required by the terms of any Supplement applicable to the Service Area.

(b) *Service Areas Designated by Board.* In addition to Service Areas which the Founder may designate pursuant to Section 3.6, any group of Owners may petition the Board to designate their Units as a Service Area for the purpose of receiving from the Association (i) special benefits or services that are not provided to all Units, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If the Board determines that the proposed boundaries of the Service Area are reasonable and logical and the proposed Service Area is approved in writing by Owners of at least 67% of the Units within the proposed Service Area, and by the Founder during the Development and Sale Period, the Board may designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

10.3. Community Technology

(a) *Community Systems.* Without limiting the generality of Sections 10.1 and 10.2, the Association is specifically authorized to provide, or to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (*e.g.*, cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("**Community Systems**"). Any such contracts may provide for installation,

operation, management, maintenance, and upgrades or modifications to the Community Systems as the Board determines appropriate. The Association shall have no obligation to utilize any particular provider(s). However, except for cause (as defined by written agreement with the provider) or as otherwise provided by the Act, the Association may not, without the Founder's consent, terminate or refuse to renew any contract entered into during the Development and Sale Period.

The Association may enter into a bulk rate service agreement providing basic access to any such Community System for all Units as a Common Expense. If additional services or benefits are offered at the option of Owners or occupants, the requesting Owner or occupant shall pay the service provider directly for such services, or the Association may assess the charges as a Specific Assessment pursuant to Article 12 and pay such charges to the provider on behalf of the Owners, as the Board deems appropriate.

Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available or will continue to be available.

(b) Community Intranet or Website. Notwithstanding the above, the Founder specifically reserves for itself and Founder Affiliates, and their respective successors and assigns, the right, without obligation, to establish a community intranet and/or website for the Community, the right to contract with third parties to provide service, software, and support; the right to grant access to the community intranet to the Association and its Members on such terms and conditions as the Founder or Founder Affiliate determines appropriate, the right to sell advertising on such community intranet or website and retain all revenues from the sale of such advertising and all rights to any domain name established or obtained by the Founder in connection with any such intranet or other website relating to the Community.

ARTICLE 11 ASSOCIATION INSURANCE

The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This Article describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.

11.1. Required Coverages

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on

- (i) the Common Area;
- (ii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty; and
- (iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies, before application of deductibles, shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence or other tortious conduct of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-fourth of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

11.2. Deductibles

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment pursuant to Section 12.4. The Association shall have no duty to file an insurance claim, and nothing herein shall be construed to relieve the person responsible for the damage from liability for his or her actions or the full amount of the resulting damages.

11.3. Policy Requirements

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner. The Association may charge to the requesting Owner any costs which it incurs for issuance of such certificate upon request of the Owner, which costs may be assessed against the Owner and the Owner's Unit as a Specific Assessment pursuant to Section 12.4.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Texas that satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its Members, except that policies on Limited Common Area shall be for the

benefit of the Owners of Units to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

- (c) be primary and not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (d) contain an inflation guard endorsement;
- (e) include an agreed amount endorsement, if the policy contains a co-insurance clause;
- (f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a Member of the Association;
- (g) provide a waiver of subrogation against any Owner or household member of an Owner; and
- (h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation; and
- (i) satisfy any insurance requirements established by the Federal Home Loan Mortgage Corporation ("Freddie Mac") for planned unit developments.

In addition, the Board shall use reasonable efforts to secure insurance policies that identify the Owners as additional insureds and provide:

- (a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;
- (b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;
- (c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (e) a cross liability provision; and
- (f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

11.4. Insurance Premiums

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be assessed against such Units as a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

ARTICLE 12 ASSOCIATION FINANCES

This Article provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments which this Article authorizes the Association to levy against the Units and collect from the Owner of each Unit. Assessments are secured by a lien on each Unit as described in this Article.

12.1. Association Expenses

(a) **Common Expenses.** Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "**Common Expenses.**" Common Expenses may specifically include payments due under any leases of capital improvements which are commonly leased in lieu of purchasing, such as streetlights. Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate but shall not include Service Area Expenses as defined in Section 12.1(b).

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) **Service Area Expenses.** All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance, and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "**Service Area Expenses.**" Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

12.2. Budgeting for and Allocating Association Expenses

(a) **Preparation of Budget.** Until the Association first levies assessments, the Founder shall be responsible for all Common Expenses. Thereafter, assessments for Common Expenses shall be levied at least annually in accordance with this Article.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year ("**General Budget**"). In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses, if any, that the Association expects to incur with respect to such Service Area in the coming year ("**Service Area Budget**").

The estimated expenses in each budget shall include, in addition to any operating reserves, a contribution to a reserve fund, in such amount as the Board determines appropriate pursuant to this subsection, for repair and replacement of any capital items to be maintained by the Association as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required, if any, to provide adequate funding for repairs needed to extend the useful life of each asset and/or replace each asset at the end of its useful life. In determining the amount of reserve contribution to be included in the General Budget and Base

Assessment levied thereunder pursuant to subsection (b) below, the Board may also consider reserve funding provided from other sources, including such amounts, if any, as may be collected pursuant to Section 12.9 and 12.11 and directed to such reserve account.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including amounts to which the Association is entitled pursuant to any covenant or agreement to share costs), and the amount to be generated through the levy of Base Assessments pursuant to subsection (b) or Service Area Assessments pursuant to subsection (c), under that particular budget.

(b) Calculation of Base Assessments. The total budgeted Common Expenses, less income to be applied from other sources, shall be allocated equally among all Units subject to assessment under Section 12.5 and levied as a "**Base Assessment**," subject to the provisions of subsection (e).

(c) Calculation of Service Area Assessments. The total Service Area Expenses under each Service Area Budget shall be allocated among all Units within the Service Area that are subject to assessment under Section 12.5 and levied as a "**Service Area Assessment**." Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts the Association collects as Service Area Assessments shall be held for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Association's general funds.

(d) Founder's Subsidy Option; Advances. The Founder may, but shall not be obligated to:

(i) reduce the Base Assessment for any fiscal year by payment of a subsidy. Any such subsidy may be treated as a contribution, an advance against future assessments, if any, due from the Founder, or a loan, in the Founder's discretion. Any such subsidy which reduces the Base Assessment for any year, and the characterization thereof, shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years unless otherwise provided in a written agreement between the Association and the Founder; and

(ii) advance or loan funds to the Association during any fiscal year to assist in covering expenses under any General Budget or Service Area Budget for such fiscal year until cash flow is sufficient to fund such expenses. Any such advances or loans and the amount thereof shall be documented in the Association's records and repaid as soon as funds collected under the applicable budget are available unless otherwise agreed by the Founder in writing.

(e) Notice of Budget and Assessment; Opportunity to Disapprove. The Board shall send a copy or summary of each applicable budget, together with notice of the amount of the Base Assessment or Service Area Assessment to be levied thereunder, to the Owner of each Unit subject to assessment for a share of the expenses in such budget, at least 30 days prior to the due date of such assessment. The General Budget shall automatically become effective unless disapproved at a meeting by Voting Delegates representing at least 75% of the total votes in the Association and by the Founder Member, if any. Each Service Area Budget shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area and by the Founder Member, if such exists, except that the right to disapprove a Service Area budget shall apply only to

those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the General Budget, upon petition of the Voting Delegates as provided for special meetings in the Bylaws, and in the case of a Service Area Budget, on petition of Owners of at least 2/3 of the Units within the Service Area to which such budget applies. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved, or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(f) Budget Revisions. The Board may revise any General Budget or Service Area Budget and adjust the Base Assessment or Service Area Assessment levied thereunder anytime during the year, subject to the same notice requirements and opportunity to disapprove set forth in subsection (e) above, except that the provisions of subsection (e) for disapproval of a budget shall not apply to any such revision and adjustment necessary to cover any of the following (each an "Extraordinary Expenditure"):

- (i) required by court order;
- (ii) necessary to repair or provide maintenance to any portion of the Area of Common Responsibility to address an imminent threat to personal safety or any circumstance which the Board could not reasonably have foreseen at the time of preparation of the applicable budget; or
- (iii) necessary for the Association to defend itself in litigation, arbitration, or other legal or administrative actions brought against it.

12.3. Special Assessments

The Association may levy "**Special Assessments**" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except for Extraordinary Expenses and as otherwise specifically provided in this Charter, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Voting Delegates representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among such Units. Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.2(c). In addition, during the Development and Sale Period, any Special Assessment shall also be subject to the Founder's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

12.4. Specific Assessments

The Association may levy "**Specific Assessments**" against a particular Unit as follows:

(a) to cover the charges for services provided only to completed or occupied Units pursuant to any bulk service or similar agreement which the Association has entered into pursuant to Section 10.1,

(b) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of optional services the Association may offer (which might include

the items identified in Section 10.1). Specific Assessments for optional services may be levied in advance of the provision of the requested service;

(c) to cover costs incurred in bringing the Unit into compliance with the Governing Documents or to reimburse the Association for property loss or damage or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with Article 8 of the Bylaws, before levying any Specific Assessment under this subsection (c);

(d) to cover the Unit's share of any costs that the Association incurs in bringing any Neighborhood Association of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Owners of Units in the Neighborhood Association and an opportunity for such Owners to be heard before levying any such assessment; and

(e) for monetary fines assessed by the Association pursuant to Section 8.2;

(f) to cover any deductible assessed against the Owner of Unit pursuant to Section 11.2; and

(g) for the amounts authorized in Sections 12.9 and 12.11, as applicable, and any other amounts that the Governing Documents authorize the Association to charge to a particular Owner or levy against any particular Unit.

12.5. Authority to Assess Owners; Time of Payment

The Founder hereby establishes, and the Association is hereby authorized to levy, assessments as provided for in this Article and elsewhere in the Governing Documents. Subject to Section 12.6(b) relating to Units owned by the Founder, the obligation to pay assessments shall commence as to each Unit on the later of: (a) the first day of the month following the date on which the Unit is made subject to this Charter; or (b) 30 days after the date the Association adopts its first General Budget and levies assessments thereunder, or such later date as the Board may specify in the notice of such assessment. The first annual Base Assessment and any Service Area Assessment levied on a Unit shall be adjusted according to the number of months remaining in the fiscal year at the time such assessments commence.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year.

If any Owner is delinquent in paying any assessments or other charges levied on such Owner's Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately. However, if requested by the delinquent Owner, the Board shall establish an alternative payment schedule by which the Owner may make payments to the Association to satisfy the delinquency over a period of not less than 3 months nor more than 18 months from the date of such Owner's request without accruing additional monetary penalties (reasonable costs associated with administering the payment plan or interest are not considered monetary penalties hereunder), except that the Association shall not be required to enter into a payment plan with an Owner who has defaulted under the terms of a previous payment plan entered into within the preceding two years. The Board shall adopt and record guidelines for establishing the payment schedule under an alternative payment plan pursuant to this Section. It shall be a condition of any alternative payment plan that the Owner keep current on all assessments accruing after the date of commencement of the alternative payment plan. If an alternative payment plan is requested and agreed to by a delinquent Owner, the Association shall not sue to collect any delinquent amounts

or to foreclose its lien under Section 12.7 so long as the Owner is not in default under the terms of such alternative payment plan.

Payments received from an Owner by the Association shall be applied to the amounts owed by such Owner in the following order of priority:

- (i) first to delinquent assessment;
- (ii) then to any current assessment;
- (iii) then to any reasonable attorneys' fees or reasonable third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure, to the extent authorized in Section 12.6(a);
- (iv) then to any other reasonable attorneys' fees incurred by the Association which the Association is entitled to charge to such Owner's account, to the extent authorized in Section 12.6(a);
- (v) then to any reasonable fines assessed by the Association against such Owner or the occupants of such Owner's Unit; and
- (vi) then to any other reasonable amount owed by such Owner to the Association.

Notwithstanding the above, if the Owner is in default under a payment plan entered into with the Association at the time the Association receives a payment from an Owner, the Association shall not be required to apply the payment in the order of priority specified herein; however, in applying the payment, a fine assessed by the Association may not be given priority over any other amount due.

The Association shall not report any delinquency to a credit reporting service except in compliance with the requirements of Tex. Prop. Code §§ 209.006(a) and 209.0065.

12.6. Obligation for Assessments

(a) *Personal Obligation.* By accepting title to a Unit or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of no more than 12% per annum or such other rate as the Board may establish, subject to the limitations of Texas law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and shall be secured by a lien upon such Owner's Unit as provided in Section 12.7; provided, the Association's right to recover fees of a collection agent retained by the Association and certain other costs of collection shall be subject to the provisions of Tex. Prop. Code § 209.0064 and § 209.008. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable with the grantor for any assessments and other charges due at the time of conveyance, except as otherwise provided in Section 12.7(c).

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and any applicable Service Area Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area or Limited Common Area, abandonment of such Owner's Unit, or non-use of services provided by the Association to all Units, all completed or occupied Units, or to all Units within any Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(b) Founder's Financial Obligations to Association. Notwithstanding anything to the contrary in this Charter, the Founder shall not be liable for Base Assessments or Special Assessments for Common Expenses on any Units it owns during any period for which the Founder elects to fund "Excess Common Expenses" as defined herein, and the Founder shall have no obligation for Service Area Assessments or Special Assessments for Service Area Expenses on Units it owns that do not have a dwelling constructed thereon. The Founder shall be deemed to have elected to fund Excess Common Expenses in lieu of paying assessments for any fiscal year (or portion thereof) during the Founder Control Period in which it owns Units, unless and until it gives written notice to the Association of its election to pay assessments on its unsold Units. The Founder may change such election, to be effective prospectively or retroactively, at any time.

The term "**Excess Common Expenses**" refers to the amount by which Common Expenses due and payable by the Association during a fiscal year and contributions to reserve funds, exceeds: (i) all assessments for Common Expenses received and receivable from Owners subject to assessment during such fiscal year; plus (ii) any "Unrestricted Income" received by the Association during the period which is available to pay such Common Expenses. Unrestricted Income may include, without limitation, interest and late charges on delinquent assessments, fines, use and consumption fees, and any funds received from sources other than assessment of the Owners which are not received for a specific use, but shall not include cash advances or loans from the Founder or Service Area Assessments. That portion of the Base Assessments and any Special Assessments for Common Expenses collected by the Association during such fiscal year which represents the share of budgeted contributions to reserves collected under the General Budget from the Units for which such assessments were paid shall be used only for the purposes for which such reserves were established. Amounts collected and expended pursuant to Section 12.11 shall not be considered in the foregoing calculation of Excess Common Expenses.

Within 60 days after the close of the fiscal year, the Association shall calculate the actual Excess Common Expenses for such year and provide such calculation to the Founder. The Association shall refund any overpayment to the Founder or the Founder shall pay any additional amounts due, as applicable.

To the extent that the cumulative Excess Common Expenses funded by the Founder pursuant to this subsection (b) exceed the assessments that would otherwise have been due from the Founder on Units which it owns, such excess shall be treated as an advance against future assessments levied on Units owned by the Founder during any period for which the Founder is not funding Excess Common Expenses.

Regardless of the Founder's election under this Section, any of the Founder's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

(c) Assessment Statement. Within seven days after receipt of a written request from any Owner, Mortgagee, prospective Mortgagee, or prospective purchaser of a Unit, delivered personally or sent by certified mail, first-class postage prepaid, return receipt requested to the Association's registered agent or designee, the Association shall issue a certificate signed by an Association officer setting forth the amount of any unpaid assessments with respect to such Unit, the amount of current periodic assessments, and the date on which such assessment

becomes or became due, and any credit for advanced payments or prepaid items, all as of the date of such certificate. Such certificate shall be binding on the Association as to Persons who rely thereon in good faith. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

12.7. Lien for Assessments

(a) *Existence and Priority of Lien.* The Association shall have a lien against each Unit to secure payment of assessments authorized hereunder, as well as fines, interest, late charges (subject to the limitations of Texas law), and costs of collection (including attorneys' fees and expenses), which lien is established by the recording of this Charter and shall be superior to all other liens except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit. Although no further action is required to create or perfect the Association's lien hereunder, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums 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 affect the validity, enforceability, or priority of the lien. Prior to filing any such document providing notice of the Association's claim of a lien on a Unit, the Association shall notify the Owner of the Unit of the delinquency in accordance with the notice requirements of Tex. Prop. Code Section 209.0094, if applicable.

(b) *Enforcement of Lien.* Subject to Section 12.5 and this subsection (b), the Association shall have the right to enforce its lien described in subsection (a) by foreclosure using any or all methods available for the enforcement of such liens pursuant to Tex. Prop. Code §§ 209.0092 and 51.002 (as they may be amended or revised from time to time), including nonjudicial (or "expedited") foreclosure, and shall have any power of sale required by law as a condition of using the procedures set forth in those sections of the Texas Property Code; however, the Association may not foreclose its lien if the debt securing the lien consists solely of (i) monetary fines assessed by the Association or attorneys' fees incurred by the Association solely associated with monetary fines; (ii) charges related to the compilation, production, or reproduction of information requested pursuant to the Owner's right to inspect the Association's books and records under the Bylaws; or (iii) or charges assessed to the Owner's account in connection with any vote recount requested by the Owner pursuant to Tex. Prop. Code §209.0057.

The President and/or Vice President of the Association is hereby appointed as trustee for purposes of enforcing the Association's lien hereunder, with full power to appoint a substitute trustee. In the event the Board elects to foreclose the Association's lien on any Unit for nonpayment of sums secured by such lien, it shall be the duty of the trustee, at the request of the Board (which request shall be presumed) and subject to compliance with the foreclosure provisions set forth in Chapter 209 of Texas Property Code, to sell such Unit and all rights appurtenant thereto in accordance with Tex. Prop. Code §51.002 (as it reads at the time of enforcement) and to make due conveyance to the purchaser or purchasers by deed binding upon the Owner or Owners of such Unit and their heirs, executors, administrators and successors. The trustee shall give notice of such proposed sale as required by Chapter 209 and Section 51.002 of the Texas Property Code (as such statutes read at the time notice is given).

At any foreclosure sale, the Association shall be entitled to bid up to the amount of the sum secured by its lien, together with costs and attorney's fees, and to apply as a cash credit against its bid all sums due to the Association covered by the lien foreclosed. From and after any such foreclosure, the occupants of such Unit shall be required to pay reasonable rent for the use of such Unit and such occupancy shall constitute a tenancy-at-sufferance, and the purchaser at such foreclosure sale shall be entitled to the appointment of a receiver to collect such rents and shall be entitled to sue for recovery of possession of such Unit by forcible detainer without further notice.

Subject to Section 12.5, the Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) *Effect of Sale or Transfer.* Sale or transfer of any Unit shall not affect the Association's lien hereunder or relieve such Unit or the Owner thereof from the lien of or liability for assessments then or thereafter coming due, except that the sale or transfer of a Unit pursuant to foreclosure of the first Mortgage shall extinguish the Association's lien as to any installments of such assessments due prior to the Mortgagee's foreclosure of such Mortgage. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such foreclosure. Such unpaid assessments, if not collected from the prior Owner, shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.5, including such acquirer, its successors and assigns.

12.8. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Founder or a Founder Affiliate as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or utility provider and used for public purposes or utility infrastructure; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, the Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Charter for purposes listed in Section 501(c) of the Internal Revenue Code; provided, no income-producing property for which the Owner or occupant derives income shall be exempt from the payment of assessments, notwithstanding that such property may be owned by a governmental authority, public utility, or a tax-exempt Section 501(c) organization. For example, a Unit owned by a governmental authority that is leased to a tenant for which the authority earns rental income shall not be exempted from assessments hereunder.

12.9. Capitalization of Association

Upon the earlier of the initial transfer of title to or initial occupancy of a Unit upon which a Dwelling has been constructed, the Owner (in the case of a transfer, the new Owner) shall make a contribution to the working capital of the Association in the amount of \$1,000.00. This amount shall constitute a Specific Assessment against the Unit pursuant to Section 12.4, shall be in addition to any other assessments levied on the Unit, and shall not be credited to or considered an advance payment of any other assessments. This amount shall be due and payable to the Association immediately upon transfer of title, for its use in covering initial start-up expenses, operating expenses and other expenses it incurs pursuant to this Charter and the Bylaws, which, in the Board's discretion, may include funding of capital reserves for repairs and replacements to property which the Association maintains as a Common Expense for the primary benefit of the Members.

12.10. Use and Consumption Fees

The Board may charge use, consumption, and activity fees to any Person electing to use Association services or facilities or participate in Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners, or Owners of Units within a particular Service Area and Owners of Units that are not).

12.11. Lifestyle Fees Upon Transfer of Title

(a) *Authority.* As an additional funding source, the Board may establish and collect a "Lifestyle Fee" upon each transfer of title to a Unit, other than transfers exempted under Section 12.11(d). The fee shall be in an amount determined pursuant to Section 12.11(c), shall be charged to the seller of the Unit and shall be payable to the Association at the closing of the transfer. The fee shall constitute an assessment against the Unit being transferred, and shall be secured by the Association's lien for assessments under Section 12.7.

