

**FATCO** - HY17040372-UL

**BYLAWS OF  
ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION**

**ARTICLE I – DEFINITIONS**

1. Association. "Association" shall mean and refer to ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION, a non-profit corporation organized under the laws of Texas, its successors and assigns.
2. Board of Directors. "Board of Directors" shall refer to the board of directors elected by the members of the Association.
3. Common Facilities. "Common Facilities" shall mean the sidewalks, parks, and entrance features of the Subdivision, landscaped areas established by the Developer for use as Common Facilities, and other areas owned by the Association.
4. County Clerk. "County Clerk" shall mean the County Clerk of Hays County, Texas.
5. Declarations and/or Restrictions. "Declaration" and/or "Restrictions" shall mean the Declarations and restrictions filed of record with the County Clerk for the Subdivision.
6. Dedicatory Instrument. "Dedicatory Instrument" shall mean each instrument governing the establishment, maintenance, and operation of the ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION, and includes a declaration or similar instrument subjecting real property to restrictive covenants, certificate of formation, bylaws, or similar instruments governing the administration or operation of a home owners association, to properly adopted rules and regulations of the home owners' association, or to all lawful amendments to the covenants, bylaws, instruments, rules, or regulations, including but not limited to those identified above under "Declaration". Dedicatory Instrument further shall mean the Certificate of Formation, Bylaws, and other rules, regulations, and resolutions filed of record with the County Clerk.
7. Directors. "Directors" shall mean and refer to any duly elected or appointed member of the Board of Directors.
8. Electronic ballot. "Electronic ballot" means a ballot: (a) given by: (1) e-mail; (2) facsimile; or (3) posting on an Internet website; (b) for which the identity of the property owner submitting the ballot can be confirmed; and (c) for which the property

owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

9. Lot. "Lot" shall mean any residential lot in the Subdivision, and identified in the documents filed of record, identified herein, and on record with the County Clerk.
10. Maintenance Charge. "Maintenance Charge" shall mean the periodic charge collected by the Association, (also known as maintenance fee or assessment) for each Lot in the Subdivision for the purpose of maintaining and improving the Subdivision.
11. Maintenance Fund. "Maintenance Fund" shall mean the amounts collected from time to time by the Association, upon payment of Maintenance Charges by the Owners.
12. Member. "Member" or "Members" shall mean and refer to all those Owners who are members of the Association as provided for in the Restrictions and/or in these Bylaws.
13. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
14. Plats. "Plats" shall mean the plat of the subdivision recorded in the County Clerk's office.
15. Record Date. "Record Date" shall mean the date that the notice of any annual or special meeting is mailed.
16. Regular Assessment. "Regular Assessment" shall mean the annual amount that each owner of property within a residential subdivision is required to pay to the Association, which is designated for use by the Association for the benefit of the property owners of the Subdivision, as provided by the Restrictions, and include maintenance charges and maintenance fees.
17. Special Assessment. "Special Assessment" shall mean any fee and/or due, other than a regular assessment, that each Member is required to pay to the Association, as established by the Members at an annual or special meeting of the members of the Association at which notice is given of the intent to establish a Special Assessment and which action of the Members authorizes the Association to charge for:
  - (a) Defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, repair, or replacement of a capital improvement in the Common Areas owned by the Association, including the

necessary fixtures and personal property related to such Common Areas, to the extent such expense is not sufficiently provided for with Regular Assessment funds;

(b) Maintenance and improvement of Common Areas owned by the Association; and/or

(c) Such other purposes of the home owners' association as stated in the Association's Certificate of Formation or the dedicatory instrument for the Subdivision.

18. Subdivision. "Subdivision" shall mean the Windy Hill Subdivision, Hays County, Texas, as shown on the Plat filed in the Map and Plat Records under Clerk's Document No. 1704361 in the Official Public Records of Hays County, Texas

#### ARTICLE II - Location

1. Principal Office Location. The principal office of the Association shall be located at 22711 Fossil Peak, San Antonio, Texas 78261, or at such other address the Board of Directors shall determine.
2. Mailing Address. The mailing address of the Association is P. O. Box 592016, San Antonio, Texas 78259, or at such other address the Board of Directors shall determine.

#### ARTICLE III - Membership

1. Membership Qualification. Every person or entity who is an Owner of a Lot shall be a Member of the Association, provided that any such person or entity who holds such interest merely as security for the performance of obligation shall not be a Member.
2. Membership Rights Dependent on being in Good Standing. Subject to any Texas law to the contrary, the rights of membership are subject to the payment of assessments and special assessments required by the Restrictions and/or as may be levied by the Association. The obligation of payments thereof is imposed against each Owner and becomes a lien upon the property against which such assessments are made as provided in the Restrictions.
3. Suspension of Membership Rights. Except as otherwise provided by Texas law, the membership rights of any person whose interest in the Subdivision is subject to assessments under the Restrictions may be suspended by action of the Board of Directors during the period when the assessments remain unpaid; but, upon payment

of such assessments, such member's rights and privileges shall be automatically restored.

4. Voting Rights of Members. Subject to the provisions of Section 209.0059, Texas Property Code, if such Member is not current by the Record Date of any year, then that Member shall not be entitled to vote at the annual meeting of the members and shall be deemed to have his/her rights and privileges automatically suspended until such member has paid all assessments current.

#### ARTICLE IV - Membership and Voting Rights

1. Two Classes of Members. The Association shall have two classes of voting members as set forth in the Restrictions.
2. Ballots.
  - (a) Any vote cast in an election or vote by a member of a HOMEOWNERS' association must be in writing and signed by the member or by the member's proxy.
  - (b) Electronic votes cast as provided by these Bylaws, constitute written and signed ballots.
  - (c) In an association-wide election, written and signed ballots are not required for uncontested races.
3. Number of Votes. All class A members, shall have the right to cast one (1) vote per Lot owned. Either the husband, wife, or bona fide head of the household may cast the vote(s) to which the Member is entitled to vote. Proxy votes may be cast pursuant to the provisions concerning same delineated in these Bylaws.
4. Eligibility to Vote. Subject to the provisions of Section 209.0059, Texas Property Code, to be entitled to vote, a member must be current in payment of all maintenance fees due by the Record Date.
5. Record Date. For the purpose of determining members entitled to notice or to vote at any meeting of the members or any adjournment thereof, the Record Date shall be the business date preceding the date on which notice of the meeting is mailed. The Record Date shall not be a date before March 15 of each year.
6. Voting Members' List for Meeting. (a) After fixing a record date for the notice of a meeting, the Board shall prepare an alphabetical list of the names of all of the Association's voting members who are entitled to notice of the meeting. The list must

show the address and number of votes each voting member is entitled to cast at the meeting. The Association shall maintain, through the time of the members' meeting, a list of members who are entitled to vote at the meeting but are not entitled to notice of the meeting. This list shall be prepared on the same basis and be part of the list of voting members.

(b) Not later than two (2) business days after the date notice is given of a meeting for which a list was prepared, as provided by (a) of this Section, and continuing through the meeting, the list of voting members must be available for inspection by any member entitled to vote at the meeting for the purpose of communication with other members concerning the meeting at the Association's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A voting member or voting member's agent or attorney is entitled on written demand to inspect and, subject to the limitations of Article VII of these Bylaws, to copy the list at a reasonable time and at the member's expense during the period it is available for inspection.

(c) The Association shall make the list of voting members available at the meeting, and any voting member or voting member's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment.