(b) *Purpose.* Lifestyle Fees shall be placed in a segregated account and used exclusively to provide funding for reserves for capital repairs and replacements to property which the Association maintains as a Common Expense for the primary benefit of the Members and/or activities, programs, and other uses, as the Board may determine appropriate, which enhance and provide a "direct benefit" to the Community, as the term "direct benefit" is defined in rules of the Federal Housing Finance Agency at 12 C.F.R. Part 1228.1, as it may be amended. For example, Lifestyle Fees (or such portion thereof as are not used to fund reserves) might be used to sponsor or fund, or to assist one or more tax-exempt entities in sponsoring or funding, cultural, educational, charitable, recreational, environmental, conservation, or other similar activities that are conducted in or protect the Community or adjacent or contiguous property, or are conducted on Common Area or other property primarily used by residents of the Community. Lifestyle Fees shall not be used to engage in any political activity, including lobbying, protesting, or taking or asserting a position in any zoning matter. The Board may appoint a Community Enhancement Committee in accordance with the Bylaws to develop a budget for and make recommendations to the Board as to use of any Lifestyle Fees which the Board allocates for purposes other than funding reserves for capital repairs and replacements hereunder.

Subject to this Section 12.11, the Board's judgment in determining the allocation and expenditure of Lifestyle Fees shall be final so long as such judgment is exercised in good faith, and the Association, its directors, and officers shall not be liable to any Person for any error in judgment or any action or inaction relating to the expenditure of such funds, except that nothing in this Section shall relieve any person of liability for gross negligence or willful misconduct in the handling of such funds.

(c) *Fee Determination.* The Board shall, by resolution, establish the amount of and/or method of calculating the Lifestyle Fee, which may be a fixed amount or based upon a sliding scale that varies according to the "gross sales price" (as defined herein) of the Unit or any other factor the Board determines appropriate. However, the Lifestyle Fee shall not exceed the "maximum percentage" set forth below of the Unit's gross sales price, if transferred in an arms' length sale, or the maximum percentage of the average gross sales price of the three most comparable Units (as the Board may determine) closed in an arms' length transaction in the preceding 24-month period. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be applied to payment of such assessments. For purposes of this subsection (c), the "gross sales price" shall mean the total amount paid by the purchaser for the real property, excluding customary closing costs. The "maximum percentage" shall mean: (i) with respect to the first transfer of a Unit by a Builder designated by the Founder who held title solely for purposes of development and resale, one-fourth of one percent (0.25%); and (ii) with respect to all other transfers that are not otherwise exempt under subsection (d) below, one-half of one percent (0.50%).

(d) *Exempt Transfers.* Notwithstanding the above, no Lifestyle Fee shall be levied upon transfer of title to a Unit:

- (i) by or to the Founder or a Founder Affiliate;
- (ii) by a co-Owner to any Person who was a co-Owner at the time of such transfer and throughout the six-month period immediately prior to such transfer;
- (iii) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;
- (iv) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership or beneficial interest in such entity, the Lifestyle Fee shall become due;
- (v) to an institutional lender pursuant to the terms of its Mortgage or upon foreclosure of its Mortgage, and to the first purchaser of the Unit from such institutional lender following such foreclosure;
- (vi) to a person who purchased the Unit at the foreclosure sale upon foreclosure of a Mortgage held by an institutional lender;
- (vii) to the Association upon foreclosure of its lien for assessments under Section 12.7, or to another purchaser at such foreclosure sale; or
- (viii) under circumstances which the Board, in its discretion, deems to warrant classification as an exempt transfer (*e.g.*, a transfer made solely for estate planning purposes may be, but is not required to be, deemed exempt from payment of the Lifestyle Fee).

PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

ARTICLE 13 EASEMENTS

The easements created in this Article establish the rights of Owners to use the Common Area and create various rights for the benefit of Owners, the Founder, the Association, and others over property within the Community. Some of these rights are related to development and construction within the Community and on adjacent property, while others relate to the Association's rights to come upon property of others to fulfill its responsibilities and the interrelationships between the Community and the owners of adjacent property.

13.1. Easements in Common Area

(a) The Founder grants to each Owner a nonexclusive right and easement appurtenant to such Owner's Unit for use, access, and enjoyment in and to the Common Areas for the purposes for which they are designed and for such other purposes as the Board may specifically authorize, subject to the limitations set forth in this Section and the following:

- (i) the Governing Documents and any other applicable covenants, restrictions and easements of recording affecting the Common Area;
- (ii) any restrictions or limitations contained in any deed conveying such property to the Association;

(iii) certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area"; and

(iv) the Board's right to:

(A) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use the Common Area, and to charge use fees for such use;

(B) suspend an Owner's right to use Common Area facilities pursuant to Article 8;

(C) grant easements for utilities and other purposes not inconsistent with the intended use of the Common Area without membership approval, and dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may apply under Section 19.4 or elsewhere in this Charter;

(D) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area, except as otherwise specifically provided in this Charter or any deed conveying the Common Area to the Association;

(E) rent or grant a license to use any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person on such terms and conditions as the Board may determine appropriate;

(F) permit use of any recreational facilities situated on the Common Area by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;

(G) permit use of any Common Area facilities, at such charge or no charge as the Board may determine appropriate, for the purpose of offering and conducting classes or other activities for interested Owners and occupants, whether offered on a for profit or nonprofit basis;

(H) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to such approval requirements as may apply under Section 19.4 and the Bylaws; and

(d) the rights of the Founder and its designees under Sections 9.1 and 17.2.

(b) The easement described in Section 13.1(a) shall not entitle any Owner or occupant of a Unit or any Person other than the Founder, the Association, and their authorized contractors, employees, agents and designees, to use any portion of the Common Area for purposes of:

(i) selling or offering for sale food, beverages, goods, services, classes, or lessons;

(ii) advertising or soliciting of customers, employees, or participants for, or distribution of promotional or other materials on behalf of or in connection with, any business, real estate opportunity, survey, or consumer research;

(iii) parking of vehicles other than a vehicle used by the Owner or occupant or their guest for transportation to a Common Area facility or event, which may be parked temporarily in a parking space designed for such purpose only while the Owner, occupant or guest is physically present at such Common Area facility or event;

(iv) storage or disposal of personal property or any trash or other waste material generated elsewhere, except that personal property may be stored temporarily in lockers or other portions of a Common Area facility designed for such purpose while the Owner or occupant is physically present at such facility; or

(v) removal from the Common Area of any wildlife, plant or landscape material, natural resources, or personal property of the Association, or capture or diversion of any utilities or services provided to the Common Area for use outside of the Common Area.

Except as specifically authorized in this subsection (b) or by the Founder or the Association in writing, or otherwise provided by law, such activities are prohibited on the Common Area except as may be conducted by the Association and its authorized designees.

(c) Any Owner may extend such Owner's right of use and enjoyment to the members of such Owner's household, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases such Owner's Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease, except as the Board may otherwise authorize.

13.2. Easements of Encroachment

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of less than two feet, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

13.3. Easements for Utilities and Infrastructure

(a) *Installation and Maintenance.* The Founder reserves for itself, its successors and assigns, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout the Community (but not through a structure) to the extent reasonably necessary to:

(i) install utilities and infrastructure to serve any portion of the Community or the Expansion Property, including, without limitation, drainage and stormwater management systems and Community Systems, walkways, pathways and trails, street lights, and signage, on property the Founder or Association owns, within public rights-of-way and easements reserved for such purposes on recorded plats, and on Units within 10 feet of any Unit boundary;

(ii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iii) access and read utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

Further, the Founder hereby establishes a perpetual, nonexclusive easement for the benefit of each Unit having a property line abutting the end of a private water easement or private sewer easement shown on a recorded plat of any portion of the Community, for purposes of installation, maintenance, repair, and replacement of a

private water or sewer line, as applicable, to connect the dwelling on such Unit to the water or sewer main line within the Common Area or right-of-way abutting the opposite end of such easement as shown on the recorded plat. The Owner of each Unit benefited by a private water easement or private sewer easement shall be responsible for maintenance and repair of the private water or sewer lines, as applicable, that serve such Owner's Unit, and for repairing any damage to the burdened property arising out of such Owner's exercise of such easement, without prejudice to the right of such Owner to recover from other persons any damages which such Owner incurs arising out of such other persons' actions which result in damage to such water and sewer lines.

(b) *Specific Easements.* The Founder also reserves the non-exclusive right and power to grant or assign to others and record such specific easements consistent with Section 13.3(a) as it deems necessary to develop any portion of the Community or Potential Expansion Property. The location of the specific easement, to the extent outside of the areas described in Section 13.3(a)(i), shall be subject to the written approval of the Owner of the burdened property at the time such easement is created, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) *Minimal Interference.* All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

13.4. Easement to Inspect and Right to Correct

The Founder reserves for itself, the Builders, and others it may designate, the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Community for which it may have or may be alleged to have responsibility, including Units, and a perpetual nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of such Owner's Unit.

13.5. Easements to Serve Potential Expansion Property

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of development, marketing and sale of the Potential Expansion Property, and for access, use and enjoyment, whether or not the benefited property is made subject to this Charter. This easement shall also include, without limitation, the right to connect to utilities within the Community and the right to make any or all of the Common Area facilities available on a temporary or permanent basis for use by owners and occupants of any portion of the Potential Expansion Property. Any Person exercising such easement rights shall be responsible for the repair of any damage caused to the Common Area and any subdivision improvements as a result of their actions and shall promptly repair such damage. If such Person fails to do so, the Association may undertake such repairs and, upon receipt of an invoice from the Association, the responsible Person shall promptly reimburse the Association for all costs reasonably incurred in restoring the property to its previous condition.

If the above easement grants permanent access to any property that is not submitted to this Charter, or permanent use privileges to the owners of any property which is not submitted to this Charter, the Founder, or its successors or assigns, shall establish, by agreement with the Association or covenant on the benefited property, a reasonable arrangement by which the owners of the benefited property or any mandatory membership owners association having jurisdiction over such property shall (a) share on a reasonable basis the costs which the Association incurs in connection with the ownership, maintenance, repair, replacement, operation, and insurance, of the Common Area facilities of which use is shared pursuant to this easement, including any management fees; or (b) provide reciprocal rights to the Association's Members to use comparable facilities within such portion of the Additional Property, or (c) a combination of (a) and (b). The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property. Notwithstanding the foregoing, the Founder and the Association may grant easements to the general public for use of property or facilities owned or maintained by the Association without seeking compensation or reimbursement for use by the general public.

13.6. Easements for Maintenance, Emergency, and Enforcement

By this Charter, the Founder grants to the Association easements over the Community as necessary to enable the Association (a) to perform its maintenance responsibilities under this Charter and any Supplement; and (b) to exercise its enforcement rights under Section 8.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry upon a Unit shall only be during reasonable hours and after notice to the Owner.

13.7. Easement for Fence, Landscape and Sidewalk Maintenance

The Founder reserves for itself, the Association, the SFID, and their successors, assigns, and designees a perpetual, nonexclusive right and easement over all portions of the Community:

(a) lying within 20 feet of the perimeter boundary of the Community, for the purpose of constructing, installing, maintaining, repairing, and replacing perimeter fencing or walls and landscaping within 10 feet of such boundary, and for access for such purposes; and

(b) within 15 feet of the back-of-curb of public or private streets and alleys within the Community for the purpose of installing, maintaining, repairing and replacing sidewalks, street trees, landscaping, and other improvements.

Nothing in this Section shall be construed to obligate the Founder, the Association, the SFID or any Builder to install perimeter fencing, walls, or landscaping, or other improvements described herein.

13.8. Easements Over Streets and Alleys

(a) *Rights of Association and Owners.* Any street or alley described on a recorded plat of the Community which has not been dedicated or conveyed to and accepted by a governmental or quasi-governmental authority for maintenance is referred to herein as a "**Private Street.**" The Founder hereby reserves to itself, its successors, assigns and designees, and grants to the Association, its successors, assigns and designees, and to the Owner of each Unit, a perpetual, nonexclusive easement of access, ingress, and egress over any Private Street; provided, no Person other than the Founder and its designees shall have any right of access over any Street prior to completion thereof without the consent of the Founder. An Owner may permit the exercise of such easement by such Owner's

tenants, guests, and invitees. Use of any Private Street shall be subject to and in accordance with any rights and easements set forth in this Charter, on the recorded plat, and in any law, ordinance, or regulation governing the use of such street. Use of any Private Street may be restricted by plat or Supplement to the Owners of Units shown on the plat depicting such Private Street and their guests and invitees.

(b) Service Easements. The Founder hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over any Private Street for law enforcement, firefighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage and/or recycling collection service to the Community, provided that such easement shall not authorize any such Persons to enter the Private Streets except while acting in their official capacities.

The existence of these easements shall not preclude the Association or any Neighborhood Association from maintaining gates or other devices or systems designed to limit general vehicular access over any Private Street to portions of the Community, provided that it at all times maintains systems and/or procedures to permit the uncontested entry of Persons authorized to exercise the easements granted in this subsection (b) without unreasonable interference or delay.

ARTICLE 14 LENDER RIGHTS AND PROTECTIONS

14.1. Notices of Delinquency and Violations

Within 10 business days after receipt of a written request from a Mortgagee or an institutional insurer or guarantor of a first Mortgage providing its name and address and the street address of the Unit to which its Mortgage relates, the Association shall provide a statement of any delinquency in the payment of assessments or charges owed by the Owner of such Unit, or any other violation of the Governing Documents relating to such Unit or the Owner or occupant thereof that is known to the Association and has not been cured as of the date of the Association's response.

14.2. Right to Examine Association's Books and Records

Within 10 business days after receipt of a written request from any Mortgagee providing its name and address and the street address of the Unit to which its Mortgage relates, the Association shall provide the Mortgagee with a copy of the Association's most recent financial statement and shall permit such Mortgagee or its agent to inspect the books and records of the Association during normal business hours, subject to the terms of the Bylaws.

14.3. FHA Limitation

Notwithstanding anything to the contrary herein, no provision of this Charter shall be applied so as to cause any lease or conveyance of a Unit subject to a Mortgage insured by the Federal Housing Administration (FHA) to: (a) be void or voidable by a third party; (b) be the basis of contractual liability of the Owner for breach of any right of first refusal, pre-emptive right or option, or other agreement not to convey; (c) terminate or make subject to termination all or a part of the Owner's interest in the Unit if a conveyance is attempted; (d) be subject to the consent of a third party; or (e) be subject to limits on the amount of sales proceeds retainable by the Owner upon resale.

14.4. Notice to Association

Upon request, each Owner shall furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

14.5. Failure of Mortgagee to Respond

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 15 DISCLOSURES AND WAIVERS

This Article discloses some important information about the Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting title to property in the Community, and each occupant or guest of a Unit, by occupying the Unit or entering the Community, also accepts and agrees to the matters set forth in this Article.

15.1. Public Access

The general public will be able to enter the Community by way of public streets, sidewalks, parks, trails and other areas. The Association may, but shall have no obligation to, control public access to or monitor Common Areas or other portions of the Community to identify and eject unauthorized persons. Neither the Founder nor the Association shall have any obligation to construct or install walls or fences or to implement any other measures to secure the perimeter boundaries of the Community or any part of the Community in order to prevent or restrict entry by the general public.

The Founder or Association may designate certain facilities and areas within the Community, including some facilities which are part of the Area of Common Responsibility, or certain activities sponsored by the Association, as open or available for use and enjoyment of the public. Such facilities and areas may include, by way of example, greenbelts, trails and paths, parks, and sidewalks, among other things.

15.2. Safety and Security

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain measures within the Community designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, no representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, or that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. The Association, the Founder, any Founder Affiliate, and their respective directors, officers, members, employees and agents, shall not be liable for any loss or damage by reason of acts of third parties or ineffectiveness of any measures undertaken. Each Person within the Community assumes all risks of personal injury and loss or damage to their property, including Units and the contents of Units, resulting from acts of third parties.

15.3. Changes in Development Plans

Each Owner acknowledges that Talia is a master planned community, the development of which is likely to extend over many years. Each Owner agrees that unless the Founder gives its prior written consent, neither the Association, nor any Neighborhood Association shall engage in, or use its funds to support, any protest, challenge, or other form of objection to changes in uses or density of property within the Community or changes in the Master Plan during the Development and Sale Period.

15.4. View Impairment

Neither the Founder nor the Association guarantee or represent that any view over and across the Units, any open space within the Community, or any Private Amenity will be preserved without impairment. The Founder, Founder Affiliates, the Association, and their respective directors, officers, members, employees and agents, and any Private Amenity owner, shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate written covenant or agreement. The Association (with respect to the Common Area) and Private Amenity owners (with respect to any Private Amenity) have the right to add trees and other landscaping from time to time. There shall be no express or implied easements for view purposes or for the passage of light and air.

15.5. Interruptions in Community Systems and Services

Each Owner and occupant of a Unit acknowledges that interruptions in cable television and other Community Systems and services may occur from time to time. The Founder, Founder Affiliates, the Association, and their respective successors or assigns, shall not be liable for any interruption in Community Systems and services, regardless of whether or not such interruption is caused by reasons within the service provider's control. Notwithstanding that such Community Systems or services may be established by, or provided pursuant to a service agreement entered into by the Founder or the Association, no Owner or other user shall be entitled to any refund, rebate, discount, or other offset in applicable fees paid to the Founder, any Founder Affiliate, or the Association as a result of any temporary interruptions in Community Systems or services.

15.6. Construction Activities

During the Development and Sale Period, the Founder, any Founder Affiliates, Builders and/or their respective agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, will be conducting development and construction activities within and adjacent to the Community. Such activities may cause disturbance and disruption that impact the use and enjoyment of a Unit. Further, the areas in which such development and construction activities are underway present dangerous conditions. **Therefore, no person may enter upon or into any area in which development or construction activities are in progress (including any non-working hours) without the express permission of the Founder or other owner of the property, as applicable.** The Founder, Founder Affiliates, Builders, the Association, and their respective agents, contractors, subcontractors, licensees, and other designees, shall not have no liability for any loss, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to any unauthorized entry into or on any such area of development or construction.

15.7. Water Management; Protected Buffers

Wetlands, ponds, streams, and drainage and detention facilities within or adjacent to the Community are part of the stormwater drainage system for the Community and not designed as aesthetic features. Water levels may fluctuate dramatically and at times may flood or be muddy or dry. Neither the Founder nor the Association

has any control over such water levels, nor any responsibility and liability related to the appearance of the same. No person shall alter, modify, expand, or fill any wetlands, ponds, streams, drainage or detention facilities, swales, or culverts located within or in the vicinity of the Community without the prior written approval of (a) the Founder during the Development and Sale Period and the Reviewer thereafter; any (b) local, state, or federal regulatory or permitting authorities as may have jurisdiction over such matters.

Owners and occupants of Units have no right to erect fences, attach piers or docks, build retaining walls, anchor or store boats or other watercraft, or landscape, clear, or otherwise disturb natural vegetation within any portion of a Unit designated as a stream buffer or non-disturbance buffer on a recorded plat, nor within any property situated between the Unit boundary and the bank or shoreline of any body of water, except as may specifically be authorized in writing by the Reviewer and any governmental or quasi-governmental agency having jurisdiction over such area.

15.8. High Voltage Power Lines; Radio and Telecommunication Towers

Every Owner and occupant of a Unit is hereby advised that high voltage power transmission lines and radio and telecommunication towers and related equipment may now or hereafter be located within or in the vicinity of the Community. While various studies have failed to establish any causal relationship between living in proximity to high voltage power transmission lines or radio towers and cancer or other diseases, there remains some speculation that such a relationship may exist. Every Owner and occupant of a Unit must evaluate such risk for themselves prior to making a decision to purchase and occupy a Unit. The Founder, any Founder Affiliate, Builders, the Association, and their respective members, partners, affiliates, officers, directors, agents, and employees, shall not be liable for any damage or injury to any person or property arising out of or related to the construction, installation, maintenance, or operation of, or proximity to, high voltage power transmission lines and/or radio or telecommunication towers, or any such towers that may now or hereafter be located in or in the vicinity of the Community.

15.9. Use of Nonpotable Water for Irrigation

Each Owner and occupant of a Unit, and their respective guests and invitees, are advised that the water used to irrigate property within or adjacent to the Community may be lake or well water or treated effluent, re-use water or "gray" water. Although such water is considered safe for irrigation and limited contact, it is not suitable for human or animal consumption and should not be used for drinking, bathing, swimming, or any purpose other than irrigation.

15.10. Natural Conditions

The Community contains a number of manmade, natural, and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including insects, venomous and non-venomous snakes and other reptiles, deer, alligators, coyotes, and other animals, some of which may pose a nuisance or a hazard to persons or pets coming in contact with them. Each Owner and occupant of a Unit, and every person entering the Community: (a) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or throughout the Community; and (b) assumes all risk of personal injury arising from the presence of such plants and wildlife in the Community. Neither the Association, the Founder, any Founder Affiliate or Builder, nor the members, partners, affiliates, officers, directors, agents, or employees of any of them, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Community, nor shall they have any liability for any injury resulting from the presence, movement, or propagation of any plant or wildlife within or through the Community.

The natural areas described in this Section may also contain creeks, ponds, streams, and other bodies of water or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Unit shall or disturb, or permit their guests or any other person acting in their behalf to disturb, such areas in any way without the Association's or the Founder's prior written approval.

15.11. Utility Easements

Portions of the Community may be subject to easements for power transmission lines, natural gas pipelines, and other utility transmission devices. The Association shall have no responsibility for providing maintenance to such areas or improving them to the Community-Wide Standard.

15.12. High Pressure Gas Lines and Drill Sites

There may be high pressure gas lines and natural gas drill sites located in the vicinity of the Community. Drill sites may be activated at any time in the sole discretion of the property owner or applicable easement holder, and no prior approval of or notice to any Owner shall be required except as may be required by Texas law. Such drill sites are not necessarily identified as such and may be open space or used for recreational purposes until drilling activity commences. High pressure gas lines and gas-producing drill sites can pose a risk of rupture, explosion, fire, or other safety hazards to persons in the vicinity of such gas lines or drill sites. When active, drill sites may operate 24 hours per day and generate noise audible to persons in homes in the vicinity of the drill site. When no longer in use, they may continue to emit hissing sounds or other noises. Neither the Founder, Founder Affiliates, Builders, the Association, nor the members, partners, affiliates, officers, directors, agents, or employees of any of the foregoing, have the ability to control the location or operation of such gas lines or drill sites, and none of them shall have any liability for any damages or injury to any person or property arising out of or related to the location, operation, or existence of such gas lines or drill sites.

15.13. Private Amenities

Any recreational facility or other amenity located within, adjacent to, or near the Community which is not public property and which a Person or Persons other than the Association own and operate for recreational and related purposes is a "**Private Amenity.**" No Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit, except to the extent, if any, that the Private Amenity is operated by a Neighborhood Association having jurisdiction over the Unit and the Unit is granted rights of access or use in additional covenants applicable to such Unit. Access to and use of any Private Amenity is strictly subject to the terms, conditions, rules and procedures established by the owner or operator of such Private Amenity.

All Persons are hereby advised that no representations or warranties have been or are made by the Founder, the Association, any Builder, or by any Person acting on behalf of any of the foregoing with regard to the continuing ownership or operation of any Private Amenity. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument signed by the owner or operator of the Private Amenity.

Ownership or operation of any Private Amenity may change at any time without notice to or the consent of the Association, any Neighborhood Association, Voting Delegates, or any Owner, subject to the terms of any written agreements entered into by such owners.

PART FIVE: COMMUNITY DEVELOPMENT

ARTICLE 16 EXPANSION OF THE COMMUNITY

Due to the anticipated size of the Community when fully developed, the Community will be developed in phases. The Founder or the Association may expand the initial property submitted to the Charter as set forth in this Article.

16.1. Expansion by Founder

From time to time, the Founder may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" ("**Potential Expansion Property**") by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder.

The Founder's right to expand the Community under this Section expires when all of the Potential Expansion Property has been submitted to this Charter or 25 years after the date of recording this Charter, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the owner of at least a portion of the Potential Expansion Property. Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the Potential Expansion Property in any manner whatsoever.

16.2. Expansion by the Association

The Association may also record a Supplement submitting additional property to this Charter, with the consent of the owner of the property to be submitted and, during the Development and Sale Period, the consent of the Founder, provided such action is approved by Voting Delegates representing at least 67% of the total votes in the Association. Any such Supplement shall be executed by the Association's President and Secretary, certifying that the requisite vote of the Voting Delegates has been obtained, and by the owner of the property and, if the Founder's consent is required, by the Founder, evidencing their consent.

16.3. Additional Covenants and Easements

Any Supplement that the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

16.4. Effect of Filing a Supplement

A Supplement shall be effective upon recording unless otherwise specified in the Supplement and, except as otherwise specifically provided in such Supplement, shall operate to extend all of the benefits and burdens of this Charter to the property described in such Supplement. On the effective date of the Supplement, any Units within the additional property submitted to this Charter by such Supplement shall be assigned voting rights in the

Association and assessment liability in accordance with the provisions of this Charter, except as otherwise specified in such Supplement. However, the Board shall have no obligation to reallocate assessment liability or adjust assessments previously levied for any year in which additional property is made subject to the Charter, nor to refund or credit any portion of such assessments paid.

ARTICLE 17 ADDITIONAL RIGHTS RESERVED TO THE FOUNDER

This Article reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.

17.1. Special Development Rights

In addition to the rights specifically reserved to the Founder under Article 16 with respect to expanding the Community, the Founder reserves the following rights during the Development and Sale Period with respect to any property which the Founder owns and with respect to properties owned by others, with the consent of the owner thereof:

(a) the right, subject to obtaining any required governmental approvals, to record new or additional plats and/or to replat to:

(i) create Units, Common Areas, Limited Common Areas, roadways and other parcels within any portion of the Community;

(ii) divide any Unit into two or more Units, Common Areas, Limited Common Areas, and/or roadways;

(iii) combine two or more Units into a single Unit;

(iv) convert any Unit into Common Area, Limited Common Area, or roadways, and vice versa;

(v) adjust the boundaries between any Units and any portion of the Common Area not improved with permanent buildings;

(vi) vacate any right of way; and

(vii) create or relocate easements; and

(b) the right to authorize any Builder to exercise any of the above rights with respect to property owned by such Builder;

(c) the right to cause the Association to convey or reconvey portions of any Common Area or Limited Common Area which is not improved with structures as necessary to make minor adjustments in boundary lines between such Common Area or Limited Common Area and adjacent properties;

(d) the right to make, construct, and installing any improvements indicated on recorded subdivision maps or plats of the Community and such improvements to the Common Area, property it owns, and to the Potential Expansion Property, as it deems appropriate; and

(e) the right to amend this Charter or any Supplement to withdraw any portion of the Community from the coverage of this Charter whether originally described in Exhibit "A" or added by Supplement, provided that the property to be withdrawn has not been improved with a Dwelling. Any such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, then upon the Founder's request the Association shall execute such documents as may be necessary to evidence its consent to such withdrawal and reconvey such property to the Founder and/or release any rights of the Association therein.

17.2. Marketing and Sales Activities; Capture and Use of Images

(a) Notwithstanding anything in the Governance Documents to the contrary, during the Development and Sale Period the Founder and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, information centers, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Founder and its employees, agents, and designees may park vehicles in designated parking areas. The rights described in this Section shall specifically include the right of the Founder and its designees to use Common Area facilities at no charge and to restrict use or access to such facilities by the Association, its Members, and others, so long as they are being used for the purposes described in this Section. The Founder may authorize Builders to use similar privileges. There shall be no limit on the number or location of such facilities, except as otherwise restricted by applicable zoning and other applicable law.

(b) The Founder reserves for itself and its designees the right, without the consent of or payment of compensation to any Person, to take photographs and to capture, produce, and reproduce, by any method and in any format or media, images of any structures, streetscapes, landscapes, signage, public spaces, or other elements located on Units, Common Area, or public property within the Community which are visible from public streets or Common Area, and to use such images in advertising, marketing materials, displays, presentations, and publications of any kind relating to the Community, including, without limitation, newspaper, internet, television, and other media. Each Owner, by accepting a deed to any Unit, shall be deemed to have consented to the exercise by Founder and its designees of the rights described in this subsection (b) and to have waived any personal or proprietary right such Owner may have in connection with such images.

17.3. Right to Approve or Veto Changes in the Community Standards

During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Founder.

17.4. Additional Covenants and Restrictions

During the Development and Sale Period, no one other than the Founder may record any Neighborhood Covenants affecting any portion of the Community without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

17.5. Exclusive Rights to Use Name of Development

No Person other than the Founder or a Founder Affiliate shall use the name "Talia" or any derivative of such name, or any logo or depiction associated with Talia in any printed or promotional material or any digital or social

media or Internet website without the Founder's prior written consent. However, Owners may use the name "Talia" where such term is used solely to specify that particular property is located within the Community, and the Association shall be entitled to use the word "Talia" in its name.

17.6. Right to Notice of Design or Construction Claims

Neither the Association, any Owner, or any other Person shall initiate the dispute resolution procedures under Article 18, nor retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any Builder involved in the design or construction have been first notified in writing, by certified mail, and given an opportunity to meet with the owner of the property to discuss the owner's concerns, conduct their own inspection, and take action to remedy any problem in accordance with this Section. Any notice to the Founder under this Section shall include a description of the alleged defect in design or construction ("**Defect**"), a description of any damage suffered as a result of the Defect, the date on which the Defect was discovered, and dates and times during ordinary business hours that the Founder and any Builder may meet with the Owner or the affected Unit or representative of the Association to conduct an inspection.

Nothing in this Section shall obligate the Founder or any Builder to inspect, repair, replace, or cure any alleged Defect. However, if the Founder or Builder elects to repair any alleged Defect, it will so notify the Association (if the alleged Defect involves Common Area) or the Owner of the affected Unit (if the alleged Defect is in a Unit) within 30 days after conducting such inspection and the Association or Owner shall permit the Founder and Builder, and their respective contractors, subcontractors, and agents, access as needed during ordinary business hours to make such repairs as they deem appropriate which, once begun, shall be completed within a reasonable time, subject to the nature of the repair and unforeseen circumstances. All applicable statutes of limitations shall be tolled during the period of inspection and cure under this Section, not to exceed the earlier of: (i) 120 days after the date the Founder receives written notice of the alleged Defect in accordance with this Section; or (ii) the Founder's delivery to the claimant of written notice that the Founder does not intend to take any action or further action to remedy the alleged Defect.

In the event there is any dispute as to the adequacy of the proposed repairs to resolve the alleged Defect or as to whether repairs that the Founder, any Builder, or their respective contractors or subcontractors have performed have remedied the Defect, the Founder may appoint a third-party inspector who is knowledgeable and experienced in construction of the type at issue to inspect the alleged Defect and make a determination as to whether any proposed solution is adequate or as to whether the Defect has been remedied.

If the Association or any Owner fails to comply with this Section, neither the Founder nor any Founder Affiliate or Builder shall be liable for any general, special, or consequential damages, costs, or diminution in value that might have been avoided had the Founder been given the notice and opportunity to repair described in this Section. Nothing herein and no action taken by the Founder or any Builder pursuant to this Section shall be construed as an admission that an alleged Defect actually exists or as an admission of liability for any alleged Defect or otherwise create liability for the Founder or Builder.

17.7. Right to Transfer or Assign the Founder's Rights

The Founder may assign its status as the Founder and the Founder Rights to any Person who takes title to any portion of the property described in Exhibits "A" or "B" to this Charter and who agrees to assume the obligations of the Founder under this Charter as of the effective date of such assignment. There shall be no more than one Person holding the status of Founder at any time; however, the Founder may partially assign, or permit other

Persons to exercise on a limited basis, any or all of the Founder's Rights without transferring the status of the Founder without relinquishing the right to continue to exercise such Founder Rights itself. For example, the Founder may authorize a Builder to exercise, with respect to any property described on Exhibits "A" or "B" that such Builder owns, any right which the Founder could exercise with respect to property which the Founder owns.

Any assignment of Founder Rights may impose such conditions upon the exercise of such Founder Rights as the assignor deems appropriate and any assignment of the status of Founder may reserve to the assignor the right to exercise such Founder Rights as are specified therein. However, the Founder may not assign a broader right than that which it has under this Charter, nor relieve itself of any obligations except to the extent such assignment states that such obligations are assumed by the assignee. No transfer or assignment of the Founder's status shall be effective unless it is in a recorded instrument signed by the Founder and the assignee. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record the written assignment unless desired to evidence the Founder's consent to such exercise.

17.8. Termination of Rights

Except as otherwise specified above, the rights contained in this Article shall not terminate until the earlier of (a) termination of the Development and Sale Period; or (b) the Founder's recording of a written statement that all sales activity has ceased and Founder has surrendered such rights.

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

ARTICLE 18

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

From time to time, disputes may arise between Owners or between an Owner and the Association, the Founder, or others involved in the Community. This Article commits the parties to any such dispute to work together in an attempt to resolve the dispute without litigation, in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Community.

18.1. Agreement to Encourage Resolution of Disputes Without Litigation

(a) **Bound Parties.** The Founder, the Association, any Neighborhood Association, and their respective officers, directors, and committee members, all other Persons subject to this Charter, and any Person not otherwise subject to this Charter who agrees to submit to this Article (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim (as defined in subsection (b) and modified by subsection (c)), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 18.2 in a good faith effort to resolve such Claim, and then subject to the provisions of Section 18.3 and 18.4, if applicable.

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

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

- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
 - (iii) the design or construction of Improvements within the Community, other than matters of aesthetic judgment under Article 5, which shall not be subject to review and shall not be subject to this Article;
- except as otherwise provided in subsection (c).

(c) **Exceptions.** The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 18.2:

- (i) any suit by the Association to collect assessments or other amounts due from any Owner;
- (ii) any suit or action by the Association that involves the protest of real property taxes;
- (iii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Articles 5, 6 and 7 of this Charter;
- (iv) any suit that does not include the Founder or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents; and
- (v) any dispute in which a party to the dispute is not a Bound Party and has not agreed to submit to the procedures set forth in Section 18.2; and
- (vi) any suit by the Association to enforce the Governing Documents where the Association has given the violator notice in accordance with Article 8 of the Bylaws and either an opportunity for hearing or an opportunity to cure the violation, or both, prior to the Association filing suit; and
- (vii) any suit by the holder of a deed of trust recorded prior to this Charter and encumbering any portion of the Community to enforce the terms of such deed of trust or such holder's rights under this Charter.

18.2. Dispute Resolution Procedures

(a) **Notice.** The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice ("**Notice**") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. The Board may appoint a representative to assist the parties in negotiating a resolution of the Claim if a written request, accompanied with a copy of the Notice, is submitted to the Board by either Claimant or Respondent.

(c) *Mediation.* If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an independent agency designated by the Association providing dispute resolution services in the Dallas-Fort Worth metropolitan area. Each Bound Party shall present the mediator with a written summary of the Claim.

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

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, subject to the approval requirements set forth in Section 18.3, if applicable, and subject to the terms of any written agreement entered into between the Owner and a Builder or other Bound Party requiring the Claim to be submitted to binding arbitration.

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Bound Party shall pay an equal share of the mediator's fees; provided, if there is more than one Claimant or more than one Respondent, 50% of the costs shall be shared equally by the Claimants and 50% of the costs shall be shared equally by the Respondents.

(d) *Settlement.* Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section, but subject to the provisions of Section 18.3 and 18.4, if applicable. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

18.3. Initiation of Litigation or Arbitration by Association

Litigation involving the Association can create a significant financial burden and exposure for the Association and its Members in terms of legal fees and costs as well as potential liability to third parties, interfere with the resale and refinancing of Units, and create uncertainty and tension within the Community, all of which can negatively impact property values and marketability of Units and impose financial burdens on Owners for their share of the costs. Litigation of certain types of disputes may be quite protracted, causing such impacts to continue for an extended period of time. Therefore, this Section imposes the following requirements that must be met prior to the Association initiating litigation (with certain exceptions as specified in subsection (a) below), in order to ensure that the membership is fully informed and supports the initiation of proceedings and requires binding arbitration of certain types of disputes in an effort to minimize the costs and time involved in resolving such disputes:

(a) *Membership Approval.* In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial, administrative or arbitration proceeding unless first approved by a vote of Voting Delegates entitled to cast at least 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

(i) initiated during the Founder Control Period, unless the Founder, by written notice to the Association, elects to have the proposal to initiate judicial, administrative or arbitration proceedings be submitted to a vote of the Voting Delegates hereunder, in which case such approval shall be required;

(ii) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;

(iii) initiated to challenge *ad valorem* taxation or condemnation proceedings;

(iv) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies entered into by the Association; or

(v) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

Prior to commencing any action or proceeding as provided in this Section the Board shall mail or deliver written notice of the commencement or anticipated commencement of such action or proceeding to each Owner at the last known address described in the Association's records. The notice shall state a general description of (i) the nature of the action and the relief sought; and (ii) the expenses and fees that the Board anticipates will be incurred in prosecuting the action.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

(b) Information to be Provided to Members. Prior to any vote required under subsection (a):

(i) the Board shall comply with Section 17.6, if applicable; and

(ii) if the Association's claim involves alleged defects in the design or construction of improvements in the Community, the Board shall engage an independent professional engineer licensed by the Texas Board of Professional Engineers to conduct an inspection and provide a report detailing the condition of such improvements, describing and providing photographs of the alleged defects in design or construction, providing the engineer's recommendations for remediation and/or repair, and providing estimated costs of such remediation and repairs, which estimates shall be obtained from qualified, independent third-party contractors holding all necessary licenses to perform the recommended work; and

(iii) the Board shall provide written notice to each Member of a meeting at which the vote is to be conducted, which notice shall be accompanied by: (A) a copy of any report required under clause (i); (B) a description of the claim, the relief sought, the anticipated duration of the proceedings, and the estimated likelihood of success; (C) a copy of a proposed engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the claim setting forth the proposed financial arrangements between the Association and such lawyer or law firm; (D) a description and estimate of the legal fees, consultant fees, expert witness fees, and court costs, which the Association may incur directly or indirectly, or for which it may be liable, as a result of pursuing the claim; (E) a description of the manner in which the Association proposes to fund such costs; (F) a summary of the steps previously taken by the Association to resolve the claim; and (G) a statement that initiating the lawsuit or arbitration proceeding to resolve the claim may affect the market value, marketability, or refinancing of a Unit while the claim is being pursued.

(c) **Binding Arbitration.** Notwithstanding anything to the contrary herein, any suit initiated by the Association alleging defects in construction of any improvements to the Common Areas or other structures in the Community shall be subject to binding arbitration in accordance with Section 18.4.

18.4. **Mandatory and Binding Arbitration of Construction Defect Claims**

(a) **Agreement to Resolve Certain Claims Through Binding Arbitration.** Notwithstanding any other provision of this Charter, if any Claim by the Association or any Owner or group of Owners arising out of alleged defects in the Units, Common Areas or any property subject to easements in favor of the Owners, is not resolved through negotiation or mediation in accordance with Section 18.2(b) or (c), each Claimant and Respondent is deemed to agree that it shall not file suit in court but in lieu thereof shall resolve such Claim through final and binding arbitration in accordance with this Section 18.4; however, this Section 18.4 shall not limit the right of any Claimant or Respondent to exercise any self-help remedy that may be available to it or to seek ancillary or provisional remedies, judicial or otherwise, for the purposes of realizing upon, preserving, or protecting upon any property, real or personal, that is involved in a Claim, including, without limitation, injunctive relief, sequestration, attachment, garnishment, or the appointment of a receiver from a court having jurisdiction, before, during, or after the pendency of any arbitration. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary remedies or exercise of any self-help remedies shall not constitute a waiver of the right of any party to submit the Claim to arbitration nor render inapplicable the compulsory arbitration provisions hereof.

Each Owner and Builder, by accepting a deed to a Unit, waives any right to have a Claim within the scope of this Section 18.4 resolved by judicial proceedings, including any right to a trial by jury. This Section 18.4 is an agreement of the Bound Parties to arbitrate the Claims described in this subsection and may be specifically enforced by any Bound Party. The Bound Parties acknowledge that any Claim subject to this Section 18.4 involves a transaction in interstate commerce and shall be governed by and interpreted under the Federal Arbitration Act, 9 U.S.C. §1, et seq., to the exclusion of any inconsistent state law, regulation or judicial decision.

If any Bound Party commences litigation in violation of this Section 18.4, then upon any other party's written objection, the Bound Party commencing litigation shall immediately stipulate to the dismissal of that litigation without prejudice. If the Bound Party commencing the litigation fails to make that stipulation within five days after the filing of such written objection, that Bound Party shall reimburse the other parties for their costs and expenses, including reasonable attorneys' fees, incurred in seeking a dismissal or stay of that litigation if such dismissal or stay is obtained.

(b) **Statute of Limitations.** All statutes of limitations that otherwise would apply to any Claim subject to this Section 18.4 shall apply to the commencement of any arbitration proceeding under this Section 18.4.

(c) **Procedures.** Arbitration under this Section 18.4 shall be conducted in accordance with the American Arbitration Association ("AAA") Construction Industry Arbitration Rules and Mediation Procedures and, if applicable, the rules contained in the AAA Supplementary Procedures for Consumer Related Disputes, as each are supplemented or modified by the AAA (collectively, the Construction Industry Arbitration Rules and Mediation Procedures and AAA Supplementary Procedures for Consumer Related Disputes are referred to herein as the "AAA Rules"). In the event of any inconsistency between the AAA Rules and this Section 18.4, this Section 18.4 will control. Judgment upon the award rendered by the arbitrator shall be binding and not subject to appeal, but may be reduced to judgment or enforced in any court having jurisdiction. Notwithstanding any provision to the contrary or any applicable rules for arbitration, any arbitration with respect to Claims arising hereunder shall be conducted by a panel of three (3) arbitrators, to be chosen as follows:

- (i) One arbitrator shall be selected by Respondent, in its sole and absolute discretion;
- (ii) One arbitrator shall be selected by the Claimant, in its sole and absolute discretion; and
- (iii) One arbitrator shall be selected by mutual agreement of the arbitrators having been selected by Respondent and the Claimant, in their sole and absolute discretion.