7. Voting by in Person or by Proxy. Subject to the provisions of Section 209.00592, Texas Property Code, the voting rights of a member may be cast or given:
  - (a) in person or by proxy at a meeting of the home owners' association;
  - (b) by absentee ballot in accordance with these Bylaws;
  - (c) by electronic ballot in accordance with these By laws; or
  - (d) by any method of representative or delegated voting provided by a dedicatory instrument.
8. Absentee or electronic ballot. An absentee or electronic ballot:
  - (a) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;
  - (b) may be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

- (c) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.
- 9. Solicitation for votes by absentee ballot. A solicitation for votes by absentee ballot must include:
  - (a) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;
  - (b) instructions for delivery of the completed absentee ballot, including the delivery location; and
  - (c) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."
- 10. If an electronic ballot is posted on an official Internet website of the Association, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.
- 11. Proxies. If a member elects to vote by proxy, the proxy must be executed in writing by the member or the member's attorney-in-fact, setting forth such member's designation of his attorney and proxy to act in his behalf at any meeting designated therein. Each such proxy shall be filed with the Secretary prior to or at the commencement of the meeting at which said proxy is to be used. Unless otherwise provided by the proxy, a proxy is revocable and expires 11 months after the date of its execution. A proxy may not be irrevocable for longer than 11 months.
- 12. Voting by Facsimile Transmission. If authorized by resolution of the Board of Directors for any specific matter that can be voted on, a member vote on any matter may be conducted by facsimile transmission.
- 13. Tabulation of and Access to Ballots.
  - (a) A person who is a candidate in a home owners' association election or who is otherwise the subject of an association vote, or a person related to that person within

the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code, may not tabulate or otherwise be given access to the ballots cast in that election or vote except as provided by this section;

(b) A person other than a person described by Subsection (a) may tabulate votes in an association election or vote but may not disclose to any other person how an individual voted.

(c) Notwithstanding any other provision of this chapter or any other law, a person other than a person who tabulates votes under Subsection (b), including a person described by Subsection (a), may be given access to the ballots case in the election or vote only as part of a recount process authorized by law.

14. Notice of Election of Association Vote.

(a) Not later than the 10th day or earlier than the 60th day before the date of an election or vote, a home owners' association shall give written notice of the election or vote to:

(1) each owner of property in the home owners' association, for purposes of an association-wide election or vote; or

(2) each owner of property in the home owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the home owners' association with the authority to elect or appoint board members of the home owners' association.

15. Recount of Votes.

(a) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation to the home owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004, Texas Property Code; or

(2) in person to the home owners' association's managing agent as reflected on the latest management certificate filed under Section 209.0041,

Texas Property Code, or to the address to which absentee and proxy ballots are mailed.

(b) The home owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this Subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

- (I) county judge;
- (II) county elections administrator;
- (III) justice of the peace; or
- (IV) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(c) Any recount under this Bylaw must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with this Bylaw. If the recount changes the results of the election, the home owners' association shall reimburse the requesting owner for the cost of the recount. The home owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

#### ARTICLE V - Property Rights and Rights of Enjoyment of Common Property

1. Right to use Common Facilities. Each Member shall be entitled to the use and enjoyment of the Common Facilities, subject to the Restrictions and any rules and regulations governing the use of the Common Facilities.
2. Delegation of Rights of Enjoyment. Any member's right of enjoyment in the Common Facilities may be delegated to the members of his or her family who reside in the Subdivision and such guests as are allowed by any rules and regulations of the Association concerning such rights of enjoyment. Such Member shall notify the Secretary in writing of the name of any such person and of the relationship of the



Member to such person. The rights and privileges of such person are subject to suspension under Article III, Paragraph 3 hereof, to the same extent as those of the Member.

#### ARTICLE VI - Association Purposes and Powers

1. Purpose of Association. In addition to the purposes set forth in the Certificate of Formation for the Association, the purposes for which the Association is organized are:
  - (a) To be a home owners association as defined by the Texas Property Code, and shall discharge the duties and obligations of a home owners association in interpreting and enforcing the Restrictions applicable to the Subdivision, according to the plats of said subdivision recorded in the Map Records of the County Clerk; and the entire income and principal of the endowment and assets of this corporation shall be held and distributed solely for such purposes, except for the modest amount needed for the expenses of administration of this corporation in order to effectuate the said purposes; and the making of distributions to organizations having the same purpose qualifying as exempt organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue law);
  - (b) To promote the safety, welfare and enjoyment of the residents of and owners of property within the Subdivision;
  - (c) To promote the safety, welfare and enjoyment of the residents of and owners of property within the Subdivision;
  - (d) To the extent authorized by the Restrictions, to compute, assess, collect and enforce the payment of all charges to which the property within the Subdivision is subjected or may be subjected hereby and/or under or by virtue of any reservations, restrictions and covenants applicable to the Subdivision on file in the Official Records of the County Clerk;
  - (e) To operate, maintain, supervise and protect all areas and facilities owned by or conveyed to the corporation from time to time for the common use of its members, and to install or construct improvements upon such areas and facilities;
  - (f) To maintain the sidewalks and other pedestrian ways as required by Hays County, Texas.

- (g) To the extent authorized by the Restrictions, to approve or disapprove plans, specifications and elevations for any building, structure or improvement and for any structural alterations or additions, or other alterations or additions affecting exterior appearance, in or to any building, fence, structure or other improvement within the Subdivision, and to establish design and construction criteria and requirements in connection therewith;
  - (h) To exercise and perform any and all other rights, powers, duties and remedies granted to or imposed upon the corporation by the Restrictions, by any easement granted to the corporation, or by any other instrument granted to or for the benefit of the corporation; and
  - (i) To do or cause to be done all things and acts permitted by the laws of the State of Texas incident to, necessary, or proper to carry out the purposes for which non-profit corporations may be formed and to have all the powers enumerated in the Texas Property Code for home owners associations and in the Texas Business Organizations Code for non-profit corporations, including but not limited to for any lawful purpose or purposes not expressly prohibited under chapters 2 or 22 of the Texas Business Organizations Code, including any purpose described by section 2.002 of the Code.
- 2. Texas Tax Code Statement. Pursuant to Texas Tax Code Section 171.082, and in extension of and not limitation of the purposes set forth in the Certificate of Formation for the Corporation, (1) the corporation is organized and operated primarily to obtain, manage, construct, and maintain the property in or of a residential condominium or residential real estate development; and (2) the owners of individual lots, residences, or residential units control at least 51 percent of the votes of the corporation and that voting control, however acquired, is not held by: (A) a single individual or family; or (B) one or more developers, declarants, banks, investors, or other similar parties;
- 3. Limitations on Distributions and Activities. No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its members, Directors, Officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in the furtherance of the purposes set forth in Article Four hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence Legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Notwithstanding any other provisions of these Articles, the corporation shall not carry any other activities not permitted to be carried on (a) by an organization exempt from Federal Income Tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue law) or (b) by an organization, contributions to which are deductible under Section 170 of the Internal Revenue Code of 1954 (or the corresponding provisions of any future United States Internal Revenue law).

4. Mortgage of Association Properties. The Association shall have power to mortgage its properties with the assent of a majority of the votes of the Members who are voting in person or by proxy at a meeting called for such purpose, written notice of which shall be mailed to all Members as least thirty (30) days in advance and shall set forth the purpose of the meeting.