(d) *Scope of Award; Modification or Vacation of Award.* The arbitrator shall resolve all Claims in accordance with applicable law. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and not inconsistent with this Section 18.4, including, without limitation, subsection (f) hereof. Further, for a Claim or any portion of a Claim governed by Chapter 27 of the Texas Property Code or any successor statute, the arbitrator shall not award damages which exceed the damages a Claimant would be entitled to under Chapter 27 of the Texas Property Code. In all arbitration proceedings the arbitrator shall make specific, written findings of fact and conclusions of law. In all arbitration proceedings the parties shall have the right to seek vacation or modification of any award that is based in whole, or in part, on (i) factual findings that have no legally or factually sufficient evidence, as those terms are defined in Texas law; (ii) conclusions of law that are erroneous; (iii) an error of applicable law; or (iv) a cause of action or remedy not expressly provided under applicable law. In no event may an arbitrator award speculative, special, exemplary, treble, or punitive damages for any Claim.

(e) *Other Matters.* To the maximum extent practicable, an arbitration proceeding hereunder shall be concluded within 180 days of the filing of the Claim for arbitration. Arbitration proceedings hereunder shall be conducted in the Dallas-Fort Worth metropolitan area. Unless otherwise provided by this Section, the arbitrator shall be empowered to impose sanctions and to take such other actions as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Texas Rules of Civil Procedure and applicable law. Claimant and Respondent agree to keep all Claims and arbitration proceedings strictly confidential, except for disclosures of information required in the ordinary course of business of the parties or by applicable law. In no event shall Claimant or Respondent discuss with the news media or grant any interviews with the news media regarding a Claim or issue any press release regarding any Claim without the written consent of the other parties to the Claim.

(f) *Allocation Of Costs.* Notwithstanding any provision in this Charter to the contrary, each party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, Mediation, and Arbitration sections above, including its attorneys' fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator and arbitrator.

(g) *Liability to Third Parties.* A release or discharge of Respondent from liability to Claimant on account of the Claim does not release Respondent from liability to persons who are not party to Claimant's Claim.

ARTICLE 19 CHANGES IN THE COMMON AREA

Various influences and circumstances within and outside the Community may give rise to a need or desire to make changes in the ownership of or rights to use Common Area. This Article explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.

19.1. Assignment and Reassignment of Limited Common Area

The Founder may designate property it owns in the Community as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the

Association, or in the Supplement by which the property is submitted to the terms of this Charter. At any time during the Development and Sale Period, the Founder may assign use of the same Limited Common Area to additional Units.

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Voting Delegates representing a majority of the total votes in the Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Founder's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

19.2. Condemnation

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 19.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

(a) If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent sufficient land is available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Voting Delegates representing at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

(b) If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore damaged improvements on the Common Area, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 19.4.

19.3. Partition

No Person shall bring any action for judicial partition of the fee title to any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 19.4.

19.4. Transfer, Mortgaging, or Dedication of Common Area

The Association may dedicate portions of the Common Area to Kaufman County, the City of Mesquite, the SFID, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) upon request of the Founder pursuant to Section 9.1 or Article 17;

(b) if Common Area other than Limited Common Area, upon the written direction of Voting Delegates representing at least 67% of the total votes in the Association, and the consent of Founder during the Development and Sale Period;

(c) if Limited Common Area, upon written approval of Owners of at least 67% of the Units to which such Limited Common Area is assigned;

provided, no conveyance or encumbrance of Common Area may deprive any Owner of rights of access to or support for such Owner's Unit.

The approval requirements in this Section shall not apply to any transfer or dedication required by the Founder pursuant to the exercise of its rights under this Charter, nor prevent the Association from granting easements over the Common Area for utilities and other purposes not inconsistent with the use thereof by the Members as otherwise permitted in this Charter.

(d) Notwithstanding the above, the Association shall have the authority, subject to approval of Voting Delegates representing a majority of the total votes in the Association, and the consent of Founder during the Development and Sale Period, to transfer portions of the Common Area (other than Limited Common Area) to appropriate governmental entities or tax-exempt organizations for the maintenance, operation and preservation thereof, without approval of the Voting Delegates, provided that such property is transferred subject to the rights and easements of the Association and the Owners set forth in this Charter with respect to Common Area.

(e) The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines, unless otherwise directed by Voting Delegates at the time such sale or mortgage is authorized pursuant to Section 19.4(a). The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

ARTICLE 20

TERMINATION AND AMENDMENT OF COMMUNITY CHARTER

20.1. Term and Termination

This Charter shall have perpetual duration, unless terminated Owners representing at least 80% of the total votes in the Association, and the Founder during the Development and Sale Period, execute and record a document referencing and terminating this Charter, in which event the Charter shall terminate on the date specified in such termination document. If Texas law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Charter automatically shall be extended at the expiration of such period for successive periods of 20 years each, unless terminated by agreement of the Owners representing at least 80% of the total votes in the Association.

This Section shall not permit termination of any easement reserved to the Founder or granted to persons other than the Association and the Owners in this Charter without the consent of the holder of such easement.

20.2. Amendment

(a) *By the Founder.* In addition to the specific amendment rights granted elsewhere in this Charter, during the Founder Control Period, the Founder may unilaterally amend this Charter for any purpose.

(b) *By Owners or Voting Delegates.* Except as otherwise specifically authorized above or elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of at least 51% of the Units or Voting Delegates representing at least 67% of the total votes in the Association. In addition, during the Development and Sale Period, any amendment pursuant to this subsection (b) shall also require the Founder's written consent. Amendments pursuant to this Section shall be executed by the President or the Vice President of the Association and shall contain a recitation and certification that the requisite number of votes were obtained.

(c) *Validity and Effective Date.* Notwithstanding the above:

(i) Any amendment which materially alters the rights or obligations of any class of membership in a manner materially different from those of any other class of membership shall not be approved or effective if Members entitled to cast 67% or more of the total votes held by any class of membership vote against such amendment;

(ii) Any amendment which would modify the percentage vote or necessary approvals required to take action under any provision of this Charter shall be subject to approval by the percentage votes and other approvals, if any, necessary to take action under that clause; and

(iii) No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Member without the written consent of the Founder or the Founder Member (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Charter or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

20.3. Exhibits

Exhibits "A" and "B" are incorporated by this reference, and this Article shall govern amendment of those exhibits except as otherwise specifically provided in this Charter. Exhibit "C" is incorporated by this reference and may be amended under Article 7 or pursuant to Section 20.2. Exhibits "D" and "E" are attached for informational purposes only and may be amended in accordance with their terms. Exhibit "F" is attached for informational purposes only and may be amended as provided in Article 5. Amendments to Exhibits "C," "D," "E," or "F" shall not constitute amendments to this Charter and notice thereof may be recorded without compliance with the approval requirements of Section 20.2, notwithstanding that they may reference this Charter or be styled or titled as amendments to this Charter.

[continued on next page]

IN WITNESS WHEREOF, the Founder has executed this Charter by and through its authorized representatives.

FOUNDER: CH TNC MESQUITE OWNER, LP, a Delaware limited partnership

BY: CH TNC Mesquite GP, LLC, a Delaware limited liability company, its General Partner

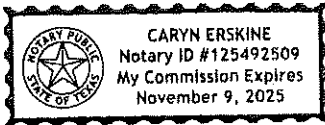
By: [Signature]
Name: Howard Porteus
Its: Authorized Signatory

STATE OF Texas
COUNTY OF Tarrant

The foregoing instrument was acknowledged before me this 23rd day of July, 2024, by Howard Porteus Authorized Signatory of CH TNC MESQUITE OWNER, LP, a Delaware limited partnership, on behalf of said limited liability company.

Witness my hand and official seal.

[Notarial Seal]



[Signature]
Print Name: Caryn Erskine
Notary Public, State of Texas
My commission expires: 11/9/2025

CH TNC Mesquite/cadocs/v4 050824-jlb

[signatures continued on next page]

JOINDER AND CONSENT OF LENDER

The undersigned, as the Lender under that certain Deed of Trust, Security Agreement and Fixture Financing Statement executed by CH TNC MESQUITE OWNER LP, a Delaware limited partnership, to Greg Massey, as trustee, for the benefit of FIRST UNITED BANK AND TRUST COMPANY, as beneficiary, recorded in the Official Public Records of Kaufman County, Texas, on September 6, 2022 in Volume 7798, Page 271 as Document No. 2022-0034199 (as it may be modified, the "Deed of Trust"), and as the Assignee under that Collateral Assignment of Contracts and Sales Proceeds recorded in the Official Public Records of Kaufman County, Texas on September 6, 2022 in Volume 7798, Page 314 as Document No. 2022-0034201 ("Assignment"), which Deed of Trust and Assignment encumber all or a portion of the property described on Exhibit "A" of this Community Charter for Talia ("Charter"), hereby joins in the execution of this Charter to evidence its consent to the same and to subordinate its interest under the Deed of Trust and Assignment and all interests therein to such Charter.

This 11th day of July, 2024.

LENDER:

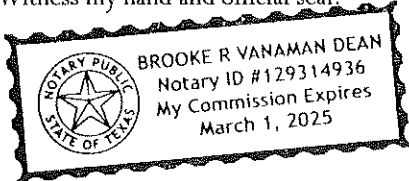
FIRST UNITED BANK AND TRUST COMPANY, an Oklahoma banking corporation

By: [Signature]
Name: Brandon Brewer
Its: SVP

STATE OF TEXAS §
 §
COUNTY OF Collin §

This instrument was acknowledged before me on this 11 day of July, 2024 by Brandon Brewer SVP of FIRST UNITED BANK AND TRUST COMPANY, an Oklahoma banking corporation, on behalf of said corporation, for the purposes therein stated.

Witness my hand and official seal.



[Signature]
Print Name: Brooke R. Vanaman Dean
Notary Public, State of Texas
My commission expires: 3.1.25

[Notarial Seal]

EXHIBIT "A"

Initial Property

Being a 50.894-acre tract of land situated in the Martha Musick Survey, Abstract No. 312, City of Mesquite, Kaufman County, Texas and being more particularly described on that Final Plat of TALIA PHASE 1A, recorded in the Official Public Records of Kaufman County, Texas on May 29, 2024 as Instrument No. 2024-0016080, Plat Records, as such plat may be revised and amended and as such property may be replatted from time to time.

Voting District Assignments:

The Units within the above-described Initial Property are hereby assigned to Voting Districts for purposes of representative voting pursuant to Section 4.2 of the Charter as follows:

Block / Lots	Voting District
Block 25, Lots 2-16, 18-22, 24-65	1
Block 26, Lots 1-4, 7-30	2
Block 30, Lots 1-30	2
Block 27, Lots 1-19	3
Block 28, Lots 1-23	3
Block 42, Lots 2-14	3
Block 43, Lots 2-13	3
Block 31, Lots 1-38	4
Block 32, Lots 1-22	4
Block 36, Lots 2-7	4
Block 37, Lots 1-9	5

EXHIBIT "B"

Potential Expansion Property

All those tracts or parcels of land lying and being in Kaufman County, Texas, and being more particularly described in **Exhibit "B-1"** attached hereto;

LESS AND EXCEPT that property described in Exhibit "A";

TOGETHER WITH any other property lying within a 1-mile radius of the perimeter boundary of the property described in Exhibit "A" and Exhibit "B-1".

Note to clerk and title examiners:

This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Article 16 of this Charter.

EXHIBIT "B-1"

PHASE 1B:

Being a 45.916 acre tract of land situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, and being a portion of tract of land described by deed to CH TNC Mesquite Owner, LP., as recorded in Volume 7669, Page 248, Deed Records, Kaufman County, Texas. and being more particularly described as follows:

BEGINNING at a found 3/8 inch iron rod, said point being the south corner of said CH TNC Mesquite Owner, LP., tract, and the northwest corner of a tract of land described by deed to Heartland First Baptist Church, as recorded in Volume 3120, Page 471, Deed Records, Kaufman County, Texas, and being in the existing east right-of-way line of F.M. Road No. 2757 (a 100 foot Right-of-way);

THENCE North 45°15'08" West, along said existing east right-of-way line, a distance of 1195.41 feet to a set 1/2 inch iron rod with a "Graham Assoc. Inc." (GAI) cap;

THENCE North 44°44'52" East, leaving said existing east right-of-way line, a distance of 40.97 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 89°44'52" East, a distance of 14.14 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 45°15'08" East, a distance of 413.36 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the left having a radius of 208.00 feet, a central angle of 12°56'16", and a long chord which bears South 51°43'16" East, 46.87 feet;

THENCE along said tangent curve to the left, an arc distance of 46.97 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 31°48'36" East, a distance of 16.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the right, having a radius of 10.00 feet and a central angle of 77°17'10", and a long chord which bears North 19°32'49" West, 12.49 feet;

THENCE along said non-tangent curve to the right an arc distance of 13.49 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 19°05'46" East, a distance of 108.73 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 62°56'57" East, a distance of 14.42 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the left having a radius of 125.00 feet and a central angle of 80°04'24" and a long chord which bears North 64°28'28" East, 160.82 feet;

THENCE along said non-tangent curve to the left an arc distance of 174.69 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 65°33'44" West, a distance of 28.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 24°26'16" West, a distance of 4.66 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of 89°27'09", and a long chord which bears South 69°09'51" West, 42.22 feet;

EXHIBIT B-1
(continued)

THENCE along said tangent curve to the right, an arc distance of 46.84 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 65°33'45" West, a distance of 199.35 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 300.00 feet, a central angle of 20°18'36", and a long chord which bears North 55°24'26" West, 105.79 feet;

THENCE along said tangent curve to the right, an arc distance of 106.34 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 45°15'08" West, a distance of 389.75 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of 90°00'00", and a long chord which bears North 00°15'08" West, 43.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 44°44'52" East, a distance of 202.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of 90°00'00", and a long chord which bears North 89°44'52" East, 42.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 45°15'08" East, a distance of 152.63 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 36°31'15" East, a distance of 38.34 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 53°08'35" West, a distance of 11.34 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 03°52'36" West, a distance of 13.22 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 44°44'52" East, a distance of 105.69 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 10.00 feet, a central angle of 81°31'20", and a long chord which bears North 85°30'32" East, 13.06 feet;

THENCE along said tangent curve to the right, an arc distance of 14.23 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 55°11'55" East, a distance of 43.21 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 33°19'59" East, a distance of 16.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the right, having a radius of 40.00 feet and a central angle of 101°24'53", and a long chord which bears North 05°57'34" West, 61.91 feet;

THENCE along said non-tangent curve to the right an arc distance of 70.80 feet to a set 1/2 inch iron rod with (GAI) cap;

EXHIBIT B-1
(continued)

THENCE North $44^{\circ}44'52''$ East, a distance of 67.02 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $84^{\circ}48'44''$ East, a distance of 15.31 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the left having a radius of 704.00 feet and a central angle of $10^{\circ}01'56''$ and a long chord which bears South $60^{\circ}32'46''$ East, 123.11 feet;

THENCE along said non-tangent curve to the left an arc distance of 123.27 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $65^{\circ}33'44''$ East, a distance of 222.98 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears South $20^{\circ}33'44''$ East, 42.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $24^{\circ}26'16''$ West, a distance of 10.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $65^{\circ}33'44''$ East, a distance of 28.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $24^{\circ}26'16''$ East, a distance of 10.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears North $69^{\circ}26'16''$ East, 42.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $65^{\circ}33'44''$ East, a distance of 10.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $24^{\circ}26'16''$ East, a distance of 28.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $65^{\circ}33'44''$ West, a distance of 10.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears North $20^{\circ}33'44''$ West, 42.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $24^{\circ}26'16''$ East, a distance of 202.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears North $69^{\circ}26'16''$ East, 42.43 feet;

THENCE along said tangent curve to the right, an arc distance of 47.12 feet to a set 1/2 inch iron rod with (GAI) cap;

EXHIBIT B-1

(continued)

THENCE South $65^{\circ}33'44''$ East, a distance of 233.70 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 780.00 feet, a central angle of $6^{\circ}02'50''$, and a long chord which bears South $62^{\circ}32'19''$ East, 82.29 feet;

THENCE along said tangent curve to the right, an arc distance of 82.32 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $30^{\circ}29'03''$ East, a distance of 28.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the left, having a radius of 808.00 feet and a central angle of $0^{\circ}42'33''$, and a long chord which bears North $59^{\circ}52'11''$ West, 10.00 feet;

THENCE along said non-tangent curve to the left an arc distance of 10.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a reverse curve to the right having a radius of 30.00 feet, a central angle of $104^{\circ}58'19''$, and a long chord which bears North $07^{\circ}44'17''$ West, 47.59 feet;

THENCE along said reverse curve to the right an arc distance of 54.96 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $44^{\circ}44'52''$ East, a distance of 550.53 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 100.00 feet, a central angle of $16^{\circ}45'51''$, and a long chord which bears North $53^{\circ}07'48''$ East, 29.15 feet;

THENCE along said tangent curve to the right, an arc distance of 29.26 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a reverse curve to the left having a radius of 100.00 feet, a central angle of $16^{\circ}45'51''$, and a long chord which bears North $53^{\circ}07'48''$ East, 29.15 feet;

THENCE along said reverse curve to the left an arc distance of 29.26 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $44^{\circ}44'52''$ East, a distance of 16.72 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 30.00 feet, a central angle of $96^{\circ}06'48''$, and a long chord which bears South $87^{\circ}11'44''$ East, 44.63 feet;

THENCE along said tangent curve to the right, an arc distance of 50.32 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $39^{\circ}08'20''$ East, a distance of 8.41 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $50^{\circ}51'40''$ East, a distance of 39.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $39^{\circ}08'20''$ East, a distance of 477.86 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 69.00 feet, a central angle of $45^{\circ}26'14''$, and a long chord which bears South $16^{\circ}25'13''$ East, 53.30 feet;

THENCE along said tangent curve to the right, an arc distance of 54.72 feet to a set 1/2 inch iron rod with (GAI) cap;

EXHIBIT B-1

(continued)

THENCE South 45°15'08" East, a distance of 134.96 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 46°04'34" East, a distance of 49.97 feet to a set 1/2 inch iron rod with (GAI) cap, said point being in the south line of said CH TNC Mesquite Owner, LP tract;

THENCE South 43°55'26" West, along said south line, a distance of 808.72 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 45°15'08" West, continuing along said south line, a distance of 258.15 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South 45°15'08" West, a distance of 885.34 feet to the POINT OF BEGINNING and CONTAINING 2,000,088 square feet, 45.916 acres of land, more or less.