#### ARTICLE VII - Board of Directors

1. Management of Association. The business and affairs of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things as are allowed by statute, the Certificate of Formation, these Bylaws or the Restrictions directed or required to be exercised or done by the Members.
2. Powers of the Board of Directors. Notwithstanding anything to the contrary contained in any provision of these Bylaws, the Association shall act through its Board of Directors, which shall manage the affairs of the Association. By way of illustration, but not in limitation, the Board of Directors shall have the power to:
  - a. Adopt and publish rules and regulations governing use of the common area and facilities, including but not limited to solar panels, roofing, architectural control matters, and the personal conduct of the members and their guests thereon, and to establish penalties for infraction thereof;
  - b. Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association, as hereinbefore stated. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
  - c. Charge fines for violations of the Declarations;

- d. Exercise for the Association all powers, duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Certificate of Formation, or the Restrictions;
  - e. Declare the office of a member of the Board of Directors to be vacant in the event each such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
  - f. Employ a manager, secretary, attorneys, independent contractors, and/or such other employees as they deem necessary, and to prescribe and oversee their duties.
3. Number of Directors. The number of directors shall be three (3), and may be enlarged or decreased by the members of the Association by amendment to this Bylaw, provided that, in no event, shall the number of directors be reduced to be less than three (3).
4. Terms of Directors. Directors shall be elected for terms of three (3) years.
5. Election of Board Members. Any board member whose term has expired must be elected by owners who are members of the home owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.
6. Current Directors and Length of Terms. The current Directors are as follows:
- |              |                  |                          |
|--------------|------------------|--------------------------|
| Place One:   | TODD BUREK       | (current term ends 2021) |
| Place Two:   | STEVEN GREENBERG | (current term ends 2020) |
| Place Three: | MIA NATALINO     | (current term ends 2019) |
7. Schedule for Election of Directors. The following Schedule is established for the annual election of directors, starting with the annual meeting of the members in 2017:
- (a) At the 2019 annual meeting of the members of the Association, the members shall elect a director for Place Three, who shall serve for three (3) years until his successor is elected at the annual meeting in 2022.
  - (b) At the 2020 annual meeting of the members of the Association, the members shall elect a director for Place Two, who shall serve for three (3) years until his successor is elected at the annual meeting in 2023.

- (c) At the 2021 annual meeting of the members of the Association, the members shall elect a director for Place One, who shall serve for three (3) years until his successor is elected at the annual meeting in 2024.
8. Nominating Committee: On or before June 1 of each year, the Board of Directors shall appoint a Nominating Committee of three (3) members of the Association, one of which can be a Director provided that such Director is not up for re-election. A person appointed to the committee cannot become a candidate for the Board of Directors. Said Committee shall have the responsibility of soliciting at least two (2) and not more than three (3) persons to become candidates for each of the vacancies on the Board of Directors of the Association, of preparing and mailing ballots and voting instructions to each member entitled to vote, notifying each elected director of his election, and such other related duties as the Board of Directors may direct. The Nominating Committee shall present the list of candidates to the Secretary on or before the first day of July in each such year an election is to take place.
  9. Call for Election: On or before the first day of March of each year, the Secretary shall examine the list of candidates, certifying them as eligible to vote and to hold office, and shall issue the call for the election to be with ninety (90) days or at such other time as the Board may direct. The Board may have ballots prepared and mailed to each qualified voter, according to the then records of the Association, in which event said ballot will be so mailed no later than ten (10) days or earlier than sixty (60) days next preceding the election. The Board shall prescribe and organize the mechanics of the actual balloting giving particular consideration to the qualifications and/or eligibility of those voting. None of the foregoing shall operate to deprive qualified voters to write in the candidate of their choice, subject to certification by the Secretary of such write-in candidate's eligibility and willingness to serve, or to vote by proxy.
  10. The Ballot. When ballots are used, the ballot shall be printed, and shall clearly describe the office, position, or vacancies for which the candidates are running, and the names of the candidates to be voted upon. No ballot will be considered which is not received at the office of the Association prior to seven o'clock p.m. of the election day. Ballots received by said time, either by mail or in person, shall be counted, subject to voter and candidate eligibility; all other ballots shall be declared void. Election to the Board of Directors shall be written ballot; the ballots shall show the name of the member voting and the number of lots owned. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they

are entitled to cast under the provisions of these Bylaws. The person receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

11. Removal of Director.

(a) Except as hereinafter provided in Section 4, any Directors may be removed either for or without cause, at any special meeting of the Members of the Association by the affirmative vote of a majority. in number of votes present in person or by proxy at such meeting and entitled to vote for the election of Directors, if notice of the intention to act upon such matter shall have been given in the notice calling such meeting.

(b) If the Board of Directors is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the Association, automatically considered removed from the board, and prohibited from future service on the board.

12. Vacancies on Board of Directors.

(a) Any board member whose term has expired must be elected by owners who are members of the home owners' association.

(b) A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability.

(c) A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

(d) If any vacancy occurs in the Board of Directors, caused by death, resignation, retirement, disqualification or removal from office of any Directors or otherwise, a majority of the Directors then in office, though less than a quorum, may choose a successor or successors, or a successor or successors may be chosen at a special meeting called for that purpose, and each successor Director so chosen shall be elected for the unexpired term of his or her predecessor in office.

(e) Any Directorship to be filled by reason of the retirement, disqualification or removal shall be filled by election at an annual meeting of Members or at a special meeting called for that purpose.

(f) Any Directorship to be filled by reason of any increase in the number of Directors shall be filled by election at an annual meeting of Members or at a special meeting called for that purpose.

13. No Compensation for Directors. The Directors shall serve without compensation. Upon resolution by the Board of Directors, any Director may be reimbursed for any out of pocket expenses approved by the Board of Directors, with the Director to whom such reimbursement is to be made shall excuse himself or herself and abstaining from any vote on such reimbursement of out of pocket expenses.
14. Services. No Director of the Association shall be required to devote his/her time or render services exclusively to the Association. Each Director shall be free to engage in any and all other business and activities either similar or dissimilar to the business of this Association. Likewise, each and every Officer shall be free to act for and service any other Association or Associations, entity or entities, in any capacity, whether or not the purposes, business and activities thereof are similar or dissimilar to those of this Association, without breach of any duty to this Association or its Members. No contract or other transaction of this Association shall ever be affected by the fact that any Director of this Association is interested in, or connected with any party to such contract or transaction, provided that such contract or transaction shall be approved by a majority of the Officers not so interested or connected.

#### ARTICLE VIII - Meetings of the Board of Directors

1. Place of Meeting. The Directors of the Association shall hold their meetings, both regular and special, within or without the State of Texas.
2. Annual Meeting of Directors. The first meeting of each newly constituted Board of Directors shall be held without further notice immediately following the annual meeting of Members of the Association, and at the same place, unless by unanimous consent of the Directors then elected and serving such time or place shall be changed.
3. Regular Meetings of Directors. Except as otherwise provided by these Bylaws, regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board of Directors.
4. Special Meetings of Directors. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, either personally or by mail, electronic message (i.e. e-mail), or by telegram; special meetings shall be called by the President or Secretary in like manner and on like notices on the written

request of two (2) Directors. Except as may be otherwise expressly provided by Texas law, the Certificate of Formation, these Bylaws or the Restrictions, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in a notice or waiver of notice.

5. Quorum. At all meetings of the Board of Directors, the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the act of a majority of the Directors, when present at any meeting at which there is a quorum, shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, the Restrictions, Certificate of Formation, or these Bylaws. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.
6. Manner of Acting. The act of a majority of directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.
7. Action Without Meeting. Any action required by law to be taken at a meeting of the directors, or any action which may be taken at a meeting of the directors, may be taken without a meeting if a consent in writing setting forth the action to be taken, shall be . signed by all the directors.
8. Open Board Meetings.
  - (a) "Board Meeting" (1) means a deliberation between a quorum of the voting board of the Association, or between a quorum of the voting Board of Directors and another person, during which the Association's business is considered and the Board of Directors takes formal action; and (2) does not include the gathering of a quorum of the Board of Directors at a social function unrelated to the business of the Association or attendance by a quorum of the Board of Directors at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.
  - (b) Regular and special meetings of the Board of Directors must be open to owners, subject to the right of the Board of Directors to adjourn a Board of Directors meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement



actions, confidential communications with the home owners' association's attorney, matters that are to remain confidential by request of the affected parties and agreement of the Board of Directors. 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 individual 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.

(c) Except for a meeting held by electronic or telephonic means a Board of Directors meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

The Board of Directors shall keep a record of each regular or special Board of Directors meeting in the form of written minutes of the meeting. The Board of Directors shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the home owners' association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the Board of Directors.

Members shall be given notice of the date, hour, place, and general subject of a regular or special Board of Directors meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be: mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or provided at least 72 hours before the start of the meeting by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to home owners' association members:

(i) in a place located on the association's common property or,

(ii) with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or on any Internet website maintained by the association or other Internet media; and sending the notice by email to each owner who has registered an e-mail address with the association.

It is an owner's duty to keep an updated e-mail address registered with the home owners' association.

If the Board of Directors recesses a regular or special Board of Directors meeting to continue the following regular business day, the Board of Directors is not required to post notice of the

continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special Board of Directors meeting is continued to the following regular business day, and on that following day the Board of Directors continues the meeting to another day, the Board of Directors shall give notice of the continuation in at least one manner prescribed by Subsection 2(A) within two hours after adjourning the meeting being continued.

A Board of Directors may meet by any method of communication, including electronic and telephonic, without prior notice to owners under, if each director may hear and be heard by every other director, or the Board of Directors may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board of Directors action. Any action taken without notice to owners must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special Board of Directors meeting. The Board of Directors may not, without prior notice to owners, consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval; or
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a Board of Directors meeting to present the owner's position, including any defense, on the issue.

#### ARTICLE IX - Committees and Managing Agents

1. Appointment of Committees Consisting of Directors. The Board of Directors may, by resolution passed by a majority of the entire board, designate one or more committees, to consist of two or more of the Directors of the Association. Any such committee, to the extent provided in said resolution, shall have and may exercise all

of the authority of the Board of Directors in the management of the business and affairs of the Association, except where action of the full Board of Directors is required by structure, the Restrictions or by the Certificate of Formation

2. Appointment of Committees Not Limited to Directors or Members. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the Association may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by like resolution of the Board of Directors. Membership on such committee, may, but need not be, limited to Directors or members of the Association.
3. The "Architectural Committee" shall exercise the functions required of such a committee under the recorded Restrictive covenants applicable to the Subdivision. The Architectural Committee is not limited to, but shall have at least three (3) Members from the Association and or employees of the Developer of the Subdivision. Any member of such committee may be removed by a majority vote of the Board of Directors when in the Board of Directors' judgment the best interest of the Association and the Lot Owners in the Subdivision shall be served by each removal. The Board of Directors shall appoint one of the members of the Architectural Committee as the chairperson of this committee unless deemed otherwise by the Board.
4. Other committees. Other committees may be formed or disbanded as desired by the Association Board of Directors. The Membership of other committees is at the discretion of the Association Board of Directors.
5. Minutes of Committee Proceeding All committees shall keep regular minutes of their proceedings and shall report the same to the Board of Directors when required.
6. Employment of Management Agent. The Board of Directors may employ for the Association a management agent at a compensation established by the Board of Directors and such management agents shall perform such duties and services as the Board of Directors shall authorize. The Board of Directors may employ as management agent the Developer, its subsidiaries or affiliates, provided that the compensation to the Developer, its subsidiaries or affiliates shall not exceed the fair market rate for such services.

#### ARTICLE X - Officers

1. Officers Elected by Board. The officers of the Association shall be elected by the Directors and shall be a President, a Secretary and a Treasurer. The Board of Directors may also choose one or more Vice Presidents. Any two or more offices may be held by the same person except that the offices of President and Secretary shall not be held by the same person.
2. Election at Annual Meeting of Board. The Board of Directors, at its first meeting after each annual meeting of Members, shall choose a President, a Secretary, and a Treasurer, anyone or all of whom may be members of the Board. The Board of Directors may also elect such Vice Presidents, Assistant Secretaries and Assistant Treasurer as it may determine.
3. Additional Officers and Agents. The Board of Directors may appoint such other officers and agents as it shall deem necessary, who shall be appointed for such terms and shall exercise powers and perform such duties as shall be determined from time to time by the Board of Directors.
4. Compensation of Officers and Agents. The salaries (if any) of all officers and agents of the Association shall be fixed by the Board of Directors.
5. Term of Office. Each officer of the Association shall hold office until the annual meeting of the Board of Directors next following his election and thereafter until his successor is chosen and qualified in his stead or until his death or until his resignation or removal from office.
6. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from office at any time by the affirmative vote of a majority of the entire Board of Directors whenever in their judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.
7. Vacancies. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors for the unexpired portion of the term.
8. President. The President shall be the Chief Executive Officer of the Association, and shall in general, supervise and control all of the business and affairs of the Association. The President shall preside at all meetings of the Members and the Board of Directors, shall have general and active management of the business and affairs of the Association, shall see that all orders and resolutions of the Board of Directors are

carried into effect, and shall perform such other duties as the Board of Directors shall from time to time prescribe. He may sign, with the Secretary, or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, checks drawn against the Association, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors, or by these Bylaws, or by statute to some other officer or agent of the Association.

9. Vice-President. Each Vice President shall have such powers and perform such duties as the Board of Directors may from time to time prescribe or as the President may from time to time delegate to him. In the absence of the President or in the event of his inability or refusal to act, the Vice- President shall perform the duties of the President, and when so acting, shall have all of the power of, and be subject to all the restrictions upon the President.
10. Secretary. The Secretary shall attend all sessions of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for any committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or the President, under whose supervision he shall be. Each Assistant Secretary shall have such powers and perform such duties as the Board of Directors may from time to time prescribe or as the President may from time to time delegate to him.
11. Treasurer. The Treasurer shall have the custody of the corporate funds and securities and shall keep full and accounts of receipts and disbursements and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association as may be ordered by the Board of Directors, taking proper vouchers for such disbursement, and shall render to the President and Directors, at the regular meetings of the Board of Directors, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association, and shall perform such other duties as the Board of Directors may prescribe. If required by the Board of Directors, he shall give the Association a bond in such form, in such sum, and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his office and for the restoration to the Association, in case of his death, resignation, retirement or removal from office, of all books, paper, vouchers, money and other property of

whatever kind in his possession or under his control belonging to the Association. Each Assistant Treasurer shall have such powers and perform such duties as the Board of Directors may from time to time prescribe.

#### ARTICLE XI - Meetings of the Members

1. Annual Meetings. The annual meeting of the Members shall be held on such date and at such time as the Board of Directors shall determine. If the day for the annual meeting of the Members shall fall upon a holiday, the meeting may be held at the same hour on the first Saturday following which is not a holiday, at the designation of the Board of Directors. Failure to hold the annual meeting at the designated time shall not work a dissolution of the Association.
2. Failure to Hold Annual Meeting.
  - (a) In the event the Board of Directors does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand.
  - (b) The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the home owners' association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.
  - (c) If the board does not call a meeting of the members of the home owners' association on or before the 30th day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.
  - (d) A notice filed by an election committee must contain:
    - (1) A statement that an election committee has been formed to call a meeting of owners who are members of the home owners' association for the sole purpose of electing board members;
    - (2) the name and residential address of each committee member; and
    - (3) the name of the subdivision over which the home owners' association has jurisdiction under a dedicatory instrument.