TOGETHER WITH TRACT 1 AND TRACT 2 DESCRIBED AS FOLLOWS:

TRACT 1:

Being a 513.63 acre tract of land situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, and being a portion of a tract of land as described by deed to Spradley/Forney Development, LTD., recorded in Volume 1915, Page 215, Deed Records, Kaufman County, Texas, and being more particularly described as follows:

COMMENCING at a found 3/8 inch iron rod, said point being the southwest corner of said Spradley/Forney tract, and the northwest corner of a tract of land as described by deed to Heartland First Baptist Church, and recorded in Volume 3120, Page 471, Deed Records, Kaufman County, Texas, and being in the existing east right-of-way line of F.M. Road No. 2757 (a 100 foot Right-of-way);

THENCE North 45°15'08" West, along said existing east right-of-way line, a distance of 2118.53 feet to a set 1/2 inch iron rod with a "Graham Assoc. Inc." (GAI) cap to the POINT OF BEGINNING;

THENCE North 45°15'08" West, continuing along said existing east right-of-way line, a distance of 1081.81 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North 45°44'58" West, continuing along said existing east right-of-way line, a distance of 2150.05 feet to a found concrete monument for corner;

THENCE North 36°42'08" West, a distance of 79.74 feet to a found 1/2 inch iron rod, said point being the southeast corner of a tract of land described by deed to Donald G. Jr and Leasa K. Davis, as recorded in Volume 3471, Page 60, Deed Records, Kaufman County, Texas;

THENCE North 06°06'39" East, along the east line of said Davis tract, a distance of 1209.99 feet to a set 1/2 inch iron rod with GAI cap;

THENCE North 44°20'33" East, a distance of 1297.95 feet to a set 1/2 inch iron rod with GAI cap from which a found one inch pipe bears North 52° East a distance of 1.20 feet, said point being in the existing south right-of-way line of State Highway I-20 (a variable width right-of-way line);

EXHIBIT B-1
(continued)

THENCE South 83°34'27" East, along said existing south right-of-way line, a distance of 2166.58 feet to a set 1/2 inch iron rod with GAI cap;

THENCE South 45°57'58" East, leaving said existing south right-of-way line, a distance of 1653.63 feet to a set 1/2 inch iron rod with GAI cap and being the southwest corner of a tract of land described to I-20 Mesquite Limited Partnership as recorded in Volume 3326, Page 255, Deed Records, Kaufman County, Texas;

THENCE North 43°50'03" East, a distance of 1275.56 feet to a set 1/2 inch iron rod with GAI cap, said point being in the existing south right-of-way line of said State Highway I-20;

THENCE South 29°21'14" East, along said existing south right-of-way line, a distance of 30.24 feet to a found concrete monument;

THENCE North 67°03'31" East, continuing along said existing south right-of-way line, a distance of 124.28 feet to a found concrete monument;

THENCE North 87°00'49" East, a distance of 175.11 feet to a set 1/2 inch iron rod with GAI cap;

THENCE North 85°28'07" East, a distance of 1321.76 feet to a set 1/2 inch iron rod with GAI cap;

THENCE North 82°29'14" East, a distance of 387.10 feet to a set 1/2 inch iron rod with GAI cap;

THENCE South 07°49'27" East, a distance of 1539.16 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to Maryfield, LTD, as recorded in Volume 5835, Page 580, Deed Records, Kaufman County, Texas;

THENCE South 43°06'55" West, leaving said west line, and along the north line of said Maryfield tract, a distance of 406.47 feet to a point for corner;

THENCE South 39°47'53" East, continuing along said north line, a distance of 29.09 feet to a point for corner;

THENCE South 42°47'04" West, a distance of 349.18 feet to a point for corner, said point being the northwest corner of said Maryfield tract, and the northwest corner of a tract of land described by deed to Hannover Estates, LTD, as recorded in Volume 5835, Page 570, Deed Records, Kaufman County, Texas;

THENCE South 11°18'06" East, leaving said north line, and along the west line of said Hannover tract, a distance of 362.66 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to David R. and Winona Littlefield, as recorded in Volume 1190, Page 528, Deed Records, Kaufman County, Texas;

THENCE South 67°37'47" West, leaving said west line and along the north line of said Littlefield tract, a distance of 401.86 feet to a point for corner;

THENCE South 22°19'17" East, leaving said north line, and along the west line of said Littlefield tract, a distance of 387.16 feet to a point for corner;

EXHIBIT B-1
(continued)

THENCE South $13^{\circ}40'28''$ West, continuing along said west line, a distance of 85.16 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to Future Telecom, Inc., as recorded in Volume 3611, Page 280, Deed Records, Kaufman County, Texas;

THENCE South $52^{\circ}37'59''$ West, leaving said west line, and along the north line of said Future Telecom tract, a distance of 86.93 feet to a point for corner;

THENCE South $67^{\circ}41'52''$ West, continuing along said north line, a distance of 190.04 feet to a point for corner;

THENCE South $76^{\circ}52'46''$ West, a distance of 152.17 feet to a point for corner;

THENCE South $88^{\circ}39'03''$ West, a distance of 155.78 feet to a point for corner; THENCE South $43^{\circ}55'26''$ West, a distance of 1451.39 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $38^{\circ}52'22''$ West, a distance of 230.03 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $39^{\circ}08'20''$ West, a distance of 638.93 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the left having a radius of 836.00 feet, a central angle of $14^{\circ}44'39''$, and a long chord which bears North $46^{\circ}30'39''$ West, 214.54 feet;

THENCE along said tangent curve to the left, an arc distance of 215.13 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $85^{\circ}28'07''$ East, a distance of 1321.76 feet to a set 1/2 inch iron rod with GAI cap;

THENCE North $82^{\circ}29'14''$ East, a distance of 387.10 feet to a set 1/2 inch iron rod with GAI cap;

THENCE South $07^{\circ}49'27''$ East, a distance of 1539.16 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to Maryfield, LTD, as recorded in Volume 5835, Page 580, Deed Records, Kaufman County, Texas;

THENCE South $43^{\circ}06'55''$ West, leaving said west line, and along the north line of said Maryfield tract, a distance of 406.47 feet to a point for corner;

THENCE South $39^{\circ}47'53''$ East, continuing along said north line, a distance of 29.09 feet to a point for corner;

THENCE South $42^{\circ}47'04''$ West, a distance of 349.18 feet to a point for corner, said point being the northwest corner of said Maryfield tract, and the northwest corner of a tract of land described by deed to Hannover Estates, LTD, as recorded in Volume 5835, Page 570, Deed Records, Kaufman County, Texas;

THENCE South $11^{\circ}18'06''$ East, leaving said north line, and along the west line of said Hannover tract, a distance of 362.66 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to David R. and Winona Littlefield, as recorded in Volume 1190, Page 528, Deed Records, Kaufman County, Texas;

EXHIBIT B-1
(continued)

THENCE South $67^{\circ}37'47''$ West, leaving said west line and along the north line of said Littlefield tract, a distance of 401.86 feet to a point for corner;

THENCE South $22^{\circ}19'17''$ East, leaving said north line, and along the west line of said Littlefield tract, a distance of 387.16 feet to a point for corner;

THENCE South $13^{\circ}40'28''$ West, continuing along said west line, a distance of 85.16 feet to a point for corner, said point being the northeast corner of a tract of land described by deed to Future Telecom, Inc., as recorded in Volume 3611, Page 280, Deed Records, Kaufman County, Texas;

THENCE South $52^{\circ}37'59''$ West, leaving said west line, and along the north line of said Future Telecom tract, a distance of 86.93 feet to a point for corner;

THENCE South $67^{\circ}41'52''$ West, continuing along said north line, a distance of 190.04 feet to a point for corner;

THENCE South $76^{\circ}52'46''$ West, a distance of 152.17 feet to a point for corner;

THENCE South $88^{\circ}39'03''$ West, a distance of 155.78 feet to a point for corner;

THENCE South $43^{\circ}55'26''$ West, a distance of 1451.39 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $38^{\circ}52'22''$ West, a distance of 230.03 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $39^{\circ}08'20''$ West, a distance of 638.93 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the left having a radius of 836.00 feet, a central angle of $14^{\circ}44'39''$, and a long chord which bears North $46^{\circ}30'39''$ West, 214.54 feet;

THENCE along said tangent curve to the left, an arc distance of 215.13 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $53^{\circ}52'59''$ West, a distance of 349.94 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 664.00 feet, a central angle of $14^{\circ}19'02''$, and a long chord which bears North $46^{\circ}43'28''$ West, 165.49 feet;

THENCE along said tangent curve to the right, an arc distance of 165.92 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $39^{\circ}33'57''$ West, a distance of 254.30 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the left having a radius of 300.00 feet, a central angle of $34^{\circ}30'07''$, and a long chord which bears North $56^{\circ}49'00''$ West, 177.93 feet;

THENCE along said tangent curve to the left, an arc distance of 180.65 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $74^{\circ}04'04''$ West, a distance of 232.18 feet to a set 1/2 inch iron rod with (GAI) cap;

EXHIBIT B-1
(continued)

THENCE South $48^{\circ}41'35''$ West, a distance of 89.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $08^{\circ}38'08''$ East, a distance of 106.68 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $33^{\circ}26'02''$ West, a distance of 80.10 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a non-tangent curve to the right having a radius of 464.36 feet and a central angle of $12^{\circ}26'52''$ and a long chord which bears South $39^{\circ}45'01''$ West, 100.69 feet;

THENCE along said non-tangent curve to the right an arc distance of 100.88 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $45^{\circ}15'08''$ West, a distance of 30.50 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $56^{\circ}44'58''$ West, a distance of 78.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $33^{\circ}15'02''$ East, a distance of 43.71 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 5.00 feet, a central angle of $77^{\circ}59'54''$, and a long chord which bears South $05^{\circ}44'55''$ West, 6.29 feet;

THENCE along said tangent curve to the right, an arc distance of 6.81 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $44^{\circ}44'52''$ West, a distance of 364.10 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 5.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears South $89^{\circ}44'52''$ West, 7.07 feet;

THENCE along said tangent curve to the right, an arc distance of 7.85 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE North $45^{\circ}15'08''$ West, a distance of 25.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $44^{\circ}44'52''$ West, a distance of 78.00 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $45^{\circ}15'08''$ East, a distance of 25.00 feet to a set 1/2 inch iron rod with (GAI) cap, for the beginning of a tangent curve to the right having a radius of 5.00 feet, a central angle of $90^{\circ}00'00''$, and a long chord which bears South $00^{\circ}15'08''$ East, 7.07 feet;

THENCE along said tangent curve to the right, an arc distance of 7.85 feet to a set 1/2 inch iron rod with (GAI) cap;

THENCE South $44^{\circ}44'52''$ West, a distance of 1012.46 feet to the POINT OF BEGINNING and CONTAINING 22,373,639 square feet, 513.63 acres of land, more or less.

EXHIBIT B-1
(continued)

TRACT 2:

Being a 8.398 acre tract of land situated in the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, and being all of Tract 2 as described in deed to Spradley/Forney Development, LTD., recorded in Volume 1915, Page 215, Deed Records, Kaufman County, Texas, and being more particularly described as follows:

BEGINNING at a found 1/2 inch iron rod, said point being the most southerly southwest corner of Lot 13, Lone Star Estates Addition, an addition to the City of Forney, as recorded in Volume 2, Page 516, Plat Records, Kaufman County, Texas, and being in the existing north right-of-way line of State Highway I-20 (a variable width right-of-way) THENCE North $83^{\circ}29'51''$ West, along said existing north right-of-way line, a distance of 1233.15 feet to a set 1/2 inch iron rod with cap marked "Graham Assoc Inc" (GAI), said point being the most southerly southeast corner of a tract of land described by deed to Beam and Sons, Inc, as recorded in Volume 839, Page 241, Deed Records, Kaufman County, Texas;

THENCE North $44^{\circ}20'33''$ East, leaving said existing north right-of-way line, and along the east line of said Beam and Sons tract, a distance of 751.24 feet to a found 1/2 inch pipe in the west line of said Lone Star Estates Addition;

THENCE South $45^{\circ}57'58''$ East, leaving said east line, and along said west line, a distance of 973.87 feet to the POINT OF BEGINNING and CONTAINING 365,800 square feet, 8.398 acres of land, more or less.

EXHIBIT "C"

Initial Rules

The following Rules are subject to modification in accordance with Section 7.5 or Article 21 of the Charter.

1. **General.** All Units shall be subject to the restrictions on use, occupancy, leasing, and transfer of Units set forth in Article 7 of the Charter, except as otherwise provided in that Section.

2. **Restricted Activities.** Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within the Community (except as undertaken by the Founder or its designees in the course of development, marketing and sale of property in the Community:

(a) repair or maintenance of motor vehicles, except that an occupant of a Unit may occasionally perform minor, routine maintenance to the occupant's passenger vehicle while parked inside the garage on the Unit;

(b) parking of any boat, trailer, recreational vehicle, camping unit, bus, cargo van, box truck, commercial use truck, vehicle displaying commercial advertising, self-propelled or towable equipment or machinery of any sort, or inoperable vehicle, on any public or private street within the Community or on any Unit unless in an enclosed structure or behind a solid fence approved pursuant to Article 5 so as not to be visible from the street, and parking of any other vehicle on a Unit in places other than the garage or driveway serving the Unit, except that (i) service and delivery vehicles and, during the construction of Improvements on a Unit, construction vehicles, may be parked in the driveway of the Unit or on adjacent streets for such period of time as reasonably necessary to provide service or to make a delivery to the Unit or the Common Area; and (ii) the Founder and authorized Builders may park and use construction vehicles, trailers, and other equipment on a Unit or Common Area in connection with their construction, development, marketing, and sale of property in the Community;

(c) use of any garage for storage or other activities that preclude its use for parking of that number of vehicles for which it was designed;

(d) parking of any vehicle in such manner as to block or obstruct any public or private street, sidewalk, driveway, or mailbox, or the view of traffic;

(e) parking of any vehicle in the Community, regardless of size, that transports inflammatory or explosive cargo;

(f) parking of any vehicle on a public or private street within the Community unless all available spaces in both the garage and driveway serving the Unit are occupied with vehicles;

(g) raising, breeding, or keeping animals, except that dogs or cats, not to exceed a total of three, and a reasonable number of other small common household pets of the type typically confined to cages or tanks (e.g., birds, hamsters, fish, etc.) may be kept in the dwelling on a Unit. This shall not preclude the occupant of a Unit from taking a dog or cat outside the dwelling; however, those pets which are permitted to roam free or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law.

EXHIBIT "C"

Initial Rules

(continued)

(h) any activity that emits foul or obnoxious odors outside the Unit or creates excessive noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units, including operation of vehicles within the Community without properly functioning mufflers or with modifications resulting in noise levels that materially exceed the original manufacturer's specifications or with radios or other sound devices at levels audible outside of the vehicle;

(i) any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(j) pursuit of hobbies or other activities that tend to cause an unhealthy or untidy condition to exist outside of enclosed structures on the Unit;

(k) any noxious or offensive activity that in the Board's judgment tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(l) sale, distribution, smoking or "vaping" of marijuana or hashish or other forms of cannabis or cannabis byproducts on Common Areas, streets, sidewalks, or in other areas of the Community open to the public, whether or not lawful;

(m) outside burning of trash, leaves, garbage, debris, or other materials, except for normal use of grills or other outdoor appliances for cooking, outdoor fireplaces or firepits approved pursuant to Article 5 for outdoor heating, and such burning as may be permitted during the normal course of construction and development Unit;

(n) use or discharge of any sound device so as to be audible to occupants of other Units at levels exceeding normal conversation, except alarm devices used exclusively for security and emergency purposes, and sound devices used by public safety officers and their vehicles;

(o) use and discharge of firecrackers and other fireworks;

(p) dumping or burying of garbage, trash, or construction debris, or accumulation of rubbish, trash, or garbage except between regular garbage pickups, and then only in approved containers (this provision shall not restrict composting of grass clippings, leaves, brush, or other vegetation in a manner approved pursuant to Article 5 of the Charter);

(q) unlawful discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(r) on-site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(s) hunting of birds, reptiles, or mammals, and fishing in lakes or ponds on Common Area without express permission of the Board;

EXHIBIT "C"

Initial Rules

(continued)

(t) any activities that materially disturb or destroy the wildlife, wetlands, or air quality within the Community or that use excessive amounts of water, or which result in unreasonable levels of sound or light pollution;

(u) conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article 5;

(v) outdoor storage of any kind, except in areas, if any, approved pursuant to Article 5 and screened in an approved manner from view of neighboring property and streets;

(w) outdoor airing or drying of clothes, rugs, bedding, or similar items unless screened from view of other properties in the Community by a screening method approved pursuant to Article 5;

(x) excavation of sand, gravel, or soil, except in connection with a grading and/or building plan approved pursuant to Article 5 of the Charter;

(y) garage sales or estate sales or other sales of personal or business property, except that the occupants of Unit may register with the Association and obtain a permit to conduct one garage or estate sale on the Unit each calendar year, not to exceed three days in duration. No signs, balloons, banners, or other items shall be placed in the Community or on adjacent rights-of-way advertising such sale, except that one sign, not to exceed four square feet per side or five feet in height, may be posted on the Unit on which the sale is being conducted to identify the location and hours of the sale;

(z) any modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article 5 of the Charter and the Design Guidelines. This shall include, without limitation, installation and removal of trees and shrubs, signs, basketball hoops, and swing sets and similar sports and play equipment; garbage cans and trash enclosures; woodpiles; swimming pools; docks, piers, and similar structures; hedges; walls; dog runs; animal pens; storage sheds, and satellite dishes or antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "**Permitted Antennas**") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. The Founder and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Association and require such exterior apparatus; and

EXHIBIT "C"

Initial Rules

(continued)

(aa) operation of a golf cart or neighborhood electric vehicle within the Community except on public or private streets where the posted speed limit is 45 miles per hour or less, in Common Area parking lots, in the driveway of a Unit, and in such other places, if any as the Board may expressly authorize by resolution, and then only at a speed not to exceed the posted speed limit or 35 miles per hour, whichever is less. All golf cart and neighborhood vehicles shall be equipped as required by state and local laws and their operators shall at all times comply with all posted traffic signs and signals, all state and local laws, and all "rules of the road" applicable to operation of automobiles on public highways, except as specifically exempted by Texas Transportation Code Chapter 551.

3. Prohibited Conditions. The following shall be prohibited on Units:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of such a nature as may diminish or destroy the enjoyment of the Community; and

(b) Structures, equipment, or other items on the exterior portions of a Unit that have become rusty, dilapidated, have peeling or faded paint, or otherwise fallen into disrepair; and

(c) Dead trees, tree stumps, and dead shrubs;

(d) Wood fences which are unstained, warped, missing boards, showing algae or mildew, or otherwise in a state of disrepair.

4. Restriction on Operation of Drones.

(a) For purposes of this Section, a "drone" is an unmanned aircraft system which is controlled by an operator on the ground or from a remote location without physical contact with the aircraft. The term includes remote-controlled model airplanes and helicopters as well as other remote-controlled aircraft. The Board may, from time to time and at any time, modify and expand the definition of "drone" set forth herein.

(b) No person may operate a drone on, over or from any portion of the Community except in strict compliance with Federal Aviation Regulations at 14 C.F.R. Part 107 and these Rules, unless such drone is operated solely for hobby or recreational purposes and in strict compliance with the Federal Aviation Administration's Special Rule for Model Aircraft and these Rules. No person may operate a drone within the Community for hobby or recreational purposes until the drone is: (i) registered with the Association in accordance with such procedures as the Board may establish from time to time; and (ii) registered with the Federal Aviation Administration ("FAA"), if required by the FAA, in which case a copy of the certificate of FAA registration shall be provided to the Association. Information on registration of drones and additional Federal requirements for drones may be found at <https://www.faa.gov/uas/>.

(c) Except as provided in subsection (d), the operator of a drone:

(i) may operate such drone within the Community only between the hours of 10:00 AM and 6:00 PM;

EXHIBIT "C"

Initial Rules

(continued)

(ii) must not allow the drone to enter into the airspace above any Unit other than the Unit occupied by the operator or on which the operator has been expressly authorized by the Owner or occupant to operate such drone;

(iii) must not allow the drone to enter the airspace above any portion of the Common Area, Limited Common Area, or streets within the Properties without the Board's prior written approval;

(iv) must not operate the drone in a manner which tends to harass or invade the privacy of, or be offensive or detrimental to, Owners or occupants of other Units, their guests or invitees, or persons using the public streets or Common Areas. The Board's judgment on such matters shall be determinative.

(d) The requirement for registration with the Association under subsection (b) and the restrictions set forth in subsection (c) of this Section 2 shall not apply to the Founder during the Development and Sale Period. The Founder and its permittees may periodically utilize drones in the Community for sales and marketing purposes, and for other purposes associated with development of the Community. Further, this Section 2 shall not apply to restrict operation of any drone within the Community by law enforcement or other public safety personnel acting in their official capacities, or by any governmental agency or utility provider or their employees or contractors for legitimate governmental or utility purposes, provided that the drone is used only to perform tasks within the scope of the operator's official capacity or duties and is operated in full compliance with all applicable laws and regulations. The Board may, in its discretion, grant exemptions for other categories of use subject to such conditions as the Board deems appropriate, provided that such exemptions are based on the nature of the drone use and operation within the Community and do not give preferential treatment to any particular business over its competitors.

(e) The Board may establish additional rules and/or policies to prohibit and/or regulate the use and operation of drones in the Community, which may include imposing conditions on registration.

EXHIBIT "D"

Certificate of Formation of Talia Community Association, Inc.

[see attached]

Form 202

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$25



**Certificate of Formation
Nonprofit Corporation**

Filed in the Office of the
Secretary of State of Texas
Filing #: 805539129 05/07/2024
Document #: 1362264370002
Image Generated Electronically
for Web Filing

Article 1 - Corporate Name

The filing entity formed is a nonprofit corporation. The name of the entity is :

Talia Community Association, Inc.

Article 2 – Registered Agent and Registered Office

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

CH TNC Mesquite Owner, LP

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

C. The business address of the registered agent and the registered office address is:

Street Address:

2201 E. Lamar Blvd.

Suite 115 Arlington TX 76006

Consent of Registered Agent

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

Article 3 - Management

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **Howard Porteus**

Title: **Director**

Address: **2201 E. Lamar Blvd. Suite 115 Arlington TX, USA 76006**

Director 2: **Debra Meers**

Title: **Director**

Address: **2201 E. Lamar Blvd. Suite 115 Arlington TX, USA 76006**

Director 3: **Liliana Soto**

Title: **Director**

Address: **2201 E. Lamar Blvd. Suite 115 Arlington TX, USA 76006**

Article 4 - Organization Structure

A. The corporation will have members.

or

B. The corporation will not have members.

Article 5 - Purpose

The corporation is organized for the following purpose or purposes:

**To be the owners association for the planned community established by the
Community Charter for Talia, executed and recorded or to be recorded by CH TNC**

Mesquite Holdings, LLC in the office of the County Clerk for Kaufman County, Texas (as it may be amended and supplemented, the "Charter")

Supplemental Provisions / Information

The attached Addendum to Certificate of Formation of Talia Community Association, Inc. is incorporated herein by this reference.

[The attached addendum, if any, is incorporated herein by reference.]