- (e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.
  - (f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.
  - (g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.
  - (h) The election committee may call meetings of the owners who are members of the home owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the home owners' association apply to any meeting called by the election committee.
3. Special Meetings. Special meetings of the Members for any purpose may be called at any time by the President, or by any two (2) or more Members of the Board of Directors, or upon written request of the Members who have a right to vote one-fourth (1/4th) of all of the votes of the entire membership.
4. Notice of Meetings. Written notice of any meetings shall be given to the Members by the Secretary. Notice may be given to the Members either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid to his address appearing on the books of the Association. Notice of any meeting, regular or special, be mailed not less than ten (10) nor more than sixty (60) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve any action governed by the Certificate of Formation or by the Restrictions, notice of such meeting shall be given or sent as therein provided.
5. Member Contact Information. Each member shall register his address with the secretary, and notices of meetings, regular or special, shall be mailed to him at such address. It is the responsibility of the Member to provide the Association with current mailing and email addresses, and the Association assumes no responsibility should

any notices not be received by the Member provided that the Association forwards such notice to the address provided the Association by the Member.

6. Notice e-mail. Any Member may request that notice be transmitted electronically by providing the Association's Secretary a valid e-mail address. Upon providing such e-mail address the Association may transmit any and all notices to such member at such email address. Members are encouraged to provide an e-mail address to help reduce the operational cost of postage and mail-out required by these Bylaws and Texas Law.
7. Waiver of Notice. Notice may be waived in writing signed by the person or persons entitled to such notice. Such waiver may be executed at any time before or after the holding of such meeting. Attendance at a meeting shall constitute a waiver of notice, except where the person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.
8. Location of Meetings. Meetings of members shall be held at the office of the Association, if one is established in the Subdivision, or at such other place, within or without the State of Texas, as may be stated in the notice of the meeting or in a duly executed waiver of notice thereof.
9. Quorum. The presence at the meeting of Members entitled to cast ten (10 %) of the votes entitled to be voted at such meeting, shall constitute a quorum for any action governed by these Bylaws.
10. Action Required. At a meeting at which a quorum is present, the vote of the majority of the members in person or represented by proxy shall decide any question brought before the meeting, unless the question is one upon which the vote of a greater number is required by law, the Certificate of Formation or these Bylaws. The members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

#### ARTICLE XII - Notices

1. Type of Notice. Whenever under the provisions of the statute, the Certificate of Formation, these Bylaws or the Restrictions, notice is required to be given to any Directors or Member and no prevision is made as to how such notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing, electronic message (i.e, e-mail), by mail, postage prepaid, addressed to such Directors or Member at such address as appears on the records of the Association.



Any notice required or permitted to be given by mail shall be deemed to be given at the time the same is deposited in the United States mail as aforesaid.

2. Waiver of Notice. Whenever any notice is required to be given to any Member or Directors of the Association under the provisions of any applicable statute, the Certificate of Formation, these Bylaws of the Restrictions, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated in such notice, shall be deemed equivalent to the giving of such notice.

#### ARTICLE XIII - Special Assessments

1. Establishment of Special Assessment for Capital Projects. In addition to the Maintenance Fee assessment set forth in the Restrictions, the members of the Association may adopt a special assessment for capital projects, in such amount as may be established by the Association at a special or annual meeting at which notice for an election for the assessment of said Special Assessment is given. Should the special assessment be approved by a majority vote of the members, represented in person or by proxy, of the Home Owners Association at the annual meeting of the Home Owners Association, then the Special Assessment shall become effective on the date noticed, with the proceeds from such special assessment being ear-marked for the specific purpose set forth in the notice of such election. Said Special Assessment shall be secured by a lien against said lot, and failure to pay said Special Assessment shall constitute a foreclosure lien against said lot. This lien is in the form of an assessment to run with the ownership of said lots. The Special Assessment shall be deemed delinquent if not paid within thirty (30) days of the date set forth in the notice as being the date the Special Assessment is due.
2. Purpose of Special Assessment. The Special Assessment shall be used for only the following purposes:
  - (a) To defray, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, repair, or replacement of a capital improvement in the Common Areas, including but not limited to the streets and roads in the Subdivision, owned by the Association, including the necessary fixtures and personal property related to such Common Areas, to the extent such expense is not sufficiently provided for with Regular Assessment funds;
  - (b) For maintenance and improvement of Common Areas owned by the Association; and/or

(c) For such other purposes of the home owners' association as stated in the Association's Certificate of Formation or the dedicatory instrument for the Subdivision.

#### ARTICLE XIV - Books and Records

1. The Association adopts this Article XIV of these Bylaws to comply with Section 209.005, Texas Property Code. In the event of a conflict between this Article XIV and Section 209.005, Section 209.005 shall control.
2. The Association shall make the books and records of the Association, including financial records, open to and reasonably available for examination by an owner, or a person designated in writing signed by the owner or the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the Association copies of information contained in the books and records, except as provided herein.
3. An attorney's files and records relating to the Home Owner's Association, excluding invoices requested by an owner under Section 209.008 (d) of the Texas Property Code, are not records of the Association and are not subject to inspection by the owner; or production in a legal proceeding. If a document in an attorney's files and records relating to the Association would be responsive to a legally authorized request to inspect or copy Association documents, the document shall be produced by using the copy from the attorney's files and records if the Association has not maintained a separate copy of the document. This Bylaw does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.
4. An owner or the owner's authorized representative described by Section 2 of this Bylaw must submit a written request for access or information under Section 2 by certified mail, with sufficient detail describing the Home Owners' Association's books and records requested; to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed with the County Clerk. The request must contain an election either to inspect the books and records before obtaining copies or have the Home Owners' Association forward copies of the requested books and records and if an inspection is requested, the Association, on or before the 10th business day after the date the Association receives the request; except as otherwise provided by this section.

5. If the Association is unable to produce the books or records requested under Article XIV, Section 4 on or before the 10 business day after the date the Association receives the request, the Association will provide to the requestor written notice that:
  - (a) informs the requestor that the Association is unable to produce the information on or before the 10th business day after the date the Association received the request; and
  - (b) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.
6. If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the Home Owners' Association to copy and forward to the requesting party.
7. The Association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the Association.
8. The Board of Directors shall adopt a records production and copying policy that prescribes the costs the Association will charge for the compilation, production, and reproduction of information requested under this section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3. The policy required by this subsection shall be recorded as a dedicatory instrument in accordance with Section 202.006, Texas Property Code. The Association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by the Association's Records Policy filed with the County Clerk. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this Bylaw. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the Association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the Association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice

amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

9. A Home Owners' Association must estimate costs under this section using amounts prescribed by the policy adopted under Section 8 of this Article XIV.
10. Except as provided by this Article XIV, and to the extent the information is provided in the meeting minutes, the Association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due to the Association, an owner's contact information, other than the owner's address, or information related to an employee of the Association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.
11. The books and records described by Section 10 of this Article XIV shall be released or made available for inspection if:
  - (a) the express written approval of the owner whose records are the subject of the request for inspection is provided to the home owners' Association; or
  - (b) a court orders the release of the books and records or orders that the books and records be made available for inspection.
12. The Board shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:
  - (a) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
  - (b) financial books and records shall be retained for seven years;
  - (c) account records of current owners shall be retained for five years;
  - (d) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
  - (e) minutes of meetings of the owners and the board shall be retained for seven years; and
  - (f) tax returns and audit records shall be retained for seven years.

13. A member of the Association who is denied access to or copies of Association books or records to which the member is entitled under this Article XIV of these Bylaws may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the Association is located requesting relief in accordance with Article XIV of these Bylaws. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:
  - (a) a judgment ordering the Home Owners' Association to release or allow access to the books or records;
  - (b) a judgment against the Home Owners' Association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or
  - (c) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the Home Owners' Association.
14. If the Home Owners' Association prevails in an action under Section 13 of this Article XIV of the Bylaws, the Association is entitled to a judgment for court costs and attorney's fees incurred by the Association in connection with the action.
15. On or before the 10th business day before the date a person brings an action against the Association under this section, the person must send written notice to the Association of the person's intent to bring the action. The notice must:
  - (a) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the Association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and
  - (b) describe with sufficient detail the books and records being requested.
16. For the purposes of this Article XIV of these Bylaws, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.
17. Annual Audit. If requested by three or more members, a review of books and records shall be made by a Certified Public Accountant selected by the Board of Directors. Such review shall not be required more than annually.

ARTICLE XV - Miscellaneous; Fiscal Matters

1. Charges. The Board of Directors shall compute, assess, collect and enforce the payment of all charges to which the Subdivision is subjected or may be subjected under or by virtue of the Restrictions and Bylaws.
2. Dividends. No dividends shall be paid and no part of the income of the Association shall be disbursed to its Members, Directors, or Officers. The Association may pay compensation in a reasonable amount to its Members or Officers for services rendered, but only as permitted by the applicable statutes.
3. Agreements. All agreements, contracts, deeds, leases, and other instruments of the Association shall be executed by at least two (2) officers of the board or such other person or persons as may be designated by resolution of the Board. Such authority may be general or confined to specific instances.
4. Checks. All checks or demands for money and notes of the Association shall be signed by such officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Checks and Drafts. All checks, drafts, or orders for payment of money, notes or other evidences of indebtedness issued in the name of Association shall be signed by such Officer or Officers of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. Such instruments shall be signed by two (2) of the officers designated by the Board to sign the documents.

Deposits. All funds of the Association shall be deposited to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select.

Gifts. The Directors may accept on behalf of the Association any contributions, gifts, bequests or items for the general purposes or for any special purpose of the Association.
5. Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

6. Seal. The corporate seal, if any, shall be in such form as may be determined by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.
7. Indemnification. Except as may otherwise be provided by Article 1396-2.22A, Texas Non-Profit Corporations Act, and/or Section 8.051, Texas Business Organizations Code, or as may be ordered by a court pursuant to Section 8.052, Texas Business Organizations Code, or by Article 1396-2.22A, Texas Non-Profit Corporations Act, the Association shall indemnify any Directors, Officer, or employee of the Association, against expenses actually and necessarily incurred by him and any amount paid in satisfaction of judgments in connection with any action, suit or proceedings, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a Director, Officer, or employee (whether or not a Director, Officer, or employee at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be judged in such action, suit, or proceedings to be liable for gross negligence or willful misconduct in the performance of duty. The Association may also reimburse to any Director, Officer or employee the reasonable costs of settlement of any such action, suit or proceedings, if it shall be found by a majority of a committee of the Directors not involved in the matter in controversy, whether or not a quorum, that it was in the interest of the Association that such settlement be made and that such Director, Officer or employee was not guilty of gross negligence or willful misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, Officer, or employee may be entitled by law or under any Bylaw, agreement, vote of Members or otherwise. Nothing in this Section shall prevent permissive indemnification as authorized by Section 8.01 through 8.152, Texas Business Organizations Code, or by Article 1396-2.22A, Texas Non-Profit Corporations Act.
8. Online Subdivision Information. The Association shall make dedicatory instruments relating to the association or subdivision and filed with the County Clerk records available on a website if the association has, or a management company on behalf of the association maintains, a publicly accessible website.
9. Texas Property Code Controls. To the extent that any of these Bylaws conflict with the provisions of the Texas Property Code and/or the Texas Non-Profit Corporations Act and/or the Texas Business Organizations Code, as may be amended from time to time by the Texas Legislature, the Texas Property Code

and/or the Texas Non-Profit Corporations Act and/or the Texas Business Organizations Code shall control.

ARTICLES XVI - Amendment of Bylaws

These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted (a) by a majority of the Directors present at any meeting or special meeting of the Directors, where a quorum is present, if at least ten (10) days written notice is given of the intent to alter, amend, repeal, or adopt at such meeting, and/or (b) by a majority of the members entitled to vote, present at any annual meeting or any special meeting called for that purpose, where a quorum is present, if at least ten (10) days written notice is given on the intent to alter, amend, or repeal, or adopt new Bylaws at such meeting.

THESE BYLAWS have been voted on and adopted by the Board of Directors of the Association at a special meeting held on 4 April, 2018.

*Todd Burek*

Printed Name: TODD BUREK

*Steven Greenberg*

Printed Name: STEVEN GREENBERG

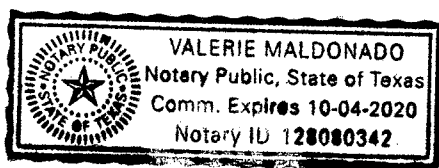
*Mia Natalino*

Printed Name: MIA NATALINO

STATE OF TEXAS §  
COUNTY OF Bexar §

This instrument was acknowledged before me on this the 4th day of April, 2018, by TODD BUREK, Director of the ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION.

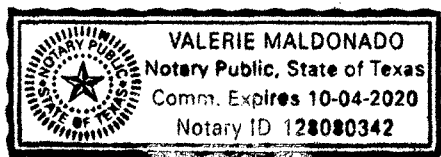
*Valerie Maldonado* exp. 10/4/20  
NOTARY PUBLIC, STATE OF TEXAS





STATE OF TEXAS §  
COUNTY OF Bexar §

This instrument was acknowledged before me on this the 4<sup>th</sup> day of April, 2018, by STEVEN GREENBERG, Director of the ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION.



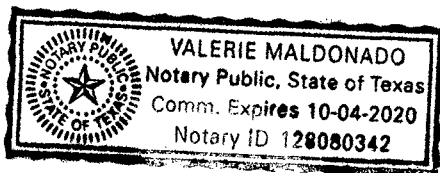
Valerie Maldonado  
NOTARY PUBLIC, STATE OF TEXAS  
exp. 10/4/20

STATE OF TEXAS §  
COUNTY OF Bexar §

This instrument was acknowledged before me on this the 4<sup>th</sup> day of April, 2018, by MIA NATALINO, Director of the ESTATES OF WINDY HILL HOMEOWNERS ASSOCIATION.