Addendum to Cert of Formation-Talia Community Assn, Inc.- v2 050724.pdf

Effectiveness of Filing

A. This document becomes effective when the document is filed by the secretary of state.

OR

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Initial Mailing Address

Address to be used by the Comptroller of Public Accounts for purposes of sending tax information.

The initial mailing address of the filing entity is:

**2201 E. Lamar Blvd.
Suite 115
Arlington, TX 76006
USA**

Organizer

The name and address of the organizer are set forth below.

Janet L. Bozeman **P.O. Box 292, Tucker, GA, 30085**

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Janet L. Bozeman

Signature of organizer.

FILING OFFICE COPY

**Addendum to
CERTIFICATE OF FORMATION
OF
TALIA COMMUNITY ASSOCIATION, INC.**

The following Articles shall be added to and be a part of the Certificate of Formation for Talia Community Association, Inc. (the "Corporation" or "Association"):

Article 6. Applicable Statute. The Corporation is organized pursuant to the provisions of the Texas Nonprofit Corporation Law, as set forth in Chapters 20 and 22, and the provisions of Title 1 applicable to nonprofit corporations, of the Texas Business Organizations Code, as it may be amended (the "Act").

Article 7. Defined Terms. Capitalized terms used in this Certificate of Formation and not otherwise defined in this Certificate shall have the meanings set forth in the Community Charter for Talia, recorded or to be recorded by CH TNC Mesquite Owner, LP a Delaware limited liability company (the "Founder"), in the Official Public Records of Kaufman County, Texas, as it may be amended (the "Charter") and in the bylaws of the Corporation adopted by its board of directors, as such bylaws may be amended ("Bylaws").

Article 8. Powers. The Corporation does not contemplate pecuniary gain or profit, direct or indirect, to its members. In furtherance of its purposes, the Corporation shall have the following powers, which, unless indicated otherwise by the Charter or Bylaws, may be exercised by its board of directors ("Board"):

- (a) all of the powers conferred upon nonprofit corporations by common law and the statutes of the State of Texas in effect from time to time;
- (b) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers of the Association set out in this Certificate of Formation, the Charter, and the Bylaws, including, without limitation, the following:
 - (1) to fix and to collect assessments and other charges to be levied pursuant to the Charter;
 - (2) to manage, control, operate, maintain, repair, and improve property subject to the Charter or any other property as to which the Association has a right or duty to provide such services pursuant to the Charter, Bylaws, or any covenant, easement, contract, or other legal instrument;
 - (3) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Charter, Bylaws, or other recorded covenant;
 - (4) to engage in activities which will actively foster, promote, and advance the common interests of all owners of property subject to the Charter;
 - (5) to buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise

encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(6) to borrow money for any purpose;

(7) to enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

(8) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests of such corporations, firms, or individuals;

(9) to adopt, alter, and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Charter; and

(10) to provide any and all services to the "Community" described in the Charter as the Board may determine to be necessary or desirable to supplement the services provided by local government.

(c) The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 8 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article 8. None of the objects or purposes set out above shall be construed to authorize the Association to do any act in violation of the Act, and all such objects or purposes are subject to the Act.

Article 9. Membership. The Association shall be a membership corporation without certificates or shares of stock. The Founder, for such period as is specified in the Charter, and each Person who is the Owner of a Unit within the Community (as such capitalized terms are defined in the Charter), shall be a member of the Association ("**Member**") and shall be entitled to such voting rights and membership privileges as are set forth in the Charter and the Bylaws.

Article 10. Board of Directors. The business and affairs of the Association shall be conducted, managed, and controlled by its Board. The Board may delegate its operating authority to such corporations, individuals, and committees as it, in its discretion, may determine.

The Board shall consist of not less than three nor more than seven directors, as determined in accordance with the Bylaws. The initial Board of Directors shall consist of three directors identified in this Certificate of Formation, who shall hold office until their successors are elected and have qualified, or until their resignation or removal. The number, the method of selection, removal, and filling of vacancies on the Board of Directors, and the term of office of directors shall be as set forth in the Bylaws.

Article 11. Indemnification of Directors. The Association shall indemnify its officers, directors and committee members as and to the extent required by the Bylaws. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the

Association for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

Article 12. Action by Less Than Unanimous Consent. The Association and the Board of Directors shall be authorized to take action without holding a meeting or providing notice, in accordance with the provisions of Texas Business Organizations Code Sections 6.201 or 6.202 and the Bylaws, and any such action may be taken by less than unanimous consent of the Members, Voting Delegates or directors, as applicable, provided that it receives at least the number or percentage of votes, consents, and other approvals as would be required if the action were taken at a meeting.

Article 13. Dissolution. The Association may be dissolved only upon a resolution duly adopted by its Board of Directors and approved by at least two-thirds (2/3) of the total eligible votes of the Association's membership. In addition, during the Development and Sale Period (as defined in the Charter) the written consent of the Founder shall be required. The Association is authorized, upon its winding up, to distribute its assets in a manner other than as provided by Section 22.304 of the Texas Business Organizations Code, in accordance with a plan of distribution adopted pursuant to Chapter 22 of the Texas Business Organizations Code, which plan may, but shall not be required to, provide for distribution of the remaining property of the Association for tax-exempt purposes to an organization exempt under Section 501(c)(3) of the Internal Revenue Code, or described by Section 170(c)(1) or (2) of the Internal Revenue Code.

Article 14. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by its Board of Directors and approved by at least two-thirds (2/3) of the total eligible votes of the Association's membership. In addition, so long as the Founder owns any property subject to the Charter or which it may unilaterally make subject to the Charter, the written consent of the Founder shall be required.

Article 15. Amendments. This Certificate of Formation may be amended only upon a resolution duly adopted by the Board of Directors and approved by at least two-thirds (2/3) of the total eligible votes of the Association's membership; provided, the members shall not be entitled to vote on any amendment to this Certificate of Formation adopted for the sole purpose of complying with the requirements of any governmental or quasi-governmental entity or institutional lender authorized to fund, insure or guarantee mortgages on individual Units, which amendments may be adopted by the Board of Directors; provided, so long as the Founder owns any property subject to the Charter or which it may unilaterally make subject to the Charter, the consent of the Founder shall also be required for any amendment.

EXHIBIT "E"

Bylaws of Talia Community Association, Inc.

[see attached]

**Bylaws
of
Talía Community Association, Inc.**

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BYLAWS
OF
TALIA COMMUNITY ASSOCIATION, INC.

Article 1
Name, Principal Office, and Definitions

1.1. Name

The name of the corporation is Talia Community Association, Inc. (the "**Association**").

1.2. Principal Office

The Association's principal office shall be located in Tarrant County, Kaufman County, or an adjacent county in Texas. The Association may have such other offices in the Dallas-Fort Worth metropolitan area as the Board may determine or as the Association's affairs require.

1.3. Definitions

Capitalized terms used in these Bylaws shall have the meaning ascribed to them in the Community Charter for Talia recorded by CH TNC Mesquite Owner LP, a Delaware limited partnership (the "**Founder**"), in the Office of the County Clerk of Kaufman County, Texas, as it may be amended (the "**Charter**"), or the meanings ascribed to them in the sentence where they first appear in quotation marks and bold print in these Bylaws. Otherwise, the words used in these Bylaws shall be given their normal, commonly understood definitions. The term "**majority**," as used in these Bylaws, means those votes, Members, directors, or other specified group, as the context may indicate, totaling more than 50% of the total eligible number.

Article 2
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership

The Association initially shall have two classes of Members: Owner Members and the Founder Member, as more fully described in the Charter. The Owner of each Unit is automatically a Member of the Association; however, there shall be only one Owner Membership per Unit. Provisions of the Charter pertaining to membership and the rights and obligations of each class of Members are incorporated herein by this reference.

2.2. Place of Meetings

The Association shall hold meetings (a) at the Association's principal office or at such suitable place in Kaufman County, Texas or an adjacent county as the Board may designate; or (b) by means of remote communication as provided in Section 2.5 and Section 3.10; or (c) by a combination of (a) and (b). Subject to the requirements of Texas law, a meeting may be held solely by means of remote communication or, if held at a physical location, the Board may (but shall not be required to) also provide a means for persons entitled to participate in the meeting to do so by remote communication.

2.3. Membership Meetings

(a) *General.* The Association's membership meetings shall be meetings of the Voting Delegates unless the Board otherwise specifies or Texas law otherwise requires; however, any Member may attend. The first membership meeting, whether an annual or special meeting, shall be held within one year after the conveyance of the first Unit to a Member other than the Founder or a Founder Affiliate.

(b) *Annual Meetings.* The Board shall schedule regular annual meetings of the Association's membership to occur within 90 days before the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine. The Board may schedule other regular meetings to occur on such schedule as the Board deems appropriate.

(c) *Special Meetings.* The President may call special meetings of the membership. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution, upon the request of the Founder during the Development and Sale Period, and within 30 days after receipt of a petition stating the purpose of the meeting and signed by either 10% of the Voting Delegates or by Members holding at least 10% of the total votes in the Association. No business shall be transacted at a special meeting except as stated in the notice of the meeting given in accordance with Section 2.4.

2.4. Notice of Membership Meetings and Votes; Record Date

(a) At least 10 but not more than 60 days before any meeting of the membership, the President, the Secretary, or the officers or other persons calling the meeting shall deliver or cause to be delivered to each Voting Delegate and alternate Voting Delegate a written notice stating the place, day, and hour of the meeting and the items on the agenda for such meeting, including any election or proposal to remove a director, the general nature of any proposed amendment to the Charter, Bylaws or Certificate of Formation, any proposal under Texas Business Organizations Code §§ 22.253 and 22.303, and or any other proposal to be put to a vote of the membership at the meeting. In the case of a special meeting or when otherwise required by Texas law, the Charter, or these Bylaws, the purpose or purposes for which the meeting is called shall also be stated in the notice. If a meeting is to be held solely by electronic communications or if participation in the meeting is permitted by electronic communications, as described in Section 2.5 below, the notice shall state the form of communications system to be used for the meeting and the means of accessing the communications system. Such notice shall be delivered by such means as permitted under Section 9.5, except as otherwise specified for particular meetings in the Charter, these Bylaws, or by Texas law.

(b) Not later than the twentieth (20th) day before the close of balloting for any election or vote to be conducted by Absentee Ballot pursuant to Section 2.7, the Association shall give written notice of the election or subject matter of the vote to each Member entitled to vote thereon, together with a ballot and other information as required in Section 2.7.

(c) The Board shall set a record date for determining who is entitled to receive notice of a meeting or a vote to be conducted by Absentee Ballot, which shall not be earlier than the 60th day before the meeting or the 60th day before the date set for the commencement of balloting.

(d) Any Member or Voting Delegate may waive, in writing, notice of an Association meeting or any vote to be conducted by Absentee Ballot, either before or after the meeting or balloting, and such waiver shall be deemed the equivalent of proper notice. A Member's or Voting Delegate's attendance at a meeting or participation in any vote conducted by Absentee Ballot shall be deemed a waiver by such Member or Voting Delegate of notice of the time, date, and place or conduct thereof, unless such person specifically objects to lack

of proper notice at the time the meeting is called to order or the balloting commences. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.5. Remote Participation in Meetings

The Association may hold Association meetings and/or allow Voting Delegates or Members to participate in any Association meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including videoconferencing technology or the Internet, if the system permits each person participating in the meeting to communicate with all other persons participating in the meeting. Such requirement shall be deemed satisfied if the Association implements reasonable measures to provide each person entitled to vote at the meeting a reasonable opportunity to vote on any matter submitted to a vote and to read or hear the proceedings substantially concurrently with those proceedings. If voting is to take place at the meeting, the Association must implement measures to verify that every person voting at the meeting is sufficiently identified. A person participating in a meeting by any means authorized in this section is considered present at the meeting, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the ground that the meeting has not been lawfully called or convened.

2.6. Adjournment of Meetings

If business cannot be conducted at any Association meeting because a quorum is not represented, Persons entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a later time not more than 30 days from the scheduled date of the original meeting and, unless the Board sets a new record date, the record date set for the meeting when originally called shall apply to any such adjournment thereof. If there are more than 500 persons entitled to cast votes of the membership on the record date, the quorum requirement for the reconvened meeting shall be one-half (1/2) of the quorum requirement at the preceding meeting.

At the reconvened meeting, if a quorum is represented, any business may be transacted which might have been transacted at the meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Board shall provide notice of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

Voting Delegates or their alternates present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Voting Delegates to leave less than a quorum; however, at least a majority of the votes required to constitute a quorum, or such larger percentage as may be required under the Charter or applicable law for specific actions, must approve any action taken.

2.7. Voting

(a) *Voting Rights.* Members shall have such voting rights as are set forth in the Charter, which provisions are specifically incorporated by this reference. Once a Voting Delegate has been elected pursuant to Section 2.8 for any Voting District, all votes allocated to Units owned by Persons other than the Founder in that Voting District shall be cast by the Voting Delegate or alternate Voting Delegate for that Voting District. Until such time as the Board first calls for election of a Voting Delegate for any Voting District as provided in Section 2.8, the Members within such Voting District shall be entitled personally to cast the votes attributable to their

respective Units on any issue as to which the Voting Delegate representing their Unit would be entitled to vote under the Governing Documents.

(b) Method of Voting. A membership vote on any matter shall be conducted by written or electronic ballot. Except in an election which is uncontested, a ballot must be signed by the Member or Voting Delegate entitled to vote, unless the vote is to be conducted by secret ballot and the Association has adopted procedures to reasonably ensure that (i) the Member or Voting Delegate cannot cast more votes than he or she is eligible to cast; and (ii) the Association counts every vote cast by those Members or Voting Delegates eligible to cast votes. Ballots on any matter may be cast in person at a meeting (including any meeting in which the Member or Voting Delegate is participating by remote communication pursuant to Section 2.5), by mail or electronic transmission (including facsimile transmission, electronic mail, or by means of an Internet website), or by any combination of those methods; provided, any ballot submitted electronically must be submitted in a manner that permits confirmation of the identity of the Member casting the vote and allows the Member to receive a receipt evidencing the transmission and receipt of the ballot. A ballot cast electronically constitutes a written and signed ballot for purposes of this subsection.

A ballot to be submitted by mail or electronic transmission (an "**Absentee Ballot**") shall:

(i) describe each proposed action and providing an opportunity to vote for or against each proposed action; and

(ii) include the following language or such other language as may be authorized in lieu of the following language by future amendment of Texas Property Code Chapter 209:

By casting your vote via absentee ballot you will forego the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your vote(s) will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail.

Any solicitation of votes to be cast by Absentee Ballot shall include instructions for delivery of the completed ballot, including the delivery location. If the Absentee Ballot is posted on an Internet website, a notice of posting shall be sent to each Member entitled to vote on the matter with instructions for obtaining access to the website and casting such ballot.

A signed Absentee Ballot may not be revoked once submitted to the Association, except as provided in subsection (c). The Board shall notify the Members of the results of any vote conducted without a meeting within 30 days after the expiration of the voting period.

(c) Tabulation of Votes. A ballot cast at a meeting shall revoke and supersede any ballot casting the same vote submitted by other means. A ballot cast prior to a meeting (i) may be counted for the purpose of establishing a quorum only for items appearing on the ballot; (ii) may not be counted if the Member or Voting Delegate entitled to cast the ballot attends the meeting to vote in person; and (iii) may not be counted if the motion was amended at the meeting so as to deviate from the exact language on the ballot previously cast.

In any election of directors, each candidate may name one person to observe the counting of the ballots; however, this does not entitle any observer to see the name of the person who cast any ballot, and any disruptive observer may be removed. A person who tabulates votes on any matter shall not disclose to any other person

how any particular votes were cast. No person who is a candidate for election or is the subject of any other Association vote, nor any person related to such person within the third degree of consanguinity or affinity, as determined under Texas Government Code Chapter 573, may tabulate ballots cast in any election or vote hereunder. Only a person or persons designated to tabulate the votes or perform a recount authorized by law shall be given access to the ballots cast.

Within 15 days after the date of any election, any Member may demand a recount of the votes in accordance with Texas Property Code §209.0057, subject to payment of the costs of such recount, as provided therein.

2.8. Election and Removal of Voting Delegates

(a) *Timing of Election.* At such time as Board determines it helpful to facilitate membership voting, the Board may implement the representative system of voting contemplated by the Charter by calling for the election of a Voting Delegate and an alternate Voting Delegate from each Voting District in which Units are owned by Persons other than the Founder. Following such election for any Voting District, the Voting Delegate (or in his or her absence, the alternate Voting Delegate) shall cast all votes allocated to Units owned by persons other than the Founder within such Voting District on all Association matters requiring a membership vote, except those matters, if any, as to which the Charter or these Bylaws may specifically provide otherwise. Until the Board first calls for an election of a Voting Delegate for a particular Voting District, the Owner of each Unit within such Voting District shall be entitled to cast the vote for such Unit and shall be considered the "Voting Delegate" for such Unit. The Founder shall be the Voting Delegate for all Units that the Founder owns.

Voting Delegates shall be elected to serve a term expiring upon the close of the second annual meeting following their election or until their successors are elected, whichever is later. Following the first election of Voting Delegates, the Board shall call for an election of Voting Delegates and alternate Voting Delegates in conjunction with each annual meeting to succeed those, if any, whose terms are expiring and to fill any vacancies for any Voting District in which Units are owned by Persons other than the Founder. Voting Delegates and alternate Voting Delegates shall continue to serve until their successors are elected.

(b) *Election Procedures.* Voting Delegate elections shall be conducted by ballots cast by mail, computer, or at a meeting of the Owner Members within such Voting District, as the Board determines, in accordance with Section 2.7; provided, upon written petition signed by Owner Members holding at least 20% of the votes attributable to Units within any Voting District, the election for such Voting District shall be held at a meeting. Candidates for election as Voting Delegates may be nominated by the Board, a nominating committee appointed by the Board, or from the floor at any meeting at which such election is to be held. In addition or in the alternative, the Owner of any Unit within a Voting District may nominate himself or herself.

The presence, in person or by proxy, or the filing of ballots of Owner Members representing at least 20% of the total votes attributable to Units in the Voting District shall constitute a quorum for any Voting District meeting or election. In the event of a failure to obtain a quorum or vacancy in such positions for any Voting District, the Board may appoint a Voting Delegate or alternate Voting Delegate to represent such Voting District until a successor is elected.

Subject to the above quorum requirement, in any election of Voting Delegates the candidate who receives the greatest number of votes shall be elected as the Voting Delegate and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Delegate. In the event of a tie vote among the leading candidates, the Voting Delegate shall be determined by drawing names from a hat, with the first person drawn being the Voting Delegate and the second being the alternate Voting Delegate. The Voting Delegate and

the alternate Voting Delegate shall serve a term of one year or until their successors are elected, whichever is longer.

(c) *Removal of Voting Delegates.* Any Voting Delegate may be removed, with or without cause, upon the vote or written petition of Owner Members representing a majority of the total number of Units in the Voting District that the Voting Delegate represents.

2.9. Proxies

Voting Delegates may not vote by proxy but only in person or through their designated alternates; however, any Voting Delegate who is entitled to cast only the vote(s) for his own Unit(s) pursuant to the Charter, these Bylaws, or Texas law may cast such vote(s) in person or by proxy. Likewise, on any matter as to which a Member is entitled personally to cast the vote for such Member's Unit, the Member may vote in person or by proxy, subject to the limitations of Texas law and subject to any specific provision to the contrary in the Charter or these Bylaws. Every proxy shall be in writing, shall identify the Unit for which it is given, shall be signed by the Member or the Member's duly authorized attorney-in-fact, and shall be dated and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provides otherwise, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

A proxy is effective only for the specific meeting for which it was originally given, as such meeting lawfully may be adjourned and reconvened, and automatically expires 90 days after the date of the meeting for which it was originally given. Every proxy is revocable at any time at the pleasure of the Member who executes the proxy by giving written notice of revocation to the Association's Secretary. A proxy shall automatically be revoked: (a) if the Member who executed the proxy attends the meeting and votes in person; (b) upon conveyance of any Unit for which it was given; (c) 11 months from the date of the proxy or such shorter period as specified in the proxy; or (d) upon the death or judicially-declared incompetence of the Member who signed it.

2.10. Quorum

Except as otherwise provided in Section 2.6 of these Bylaws and in the Charter with respect to specific matters:

(a) Prior to the first election of Voting Delegates pursuant to Section 2.8, the presence of Members or their proxies entitled to cast at least 20% of the total votes in the Association shall constitute a quorum at any membership meeting, and the casting of ballots representing at least 20% of the total votes in the Association shall constitute a quorum for any membership vote conducted by means other than at a meeting; provided, if a quorum is not established at any meeting when initially called or for any membership vote when initially conducted, then the quorum for any subsequent attempt to convene such meeting or conduct such membership vote shall be reduced to 10%. A ballot cast by mail or electronically may be counted for purposes of establishing a quorum only as to those action items appearing on the ballot. If a quorum has been established, the vote of Members representing a majority of the total eligible votes cast shall constitute the action of the Members unless the Governing Documents or Texas law require a greater number or percentage of votes; however, the foregoing shall be construed to eliminate any requirement for any additional consents or approvals required by the Governing Documents or Texas law for such action.