AFTER RECORDING RETURN TO:  
KRISTEN QUINNEY PORTER, LLC  
P.O. Box 312643  
New Braunfels, Texas 78131-2643

PREPARED IN THE LAW OFFICE OF:  
KRISTEN QUINNEY PORTER, LLC  
P.O. Box 312643  
New Braunfels, Texas 78131-2643



**FATCO** - 4/17/2018 40372-LL

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
WINDY HILL SUBDIVISION – 11 AC  
(AKA Windy Hill Subdivision)**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF WINDY HILL SUBDIVISION – 11 AC. ("Declarations" or "Restrictions") is made on the date hereinafter set forth by Silver Mount Holdings, LLC ("Declarant"), as follows:

THIS DECLARATION, made on the date hereinafter set forth by Silver Mount Holdings, LLC, a Texas limited liability company, acting herein by and through its duly authorized representatives, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the Owner of certain property in the County of Hays, State of Texas, being the certain residential subdivision to be known as WINDY HILL SUBDIVISION – 11 AC. which property is more particularly described on a plat recorded in the Map and Plat Records under Clerk's Document No. 17040361 of Hays County, Texas and is also known as the WINDY HILL SUBDIVISION; and

WHEREAS, it is deemed to be in the best interests of Declarant and any other person who may purchase property in WINDY HILL SUBDIVISION – 11 AC., that there be established and maintained a uniform plan for the improvement and development of WINDY HILL SUBDIVISION – 11 AC. as a highly restricted and modern residential subdivision of high quality; and,

WHEREAS, Declarant reserves and retains unto itself, the right, as it, in its sole discretion shall determine to (i) add to, annex or withdraw areas from WINDY HILL SUBDIVISION – 11 AC. and (ii) hereafter place and impose such restrictions, easements, covenants, conditions, stipulations and reservation on any and all remaining unrestricted properties or portions thereof, in WINDY HILL SUBDIVISION 11 AC. or any annexed property, in order to establish any plan chosen by Developer for the development, improvement and sale thereof.

NOW, THEREFORE, Except as stated below, Declarant hereby declares that all of the properties described on a plat recorded in the Map and Plat Records under Clerk's Document No. 17040361 in the Official Public Records of Hays County, Texas shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties, or any part thereof. Developer further declares that WINDY HILL SUBDIVISION – 11 AC. shall be subject to the jurisdiction of the Association (as hereinafter defined).

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to ESTATES OF WINDY HILL SUBDIVISION HOMEOWNERS ASSOCIATION, a Texas Non-Profit Corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simply title to any Building Plot, which is a part of the Properties, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Building Plot" shall mean and refer to each of the individual tracts of land or resubdivision of same, into which the Properties shall be divided for the location of two-family residential buildings thereon, each two-family residential building being for individual use and Ownership of a person desiring to own and operate such two-family residential building. Each Building Plot conveyed is designated "Lot" on the Plat. As of the date of these Restrictions it is intended that there will be 32 Buildings, each on its own Building Plot with two living Units per building and each Unit shall have a one (1) or two (2) car garage. In this instrument, the terms "Building Plot" and "Lot" shall have the same meaning.

Section 5. "Declarant" shall mean and refer to Silver Mount Holdings, LLC. its successors and assigns, if such successors and assigns should acquire more than one undeveloped Building Plot from the Declarant for the purpose of development.

Section 6. "Drainage Easement" shall mean those areas designated as a "Drainage Easement" on the Plat.

Section 7. "Plat" shall mean that map or plat depicting the properties comprising WINDY HILL SUBDIVISION – 11 AC. recorded in the Map and Plat Records at the Clerk's Office of Hays County, Texas under Document Number 17040361.

Section 8. "Unit" shall mean a living Unit of a duplex or two-family residential building constructed on a Building Plot.

Section 9. "Builder Member" means a Member, who is also a member approved by Declarant for the construction of a residence or residences within or upon a Building Plot for purposes of such construction and sales to others. The term "Builder Member" specifically includes the Declarant.

## **ARTICLE II**

### **PROPERTY RIGHTS**

Section 1. Common Areas. All Lots or Building Plots conveyed to the Association shall be common areas which are used for the benefit of the Lot Owners. Further, all sidewalks, whether conveyed to the Association or retained in the name of the Owner shall be considered common areas. The Association, in the future, may acquire and annex additional real property for use as Common Area. In such event, all such Common Areas are governed by all provisions herein relating to "Common Area" or Common Areas".

Section 2. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Building Plot, subject to the following provisions;

- (a) the right of the Association to make, publish and enforce reasonable Rules and Regulation for the use of the Common Area and any facilities situated thereon;

(b) the right of the Association, to the extent allowed under the current law, to suspend the voting rights and right to use of the facilities owned or operated by the Association by the Owner for any period during which any assessments against his Building Plot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(c) the right of the Association to grant or dedicate any part of the Common Area to any public agency, authority, or utility for any service to the Properties or a part thereof;

(d) the right of the Association to limit the number of guests of Owners using any portion of the Common Area and any facilities located thereon;

(e) the right of the Association, in accordance with Its Certificate of Formation or Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property. The rights of any such mortgage on said properties shall be subordinate to the rights of the Owners hereunder;

(f) the right of the Association to contract for exclusive services such as water, sanitary sewage and trash collection to each Building Plot; and

(g) the right of the Association to charge reasonable fees for the use of any recreation facilities situated on the Common Area,

Section 3. Delegation of Use. An Owner may delegate, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 4. Parking Rights. The use of any parking areas situated in the Common Area shall be subject to the exclusive control and management of the Board of Directors of the Association.

### **ARTICLE III**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 1. Members. Declarant and every Owner of a Building Plot, which is subject to the assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Building Plot which is subject to the assessment.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership.

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Building Plot owned. When more than one person holds an interest in any Building Plot, all such persons shall be members. The vote for such Building Plot shall be exercised as they amongst themselves determine, but in no event shall more than one vote be cast with respect to any Building Plot.

Class B. Class B member(s) shall be the Declarant and Builder Members and shall be entitled to nine (9) votes for each Building Plot owned. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(a) When the Declarant no longer has any Ownership in the Building Plots in the Subdivision;

- (b) On the fifteenth anniversary date of this Declaration; or;
- (c) When the Declarant voluntary relinquishes Declarant's Class B membership by notice to the other members of the Association, at which time all Class B memberships, whether or not held by Declarant, shall be terminated.

**ARTICLE IV**  
**CONVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the lien and Personal Obligation of Assessments. Each Owner, except the Declarant, of any Building Plot by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, late fees and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, late fees, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but the lien securing same shall remain in full force and effect, except as prohibited by applicable law.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties; the improvement, operation, administration, management, preservation and maintenance of the Association and the Common Areas, if any, and any part thereof; the improvement, operation, administration, management, preservation and maintenance of the Drainage Easements as such are designated on the Plat; the payment of all expenses and obligations lawfully incurred by the Association in connection with the Common Area or services for all Building Plots. It being understood that the judgment of the Board of Directors of the Association in establishing annual assessments, special assessments and other charges and in the expenditure of said funds shall be final and conclusive so long as said judgment is exercised in good faith.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment shall be Eight Hundred fifty and 00/100 (\$850.00) Dollars for each Building Plot, which shall be due and payable as provided hereinafter.

- (a) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment may be increased each year not more than 10% (such percentage increase may be cumulative from year to year) above the maximum assessment for the previous year without a vote of the membership.
- (b) From and after January 1 of the year immediately following the conveyance of the first Building Plot to an Owner, the maximum annual assessment may be increased each year more than 10% by the vote of a majority of each class of members.

(c) The Board of Directors shall fix the annual assessment at the amount not in excess of the maximum, however, if the Board of Directors does not assess the incurred annually it can accumulate and assess the increase after a number of years.

Section 4. Special Assessments for Capital Improvement. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of a majority of each class of members.

Section 5. Notice of Quorum for Any Authorized Under Sections 3 and 4.