(b) After the first election of Voting Delegates, the presence of Voting Delegates or their alternates representing at least a majority of the total number of Voting Delegates and a majority of the total votes in

the Association shall constitute a quorum at all membership meetings, and the casting of ballots representing a majority of the total votes in the Association shall constitute a quorum for any membership vote by Voting Delegates conducted by means other than at a meeting.

2.11. Conduct of Meetings; Minutes

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are prepared reflecting all resolutions adopted and all other transactions occurring at such meetings or by action without a meeting. The minutes shall be kept with the Association's books and records.

2.12. Action By Written Consent Without a Meeting

In addition to any vote that may be taken by Absentee Ballot pursuant to Section 2.7, any action required by the Charter, the Certificate of Formation, these Bylaws, or Texas law to be taken at a meeting of the Owners or Members may be taken without a meeting, without prior notice, and without a vote, if the Founder or the Board approves of such action being taken without a meeting pursuant to this Section and the action is approved as provided herein by Members or Voting Delegates representing at least the minimum number of votes in the Association that would be necessary to authorize such action at a meeting if all Members or Voting Delegates entitled to vote were present and voted.

Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by Members or Voting Delegates entitled to cast the requisite votes. The Association need not give prior notice before soliciting such consents; however, the Association must send written consent forms to all Members or Voting Delegates for action authorized pursuant to this Section to be valid. Members or Voting Delegates shall sign, date, and deliver such consents to the Association within 60 days after the Association's receipt of the earliest dated consent. An electronic transmission of a consent is considered a signed writing if the transmission contains or is accompanied by information from which it can be determined that the electronic transmission was transmitted by or on behalf of the Member or Voting Delegate and the date of transmission.

The Association's Secretary, within 10 days after receiving such consents, shall give written notice to all Members or Voting Delegates entitled to vote who did not give their written consent, fairly describing or summarizing the material features of the authorized action including any other information required by Texas law. The Association's Secretary shall file, or cause to be filed, the written consents with the Association's minutes and the consents shall have the same force and effect as a vote at a meeting.

Article 3

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection

3.1. Governing Body; Qualifications

The Board shall govern the Association's affairs. Each director shall have one vote. Except with respect to directors appointed by the Founder Member pursuant to Section 3.3: (a) directors shall be Owners (or representatives of Owners that are not individuals, as provided herein) or residents; (b) no Owner and resident representing the same Unit may serve on the Board at the same time; and (c) a person may not serve as a director if

such person shares a primary residence with another director. A "**resident**" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Community.

If an Owner is not an individual, any officer, director, partner, manager, member, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Association signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at a time, except in the case of directors that the Founder Member appoints.

3.2. Number of Directors

The Board shall consist of three to seven directors, as provided in Section 3.3.

3.3. Selection of Directors; Term of Office

(a) **Initial Board.** The initial Board shall consist of the three directors identified in the Certificate of Formation, who shall serve until their successors are appointed or elected as provided in this Section.

(b) **Directors During Founder Control Period.** During the Founder Control Period the Founder Member may appoint, remove, and replace all Board members except those to be elected by the Voting Delegates pursuant to this subsection (b). Voting Delegates other than the Founder shall be entitled to elect a minority of the total number of directors according to the following schedule:

(i) Not later than the first annual meeting of the membership after the time that 40% of the Permitted Units have been made subject to the Charter, improved with a Dwelling, and conveyed to Owners other than the Founder or Builders who purchased from the Founder for purposes of construction and sale, the Board shall call for an election by which Voting Delegates other than the Founder shall be entitled to elect one director, increasing the Board to a total of four directors. The other three directors shall be Founder appointees. The director elected by the Voting Delegates pursuant to this subsection (b)(i) shall be elected for a term expiring at the second annual meeting following such director's election.

(ii) Not later than the first annual meeting of the membership after the time that 60% of the Permitted Units have been made subject to the Charter, improved with a Dwelling, and conveyed to Owners other than the Founder or Builders who purchased from the Founder for purposes of construction and sale, the Board shall call for an election by which the Voting Delegates other than the Founder shall be entitled to elect a second director, increasing the Board to a total of five directors. The other three directors shall be Founder appointees. The director elected by the Voting Delegates pursuant to this subsection (b)(ii) shall be elected for a term expiring at the annual meeting next following the expiration of the term of the director then serving pursuant to subsection (b)(i).

The directors elected by Voting Delegates pursuant to clause (i) and clause (ii) of this subsection (b) and their successors are each referred to herein as an "**Elected Director.**" Upon expiration of the initial term of an Elected Director, a successor shall be elected by the Voting Delegates for a term expiring at the second annual meeting following the commencement of such director's term, so that the terms of such Elected Directors expire in alternate years; provided, during the Founder Control Period the Founder shall not vote in the election of any Elected Director.

(c) **Directors After the Founder Control Period.** Not later than the first annual meeting following the expiration of the Founder Control Period, the President shall call for an election by which all Voting Delegates (including the Founder voting for any Units it owns) shall be entitled to elect a successor to any Elect-

ed Director whose term is then expiring and three additional directors to fill the seats previously filled by Founder appointees. Two of such additional directors shall be elected to serve until the second annual meeting following such election and one of such additional directors shall be elected to serve until the third annual meeting following such election, as such directors determine among themselves. If the directors are unable to agree as to which directors shall serve two-year terms and which directors shall serve a three-year term, the names of the directors to serve each term shall be drawn at random from a hat. The first two names being drawn shall identify the directors who shall serve two-year terms and the remaining director shall serve a three-year term. Thereafter, upon the expiration of the term of any director, a successor shall be elected by the Voting Delegates (including the Founder voting for any Units it owns) to serve a term of two years. Directors shall hold office until their respective successors have been elected. Directors may be elected to serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Founder Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS			
Initial Board	40% of Permitted Units Conveyed	60% of Permitted Units Conveyed	Termination of Founder Control Period
Founder	Elected	Elected	Elected
Founder	Founder	Elected	Elected
Founder	Founder	Founder	Elected
	Founder	Founder	Elected
		Founder	Elected

3.4. Nomination and Election Procedures

(a) *Nomination of Candidates.* At least 30 days prior to any election of directors by the Voting Delegates, the Board may appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners, who shall serve until the close of the election for which they were appointed. If a Nominating Committee is appointed: (i) the names of the Nominating Committee members shall be announced in the notice of the election; and (ii) the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but at least a number equal to the number of positions to be filled by such election. In making its nominations, any Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates.

In addition to or in lieu of appointing a Nominating Committee, the Board may (and if there are more than 100 Units in the Community, it shall) give notice to the Members soliciting eligible candidates interested in running for any position on the Board to be filled by such election. Such notice shall be given at least 10 days prior to disseminating any ballots for purposes of voting in an election of directors and must contain instructions for an eligible candidate to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request, which deadline may not be earlier than the 10th day after the date of such notice. The notice shall either be:

- (i) mailed to each Member; or

(ii) provided by e-mail to each Member who has registered an e-mail address with the Association, and posted (A) in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or on other property within the Community, with the permission of the owner of such property, or (B) on an Internet website maintained by the Association or on other Internet media. The Association shall include on the ballot for such election the name of each eligible candidate from whom the Association received a request to be placed on the ballot in accordance with this Section.

All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

(b) Election Procedures. At each election, voting shall be by ballot, which may be cast in any manner authorized by the Board consistent with Section 2.7. Each Voting Delegate entitled to vote in such election under Section 3.3 may cast all votes assigned to Units it represents for each position to be filled by such election. Cumulative voting shall not be permitted. Notwithstanding this, if the number of candidates equals the number of positions to be filled and there are no nominations from the floor, any Voting Delegate may move to accept the slate of candidates nominated by the Nominating Committee, and, if the motion is approved, no balloting shall be required. Otherwise, the candidate(s) receiving the most votes shall be elected.

In the event of a tie vote, the Voting Delegates shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then unless the candidates agree among themselves as to who will serve as a director, the Board shall call for election of the director(s) by the Members. Such election shall be held by mail, with ballots to be sent by first class mail to each Member entitled to vote within 10 days after the meeting at which the original election was held.

3.5. Removal of Directors and Vacancies

Any director elected by Voting Delegates may be removed, with or without cause, by the vote of Voting Delegates holding a majority of the votes that would be entitled to be cast in an election to fill such director's seat. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Voting Delegates, the Voting Delegates shall elect a successor for the remainder of the term of such director, except that the Founder shall not be entitled to vote for any successor to an Elected Director during the Founder Control Period.

If the Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a director was convicted of a felony or crime involving moral turpitude not more than 20 years before the date the Board is presented with such evidence, the director shall be automatically considered removed from the Board and ineligible for future service on the Board.

At any meeting of the Board at which a quorum is present, a majority of the directors may remove any Elected Director who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or resides in or represents a Unit owned by an Owner who is so delinquent) in the payment of any assessment or other charge due the Association.

In the event of the death, disability, removal or resignation of an Elected Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates shall elect a successor for the remainder of the term.

Neither the Voting Delegates nor the Board shall have any right to remove or replace directors that the Founder appoints. Until the first election following termination of the Founder Control Period, the Founder may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

B. Meetings

3.6. Organizational Meetings

The Board shall hold an organizational meeting within 10 days following each annual meeting of the membership, at such time and place (subject to Section 3.10) as the Board shall fix.

3.7. Regular Meetings

The Board shall hold regular meetings at such time and place (subject to Section 3.10) as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

3.8. Special Meetings

The President, Vice President, or any two directors may call a special meeting of the Board.

3.9. Notice; Waiver of Notice

(a) Notices of Board meetings shall specify the date and time of the meeting and, unless the meeting is being held solely by use of a conference telephone or other remote communications system in accordance with Section 3.10, the location of the meeting. Notice of any meeting which is conducted or which may be attended by conference telephone or other remote communications system in accordance with Section 3.10 shall specify the form of communications system to be used for the meeting and the means of accessing the communications system and such system shall constitute the place or location of the meeting.

(b) The Board shall notify each director of Board meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the day of the meeting. Notices sent by personal delivery, telephone, or electronic communication shall be delivered at least 72 hours before the time set for the meeting. No notice shall be required for regular meetings conducted in accordance with a published schedule, provided notice of the schedule was delivered to each director in accordance with this subsection (b).

(c) Except as otherwise provided in Section 3.14(a) and 3.15, the Board shall notify the Members of the date, hour, place, and general subject of each Board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be provided by either:

(i) posting notice of the meeting in a conspicuous place in the Community reasonably designed to provide notice to the Members, or on any Internet website maintained by the Association or by a

management company on behalf of the Association, and emailing notice to each Member who has registered an email address with the Association, at least 144 hours prior to the start of a regular meeting and at least 72 hours prior to the start of a special meeting; or

(ii) mailing notice of the meeting to each Member at least 10 but not more than 60 days prior to the date of the meeting.

Each Member is responsible for registering their mail and email address with the Association for purposes of receiving notices under this subsection (c) and thereafter notifying the Association in writing of any change in such email address.

If the Board recesses a regular or special Board meeting to continue the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent the requirements of this Article 3, Part B. If a Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner prescribed by this subsection (c) within two hours after adjourning the meeting that is being continued.

(d) Transactions at any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10. Place of Meetings; Participation by Telephonic or Electronic Means

(a) All Board and committee meetings shall be held within Tarrant County, Kaufman County, or an adjacent county, except for meetings held by telephonic or other communication system pursuant to this Section 3.10.

(b) Members of the Board or any committee the Board appoints may participate in a Board or committee meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including videoconferencing technology or the Internet, or any combination of the foregoing, provided that:

(i) all Board or committee members, as applicable, entitled to participate in the meeting consent to the meeting being held by means of that system;

(ii) the electronic or telephonic system used allows each director or committee member, as applicable, to communicate concurrently with every other director or committee member;

(iii) except for any portion of the meeting conducted in executive session as described in Section 3.13, Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by any director or committee member and all Members in attendance may hear all directors or committee members; and

(iv) notice of the meeting includes instructions for accessing the meeting using any such communication method.

Participation in a meeting pursuant to this Section shall constitute presence at such meeting, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the ground that the meeting has not been lawfully called or convened.

3.11. Quorum of Board; Voting

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Texas law, these Bylaws, or the Charter specifically provide otherwise. Directors shall not vote by proxy nor shall a director's proxy be considered for the purpose of establishing a quorum. Voting may be conducted at a meeting or by written consents without a meeting in accordance with Section 3.14. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken.

3.12. Conduct of Meetings

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that written minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

3.13. Open Meetings; Executive Session

(a) Except as otherwise provided in Section 3.13(b) and Section 3.14, all Board meetings shall be open to all Members and Member representatives, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time attendees may speak, individually and in total. The Board shall make agendas for its meetings reasonably available for examination by all Members or their representatives prior to the meeting.

(b) Notwithstanding the above, any Board meeting may be adjourned and reconvened in executive session, limiting attendance to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting, to discuss: matters or consider actions involving personnel; proposed, pending or threatened litigation; contract negotiations; enforcement actions; confidential communications with the Association's attorney; matters involving the invasion of privacy of Owners; matters that are to remain confidential by request of the affected parties and agreement of the Board; or other matters which Texas Property Code §209.0051(h) or other provisions of Texas law specifically authorize to be discussed in executive session. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of any Owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

3.14. Action Without a Formal Meeting

(a) Except as provided in subsection (b), the Board may take action outside of a meeting, by written consent to such action in the manner authorized in the Certificate of Formation, or by voting by electronic or telephonic means, without prior notice to the Members, if each Board member is given a reasonable opportunity to express his or her opinion to all other Board members and to vote or execute a consent to such action. Except as provided in Section 3.15, any action taken without notice to Members under Section 3.9 must be summarized orally at, and documented in the minutes of, the next Board meeting, including an explanation of any known actual or estimated expenditures approved at the meeting.

(b) Except as provided in Section 3.15, the Board may not consider or vote on any of the following matters except in an open meeting for which prior notice was given to the Members pursuant to Section 3.9: fines; damage assessments; initiation of foreclosure actions; initiation of enforcement actions (other than temporary restraining orders or violations involving a threat to health or safety); increases in assessments; levying of special assessments; appeals from denial of applications for architectural approval; suspension of a right of a particular Member before the Member has an opportunity to attend a Board meeting to present the Member's position, including any defense, on the issue; lending or borrowing money; the adoption or amendment of any of the Governing Documents which the Board is authorized to adopt or amend; the approval of an annual budget or the approval of an amendment to an annual budget; the sale or purchase of real property; the filling of a vacancy on the Board; the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or the election of an officer.

3.15. Board Action During Development and Sale Period

The requirements and limitations set forth in Sections 3.9(c), 3.10(a), 3.13, and 3.14 shall not apply to meetings of the Board conducted during the Founder Control Period unless conducted for the purpose of:

- (a) adopting or amending the Governing Documents;
- (b) increasing the amount of the Base Assessment or adopting or increasing a Special Assessment;
- (c) electing Elected Directors or establishing or modifying the process for their election; or
- (d) changing the voting rights of Members.

Nothing in this Section 3.15 shall be construed to authorize the Board to take action on any matter listed in clauses (a) through (d) in contravention of the approval that would otherwise be required under the Governing Documents or Texas law.

C. Powers and Duties

3.16. Powers

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights and powers in furtherance of the Association's purposes as set forth in the Certificate of Formation and other Governing Documents and as provided by law, except as expressly limited by the Governing Documents and applicable law. The Board may do, or cause to be done on the Association's behalf, all acts and things except those which the Governing Documents or Texas law require to be done and exercised exclusively by all or particular Owners, Members, or Voting Delegates, or by the membership generally.

3.17. Duties

The Board's duties shall include, without limitation:

- (a) preparing and adopting, in accordance with the Charter, an annual budget establishing each Owner's share of the Common Expenses and Service Area Expenses for any Service Area to which the Owner's Unit is assigned;
- (b) levying and collecting assessments from the Owners;

- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and, where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) opening bank accounts on the Association's behalf and designating the signatories required;
- (f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents; provided, if the Association proposes to contract for services that will cost more than \$50,000.00, it shall solicit bids or proposals for such services using a bid process established by the Board pursuant to Texas Property Code §209.0052(c);
- (h) determining when action to enforce the Governing Documents is appropriate and the nature of any sanctions to be imposed, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association or Governing Documents and which the Board determines to be appropriate; however, the Association's rights and obligations in this regard shall be conditioned and limited in the manner provided in Article 8 and Article 19 of the Charter and other provisions of the Governing Documents;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping a detailed accounting of the Association's receipts and expenditures;
- (l) preparing, filing and amending a management certificate as required by Section 7.3(a);
- (m) making available current copies of the Governing Documents on an Internet website maintained by or on behalf of the Association which is accessible to the Members as required by Texas Property Code §207.006, and making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 9.4; and
- (n) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is permitted by Texas law, the Certificate of Formation, or these Bylaws.

Article 4 Officers

4.1. Officers

The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including additional Vice Presidents and Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office

The Board shall elect the Association's officers at the first Board meeting following each election of directors, to serve until their successors are elected.

4.3. Removal and Vacancies

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall keep the minutes of meetings and maintain the Association's corporate book.

4.5. Resignation

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 5 Committees

5.1. General

In addition to any Nominating Committee appointed pursuant to Section 3.4 and such committees as the Founder or Board may appoint pursuant to the Charter, the Board may appoint such other committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee established pursuant to this Article 5 shall operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall follow the notice and quorum requirements applicable to the Board under Sections 3.9(a) and (b) and 3.11, as well as the provisions of Section

3.10 (with all references to directors referring instead to members of the committee). Except as otherwise provided by Board resolution or the Governing Documents, members of a committee may act by unanimous written consent in lieu of a meeting.

5.2. Community Enhancement Committee

The Board may appoint or allow the Members to elect a Community Enhancement Committee to develop a budget for and make recommendations to the Board regarding the use of Community Enhancement Fees collected pursuant to the Charter, consistent with the purposes for such fees set forth in the Charter. Any such committee shall be composed of that number of persons determined by Board resolution, who shall be selected and serve for such terms as set forth in the Board resolution establishing such committee.

5.3. Service Area Committees

The Owners within any Service Area which has no formal organizational structure or association may elect a Service Area Committee to determine the nature and extent of services, if any, which it desires to have the Association provide to the Service Area, over and above those services which the Association provides to all Units in the Community. A Service Area Committee, if elected, shall consist of three Owners of Units in the Service Area; however, if approved by the vote of at least 51% of the Owners of Units within the Service Area, the number may be increased to five.

Elections of Service Area Committees may be held by written ballot sent to all Owners of Units within the Service Area, or at a meeting of the Owners of Units within the Service Area, as the Board determines. The Board or any Owner of a Unit in the Service Area may nominate candidates for election to the Service Area Committee. That number of candidates equal to the number of positions to be filled receiving the most votes shall be elected. Service Area Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board from a Service Area shall be an *ex officio* member of the Service Area Committee. The members of the committee shall elect a chairperson from among themselves, who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Service Area Committee shall follow the notice and quorum requirements applicable to the Board under Sections 3.9(a) and (b) and 3.11, as well as the provisions of Section 3.10 (with all references to directors referring instead to members of the committee). Meetings of a Service Area Committee shall be open to all Owners of Units in the Service Area and their representatives. Members of a Service Area Committee may act by unanimous written consent in lieu of a meeting.

Article 6

Standards of Conduct; Liability, and Indemnification

6.1. Standards for Directors and Officers

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or state-

ments, including financial statements and other financial data, prepared or presented by others to the extent authorized under Texas law.

6.2. Liability

In performing their duties, directors and officers shall be insulated from liability as provided for directors of corporations under Texas law and as otherwise provided by the Governing Documents. The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for any action taken or omitted in such capacities, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members).

6.3. Indemnification

To the fullest extent permitted by Texas law, the Association shall indemnify every current and former officer, director, and committee member against any and all liability, damages and expenses, including attorneys' fees, reasonably incurred in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which he or she may be a party by reason of being or having been an officer, director, or committee member. Such indemnification shall include, without limitation, counsel fees and expenses reasonably incurred in connection with any such action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board), and any obligation to pay a judgment, settlement, penalty or fine in connection therewith. Notwithstanding the foregoing, the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

- (a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Texas law; or
- (b) to the extent that the individual is adjudged liable for conduct that constitutes:
 - (i) appropriation, in violation of his or her duties, of any business opportunity of the Association; or
 - (ii) intentional misconduct or knowing violation of the law; or
 - (iii) an unlawful distribution to Members, directors or officers; or
 - (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.4. Advancement of Expenses

In accordance with the procedures and subject to the conditions and limitations set forth in the Texas Revised Nonprofit Corporation Act, the Board may authorize the Association to advance funds to pay for or re-

imburse the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

6.5. Conflicts of Interest

(a) A director shall promptly disclose to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. Notwithstanding this, the fact that a director appointed by the Founder may be employed by or otherwise transact business with the Founder or a Founder Affiliate, and that the Founder may transact business with the Association or its contractors, shall not require disclosure as a potential conflict of interest hereunder.

(b) The Association shall not enter into a contract with a current Board member, a person related to a current Board member within the third degree by consanguinity or affinity, as determined under Chapter 573, Texas Government Code (a "**Board Relative**"), a company in which a current Board member has a financial interest in at least 51% of profits, or a company in which a Board Relative has a financial interest in at least 51% of profits, unless all of the following conditions are satisfied:

(i) the Board member, Board Relative, or company bids on the proposed contract and the Association has received at least two other bids for the contract from persons not associated with the Board member, Board Relative, or company, if reasonably available in the community;

(ii) the Board member is not given access to the other bids, does not participate in any Board discussion regarding the contract, and does not vote on the award of the contract;

(iii) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the Board and the Board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of a majority of the directors who do not have an interest governed by this Section; and

(iv) the Board certifies that the other requirements of this Section 6.5 have been satisfied by a resolution approved by an affirmative vote of the majority of the Board members who do not have an interest governed by this Section.

(c) This Section does not apply to any contract entered into by the Association during the Development and Sale Period with the Founder or any Founder Affiliate.

6.6. Board and Officer Training

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable Texas corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The nature and the cost of such seminar shall be subject to approval by the Board and, if approved, the cost shall be a Common Expense.

The Board may also provide, or provide for, Owner and resident education designed to foster a better understanding of the Association's governance and operations, and leadership training classes designed to educate Voting Delegates and Owners as to the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

The Board may apply for and maintain, as a Common Expense, membership for the Association, its officers and directors, in the Community Associations Institute or any similar nonprofit organization that provides educational opportunities for association directors, officers and managers in operation and management of homeowners associations.

Article 7

Management and Accounting

7.1. Compensation of Directors and Officers

The Association shall not compensate directors and officers for acting as such unless Voting Delegates representing a majority of the total votes in the Association approve such compensation. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract in accordance with Section 6.5.

7.2. Right of Founder Member to Disapprove Actions

So long as there is a Founder Membership, the Founder Member shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Founder Member's sole judgment, would tend to impair rights of the Founder or Builders under the Charter or these Bylaws, interfere with development or construction of any portion of the Community, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

(a) Notice. So long as there is a Founder Membership, the Association shall give the Founder written notice of all meetings of the membership, the Board, and committees and any actions which any of them propose to take by absentee ballot or written consent in lieu of a meeting. Such notice shall comply as to Board and committee meetings with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these Bylaws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. At any such meeting, the Association shall give the Founder Member the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Founder Member, its representatives, or its agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

The Founder Member, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was pro-

posed or, in the case of any action taken without a meeting, at any time within 10 days following receipt of written notice of the proposed action.

So long as there is a Founder Membership, the Founder Member may use this right to disapprove to block proposed actions within the scope of this Section 7.2, except as may be required by court order or applicable law, but shall not use it to require any action of any committee, the Board, or the Association. The Founder Member shall not use its right to disapprove to reduce the level of services the Association is obligated to provide in the absence of the proposed action or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

7.3. Management Certificate and Managing Agent

(a) *Management Certificate.* The Association shall record a management certificate as required by Texas Property Code §209.004 and amend the same within 30 days of any change in the information required to be set forth therein. In addition, within seven days after recording an initial or amended management certificate, the Association shall electronically file a copy of the same with the Texas Real Estate Commission.

(b) *Management Agent.* The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.17. The Board may employ the Founder or its affiliate as managing agent or manager.

In the event the Board delegates its duties to a management agent with regard to collection, deposit, transfer or disbursement of Association funds, such agent shall:

- (i) maintain fidelity insurance coverage or a bond in an amount not less than \$50,000, or such higher amount as the Board may require;
- (ii) maintain all funds and accounts of the Association separate from the funds and accounts of other associations managed by such agent and all reserve accounts of the Association separate from operational accounts of the Association; and
- (iii) prepare a financial statement and an accounting of the Association funds on an annual basis to be presented to the Association by the managing agent, a public accountant, or a certified public accountant.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

After termination of the Development and Sale Period, the Association shall not be bound, either directly or indirectly, by any management contract executed during the Founder Control Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Founder Control Period upon not more than 90 days' written notice.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association. The managing agent shall

promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Association.

7.4. Accounts and Reports

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

(i) accounting and controls should conform to generally accepted accounting principles;
and

(ii) the Association's cash accounts shall not be commingled with any other accounts and operating accounts shall not be commingled with reserve accounts;

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association within 60 days after the end of each quarter:

(i) an income statement reflecting all income and expense activity for the preceding period;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution). A copy of the quarterly financial report shall be made available at no charge to any Member requesting a copy.

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines.

(d) The Board shall report in writing to the Members any indemnification of or advancement of legal expenses to any officer, director, or committee member in accordance with Texas Business Organizations Code § 8.152, as it may be amended.

7.5. Borrowing and Lending

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain membership approval in the same manner provided in the Charter for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year. Under no circumstances is the Association authorized to make loans to its Members, directors or officers. Any director, officer or Member who

assents to, or participates in, the making of any such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

7.6. Right to Contract

The Association shall have the right to contract with any Person for the performance of various duties and functions, subject to the provisions of Section 6.5, if applicable. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with any governmental or quasi-governmental body, any Neighborhood Association, and other owners or residents associations within and outside the Community.

7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

Article 8 Enforcement Procedures

8.1. Authority and Applicability

The Association shall have the power, subject to the limitations set forth in Articles 8 and 19 of the Charter, as applicable, to file suit to enforce the Governing Documents and/or impose sanctions for any violation of the Governing Documents as provided in Article 8 of the Charter. However, unless the subject of the proposed action or sanction is a violation for which the Owner has been given notice complying with this Article and the opportunity to exercise any rights to which the Owner was entitled under this Article in the preceding six months, the Board shall comply with the procedures set forth in this Article prior to taking any of the following actions:

(a) filing a lawsuit against an Owner, other than a suit: (i) to collect Base Assessments, Special Assessments, Service Area Assessments, or Specific Assessments under Section 12.4(a), (b), (d), or (g) of the Charter; or (ii) to foreclose the Association's lien under Article 12 of the Charter; or (iii) to obtain temporary restraining order or temporary injunctive relief;

(b) suspending an Owner's right to use Common Area, other than a temporary suspension due to a violation that occurred in a Common Area and involved a significant and immediate risk of harm to others, in which case the temporary suspension shall be effective until the Board makes a final determination on the suspension action after following the procedures prescribed by this Article;

(c) levying a monetary fine;

(d) reporting an Owner's delinquency to a credit reporting agency; or

(e) any other sanction for which Section 8.2(a) of the Charter specifically requires compliance with this Article.

8.2. Notice and Response

Prior to taking any action for which Section 8.1 hereof requires compliance with the procedures set forth in this Article, the Board or its delegate shall serve the alleged violator and/or the responsible Owner, if the alleged violator is not an Owner, with written notice by certified mail, return receipt requested, to the Owner's last known address as shown in the Association's records:

- (a) describing the alleged violation or property damage which is the basis of the proposed sanction or amount due to the Association, as applicable;
- (b) stating the proposed sanction to be imposed; and
- (c) informing the alleged violator and/or Owner that:
 - (i) they have 30 days after receipt of the notice to present a written request for a hearing before the Board;
 - (ii) they may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501, *et seq.*), if serving on active military duty; and
 - (iii) the Association may recover from the Owner reasonable attorneys' fees and other reasonable costs incurred by the Association in enforcing the Governing Documents after the date of the hearing held pursuant to this Article, or if no hearing is requested, after the deadline for requesting a hearing, including such fees and costs incurred in collecting amounts, including damages, due to the Association if not paid by a date specified in such notice, or in the case of a violation of a curable nature, the violation continues after a date specified in such notice; and
 - (iv) if the alleged violation is of a curable nature and does not pose a threat to public health or safety, they may avoid the proposed sanction by curing the violation within a reasonable cure period stated in the notice, except that the Association shall have no obligation to provide a cure period if the alleged violator has been given notice of a similar violation within the preceding six months. A violation is considered a threat to public health or safety if it could materially affect the physical health or safety of an ordinary resident. A violation is not considered to be of a "curable nature" if it has already occurred and is not a continuous action or is not a condition capable of being remedied by affirmative action or is otherwise considered "uncurable" as described in Texas Property Code §209.006;

The alleged violator shall respond to the notice of the alleged violation in writing within such 30-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator is entitled to a cure period under subsection (c)(iv), cures the alleged violation within the reasonable time stated in the notice (and notifies the Board of the same in writing within such reasonable time stated in the notice, the Board may not assess a fine or suspend the Owner's right to use Common Area for such violation. However, it shall not affect the Board's right to sanction future violations of the same or other provisions of the Governing Documents by any Person.

Except as provided above, if a timely request for a hearing is not made, the sanction stated in the notice may be imposed.

A copy of any notice provided pursuant to this Section, together with a statement of the date and manner of delivery signed by the officer, director, or agent who gave such notice, shall be placed in the minutes of the Board.

8.3. Hearing

If the alleged violator is entitled to a hearing and submits a written request for a hearing within the allotted 30-day period, the hearing shall be held before the Board in executive session within 30 days after receipt of the alleged violator's request, unless postponed as authorized herein. Either the Board or the alleged violator may request a postponement of up to 10 days, and such postponement shall be granted. Additional postponements may be granted upon agreement of both the Association and the alleged violator.

The Board shall notify the alleged violator at least 10 days prior to the hearing of the time, date, and place of the hearing and provide the Owner with a packet containing all documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing. If the Association does not provide such packet at least 10 days prior to the hearing, the Owner is entitled to an automatic 15-day postponement of the hearing. At the hearing, a member of the Board or the Association's designated representative shall first present the Association's case against the Owner. The Owner or the Owner's designated representative is then entitled to present the Owner's information and issues relevant to the appeal or dispute.

At the hearing, the alleged violator shall be afforded a reasonable opportunity to be heard and both the Association and the Owner shall be entitled to make an audio recording of the hearing. If the alleged violator fails to appear, a hearing may be held in his or her absence. The Board may adopt rules for the conduct of such hearings that may include, without limitation, rules that govern the presentation of evidence and witnesses and the ability of an alleged violator to question adverse witnesses. The minutes of the meetings of the Board shall contain a written statement of the results of the hearing (*i.e.*, the Board's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three business days after the hearing.

Article 9 Miscellaneous

9.1. Fiscal Year

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law or the Governing Documents.

9.3. Conflicts

If there are conflicts among the provisions of Texas law, the Certificate of Formation, the Charter, and these Bylaws, the provisions of Texas law, the Charter, the Certificate of Formation, and these Bylaws (in that order) shall prevail.

9.4. Books and Records

(a) **Document Retention.** The Board shall be responsible for compliance with the following document retention policy relating to the Association's books and records:

(i) the Certificate of Formation, Bylaws, Charter, Supplements, and all amendments thereto, shall be retained permanently;

(ii) financial books and records shall be retained for seven years;

(iii) account records of current owners shall be retained for five years;

(iv) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(v) minutes of meetings of the owners and the board shall be retained for seven years; and

(vi) tax returns and audit records shall be retained for seven years.

(b) **Turnover of Books and Records.** Within 60 days after termination of the Founder Control Period, the Founder shall deliver to the Association all property, books and records of the Association in the Founder's possession.

(c) **Inspection by Members and Mortgagees.** The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time: the Governing Documents, the membership register, books of account, the minutes of meetings of the membership, the Board, and committees, and any other Association records, to the extent required by Texas Property Code §209.005 or other provisions of Texas law. The Association is not required to release or allow inspection of (i) a document that constitutes attorney work product or that is privileged as an attorney-client communication; or (ii) any of the following books or records unless directed to do so by court order or unless the Association is provided with the express written approval of the Owner whose records are the subject of the request: (A) information that identifies the violation history of a particular Owner, an Owner's personal financial information (including records of payment or nonpayment of amounts due the Association), an Owner's contact information other than the Owner's address; or (B) information related to an employee of the Association, including personnel files.

A person desiring and entitled to access or information under this Section must submit a written request for such access or information, describing in sufficient detail the books and records requested, which request shall be sent by certified mail to the mailing address of the Association or its authorized representative as reflected on the most current management certificate filed under Texas Property Code §209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records. The Association may produce books and records requested under this Section in hard copy, electronic, or other format reasonably available to the Association.

Except as otherwise provided in this Section, on or before the 10th business day after the Association's receipt of such request:

(i) if an inspection is requested, the Association shall send written notice of dates during normal business hours that the inspection may be conducted, to the extent those books and records are in the possession, custody, or control of the Association, and the inspection shall take place at a mutually agreed upon

time during normal business hours, at the Association's principal office or at such place within Kaufman County, Texas as the Board shall designate; or

(ii) if copies of identified books and records are requested, the Association shall produce the requested books and records, to the extent required under this subsection (c) and in the possession, custody, or control of the Association; provided, if the Association is unable to do so, it shall give the requestor written notice that it is unable to do so within such time period, stating a date within 15 business days after the date of such notice by which the information will be sent or made available for inspection.

(d) **Records Production and Copying Policy.** The Board shall adopt and record a records production and copying policy that prescribes the costs the Association will charge to an Owner for the compilation, production, and reproduction of information requested by the Owner or its authorized representative under this Section, subject to the limitations set forth in Texas Property Code §209.005(i) ("**Authorized Charges**"). No charge shall be made pursuant to such policy until the policy has been recorded as required by Texas Property Code §209.005 and §202.006. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the actual Authorized Charges vary from the estimate, the Association shall submit a final invoice to the Owner on or before the 30th business day after the date the information is delivered reflecting the variance and any balance or refund due. Any balance due which is not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Owner may be added to the Owner's account as an assessment. Any amount paid in excess of the Authorized Charges shall be refunded to the Owner not later than the 30th business day after the date the invoice is sent to the Owner.

(e) **Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

(f) **Minutes and Presumptions Thereunder.** Minutes or any similar record of the meetings of the Members or of the Board, when signed by the Secretary or acting secretary of the meeting, shall be presumed to truthfully evidence the matters set forth therein. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

9.5. Notices

(a) **Form of Notice and Method of Delivery.** Except as otherwise provided in the Charter or these Bylaws or by Texas law, all notices, demands, bills, statements, or other communications to be given under the Charter or these Bylaws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has provided a telephone facsimile number or an email address for use by the Association and given its prior written authorization to use such method of delivery, by facsimile or electronic mail with printed confirmation of transmission. It is the responsibility of each Member to give notice to the Association of any change in the Member's address, facsimile number, or email address. Where the Governing Documents or applicable law require notice to an Owner or Member, notice given to any co-Owner of a Unit shall be deemed notice to all co-Owners of such Unit.

(b) **Delivery Address.** Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member or Voting Delegate, at the mailing address, telephone facsimile number, or e-mail address which the Member or Voting Delegate has designated by notice to the Secretary in ac-

cordance with this Section 9.5 or, if no such address or number has been designated, at the address of the Unit of such Member or Voting Delegate;

(ii) if to the Association, the Board, or a committee of either, at the mailing address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association has designated by notice to the Members in accordance with this Section 9.5; or

(iii) if to the Founder, at the Founder's principal address as it appears on the Secretary of State's records, or at such other address as the Founder has designated by notice to the Association in accordance with this Section 9.5.

(c) **Effective Date.** Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U. S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.6. Amendment

(a) **By Founder and Board.** Prior to termination of the Development and Sale Period, the Founder may unilaterally amend these Bylaws. In addition, the Board, with the consent of the Founder during the Development and Sale Period, may unilaterally amend these Bylaws at any time and from time to time if such amendment is necessary: (i) to correct typographical errors, incorrect cross-references, improper designation of sections and subsections, or mistakes in punctuation; (ii) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (iii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iv) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units.

(b) **By Members Generally.** Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing at least 67% of the total votes in the Association, and the consent of the Founder during the Development and Sale Period. Notwithstanding the above, no amendment to these Bylaws may conflict with the Charter and no amendment reducing or eliminating the vote or approval for action under a particular clause may be amended without the same votes and approval required for action to be taken under that clause. Any amendment pursuant to this subsection (b) shall be prepared and signed by the President or Vice President and by the Secretary or Treasurer of the Association certifying that the requisite approval was obtained.

(c) **Validity and Effective Date of Amendments.** Amendments to these Bylaws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Bylaws.

No amendment may remove, revoke, or modify any right or privilege of Founder or the Founder Member without the written consent of Founder, the Founder Member, or the assignee of such right or privilege.

CH TNC Mesquite/CA Docs/Bylaws 052224-jlb

CERTIFICATION

We, the undersigned, do hereby certify:

That we are the duly elected and acting President and Secretary of Talia Community Association, Inc., a Texas nonprofit corporation;

That the foregoing Bylaws constitute the original Bylaws of the Association, as duly adopted by its Board of Directors on the 12th day of June, 2024.

IN WITNESS WHEREOF, we have executed this certification on behalf of the Association this 23rd day of July, 2024.

TALIA COMMUNITY ASSOCIATION, INC., a Texas non-profit corporation

By: [Signature]
President

Attest: [Signature]
Secretary

EXHIBIT "F"

Design Guidelines

The Community is subject to the development and design standards applicable to residential properties which are part of the Spradley Farms Amended and Restated Master Development Agreement approved by City of Mesquite Ordinance No. 25-2020 and dated July 6, 2020, as it may be further amended (the "**Development Agreement**"). Such development and design standards are incorporated herein by reference and may be supplemented from time to time by amendment of this Exhibit "F." In the event of any conflict between the Development Agreement and this Exhibit "F," as it may be amended and supplemented from time to time, the Development Agreement shall control. However, where both address the same subject with different standards, the intent is that the more restrictive shall control and, to the extent possible, the Owner shall comply with both.

EXHIBIT "G"

Landscape Maintenance Standards

- I. Maintenance of landscaped areas shall include:
 - A. Mowing, edging and trimming of turf areas, repair of bald areas and areas of erosion, and reseeding and re-sodding to match existing turf, as necessary to maintain a full, uniform and relatively weed-free turf in areas designated for turf on approved plans
 1. Mowing of turf areas shall be performed at least weekly during the growing season, with mower heights set according to the type of turf and weather conditions, typically:
 - Bermudagrass: 1"
 - St. Augustine grass: 2-1/2"
 - Zoysia: 1"
 - Rye grass: 2 "Mower height shall be adjusted to prevent "scalping" or skinning of lawn.
 2. Edging of curbs, driveways, sidewalks, and planting beds, using a mechanical edger, shovel, or herbicide, as needed to maintain a manicured edge. Trimmings shall be blown back into the lawn area or collected and removed from the property.
 - B. Pruning and trimming of trees and shrubs, in accordance with good horticultural practices, as needed to maintain a healthy, attractive appearance and safe condition.
 1. Tree limbs shall be trimmed to within 8 feet of the trunk where the tree canopy extends over streets or sidewalks.
 2. Evergreen trees shall be thinned out and shaped as needed to minimize the risk of wind and storm damage.
 3. Primary pruning of deciduous trees shall be done during the dormant season. Pruning of trees prone to excessive "bleeding" shall not be done during the growth season.
 - C. Mulching of shrub and flower beds with pine straw or brown pine bark mulch or other mulch consistent with that used by the Association in its common areas, such mulch to be maintained to a depth of approximately 3" to reduce evaporation and frequency of watering
 - D. Regular weeding of shrub and flower beds to maintain a relatively weed-free condition. Weeds shall be removed by hand or using legally approved organic herbicides; use of pre-emergent herbicides shall be in accordance with restriction for the Edwards Aquifer Recharge Area. Beds shall not be irrigated for 48 hours after application of any herbicide spray.
 - E. Application of fertilizers, insecticides, fungicides, and herbicides as needed to protect lawns, trees, shrubs, and ground cover from damage by insects and disease infestation and maintain plant material in a healthy and attractive condition. Special effort shall be given to the control of fire ants using an organic product; after control is accomplished, the ant mounds shall be lowered and tamped to the existing grade. Application of pesticides or beneficial insect release for insect, pest and disease control shall be performed by a certified pesticide applicator. Spraying shall be done with extreme care to avoid all hazards to any person or pet in the area or adjacent areas.
 - F. Irrigation of landscaped areas as needed to maintain lawns, trees, and other plant material in healthy and attractive condition, subject to any government-imposed watering restrictions. Irrigation systems shall be maintained in proper working order and sprinkler heads shall be adjusted as needed to avoid spraying on

EXHIBIT "G"

Landscape Maintenance Standards

(continued)

windows, building walls, and impervious surfaces.

- G. Resetting plants as necessary to maintain proper grades or upright position and maintaining staking and guying as needed to maintain plants in an upright position.
 - H. Prompt removal and replacement of dead and dying trees, shrubs and other plant material with similar plant material of the most comparable size that can be planted with reasonable chance of survival
 - I. Removal of fallen leaves, branches, other debris, and trash at least weekly.
- II. PERFORMANCE STANDARDS.
- A. All work shall be performed in accordance with all applicable laws, codes, and regulations of governmental authorities having jurisdiction over such work
 - B. All maintenance, other than irrigation, shall be performed between the hours of 8:00 a.m. and 8:00 p.m.

EXHIBIT "G"

Landscape Maintenance Standards

(continued)

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