Any action authorized under Sections 3 or 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 10 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Transfer Fee. Each Lot shall be subject to a transfer fee from Seller, collected at conveyance, as follows:

- |  |          |
|--|----------|
| (a) Building Plot owned by and/or transferred by Silver Mount Holdings, LLC., Todd Burek; NB46 Holdings, LLC or Mathom, Ltd.:                        | \$0      |
| (b) Building Plot owned by a Builder Member other than listed in (a):  | \$75.00  |
| (c) Building Plots with or without a completed residence sold to individual or entities from third parties other than a Declarant or Builder Member: | \$150.00 |

Subsequent sales may be subject to transfer fees as set by the Board of Directors of the Association. Notwithstanding, the Board of Directors of the Association shall not change the Transfer Fees set forth in Section 6 (a) or (b) without the consent of Declarant

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Building Plots on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Building Plot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Building Plot have been paid.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be charged a late fee and bear interest from the due date at the rate of ten percent (10%) per annum. In order to secure the payment of the assessments, fees and other charges hereby levied, each Owner of a Lot, by such party's acceptance of a deed

thereto, hereby grants to the Association a contractual lien on such Lot which may be foreclosed on by non-judicial foreclosure, pursuant to the provisions of Section 51 of the Texas Property Code (and any successor statute) and Section 209 of the Texas Property Code and each such owner hereby expressly grants the Association a power of sale in connection with such statute. The Association shall, whenever it proceeds with non-judicial foreclosure pursuant to the provisions of Sections 51 and 209 of the Texas Property Code and said power of sale, designate in writing a Trustee to post or cause to be posted all required notices of such foreclosure sale and to conduct such foreclosure sale. The Trustee may be changed at any time and from time to time by the Association by means of a written instrument executed by the President or any Vice-President of the Association and filed for record in the Real Property Records of Hays County, Texas. In the event that the Association has determined to non-judicially foreclose the lien pursuant to the provisions of said Section 51 and 209 of the Texas Property Code and to exercise the power of sale hereby granted, the Association, or the Association's agent, shall give notice of foreclosure sale as provided by the Texas Property Code as then amended. Upon request by the Association, the Trustee shall give any further notice of foreclosure sale as may be required by the Texas Property Code as then amended, and shall convey such Lot to the highest bidder for cash by Deed. Out of the proceeds of such sale, if any, there shall first be paid all expenses incurred by the Association in connection with such default, including reasonable attorney's fees and a reasonable trustee's fee; second, from such proceeds there shall be paid to the Association an amount equal to the amount in default; and third, the remaining balance shall be paid to such Owner. Subject to Section 209 of the Texas Property Code, following any such foreclosure, each occupant of any such Lot foreclosed on and each occupant of any improvements thereon shall be deemed to be a tenant at sufferance and may be removed from possession by any and all lawful means, including a judgment for possession in an action of forcible detainer and the issuance of a writ of restitution thereunder. In the event of non-payment by any Owner of any assessment, fee or other charge levied hereunder, the Association may, in addition to foreclosing the lien and exercising the remedies provided, upon ten (10) days prior written notice to such non-paying Owner, exercise all other rights and remedies available at law or in equity.

It is the intent of the provisions of this Section 8 to comply with the provisions of Section 51 and 209 of the Texas Property Code relating to non-judicial sales by power of sale and, in the event of the amendment of Section 51 or 209 of the Texas Property code hereafter, the President or any Vice-President of the Association, acting without joinder of any other Owner or mortgagee or other person may, by amendment to this Declaration file in the Real Property Records of Hays County, Texas, amend the provisions hereof so as to comply with said amendments to Section 51 or 209 of the Texas Property Code.

Section 9. Notice of Lien. In addition to the right of the Association to enforce the assessments, fees or other charge levied hereunder, the Association may file a claim or lien against the Lot of the delinquent Owner by recording a notice ("Notice of Lien") setting forth (a) the amount of the claim of delinquency, (b) the interest thereon, (c) the costs of collection which have accrued thereon, (d) the legal description and street address of the Lot against which the lien is claimed and (e) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or other duly authorized agent of the Association. The lien shall continue until the amounts secured hereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the filing of the Notice of Lien have been fully paid or satisfied, the Association shall execute and record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board of Directors to cover the preparation and recordation of such release of lien instrument.

Section 10. Subordination of the Lien to Mortgage. The Liens securing payment of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages granted or created by

the Owner of any Building Plot to secure the payments of the monies advanced and used for the purpose of purchasing and/or improving such Building Plot. Sale or transfer of any Building Plot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Building Plot from liability for any assessments thereafter becoming due or from the lien thereof.

#### Section 11. Insurance.

(a) Each Owner shall be responsible at his own expense and cost for obtaining his own personal insurance for the structure of his Building Plot and the contents of his own residence, garage, parking space, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the Properties; and for his personal liability.

(b) In the event of damage or destruction by fire or other casualty to any Building Plot or other property covered by insurance written in the name of an individual Owner, said Owner, shall, with the concurrence of the mortgages, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damage or destroyed portions of such Building Plot or other property in a good workmanlike manner in conformance with the original plan and specifications of said Building Plot. If for any reason whatsoever, such Owner should refuse or fail to so repair and rebuild any and all the damage to such Building Plot or other property within thirty (30) days, regardless of whether or not the insurance proceeds are sufficient to pay all costs of repair and restoration, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such Building Plot or other property in a good and workmanlike manner in conformance with the original plans and specifications. The Owner shall then promptly repay the Association the amount actually expended for such repairs plus interest therein at the rate of 10% per annum, and the Association shall have a lien securing the payment which shall be added to and become part of the assessment to which such Building Plot is subject.

Section 12. Taxes. Each Owner shall directly render for taxation his own Building Plot and Improvements and property thereon, and shall at his own cost and expense directly pay all taxes, levied or assessed against or upon his Building Plot and improvements and property thereon. The Association shall render for taxation and as part of the common expenses of all Owners shall pay all taxes levied or assessed against or upon the Common Area and the improvements and property appertaining thereto.

Section 13. Utility Bills. Each Owner shall pay directly to the utility company for electricity used or consumed by him. The cost of water, sewage disposal, gas and any other utilities consumed by each Owner, shall also be paid directly to the provider by the Owner.

### **ARTICLE V.** **ARCHITECTURAL CONTROL**

Section 1. Control and Approval. No building, fence, wall or other structure or improvement shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and



specifications have been submitted to it, approval will not be required and compliance with the requirements of this Article will be deemed to have been fulfilled.

Section 2. Appointment of Architectural Committee. The initial Architectural Committee shall be the Board of Directors. The Board of Directors may continue to serve as the Architectural Committee by electing themselves for this position.

## **ARTICLE VI** **MAINTENANCE AND REPAIRS**

Section 1. Association's Maintenance of Drainage Easements. In addition to maintenance of the Common Areas, if any, the Association shall maintain all of the Drainage Easements situated upon the Building Plots such that such Drainage Easements remain free of vegetation overgrowth, debris, trash and other impediments to the free flow of water through the Drainage Easements. An easement over, across and upon the Drainage Easements is hereby granted to the Declarant and the Association for this purpose.

The Association shall also maintain any and all sidewalks in compliance with the Hays County Regulations.

Section 2. Owner's Maintenance. The Owner shall maintain and keep in repair the following equipment and lines located outside the residence: air conditioning compressor condenser, including pipes and electrical lines connecting same to the residence, sanitary sewer line connecting the residence to the sanitary sewer collection system, electric circuit breakers, any portion of natural gas, and/or telephone service lines, and cable lines located on the Building Plot but not maintained by the gas and/or telephone companies and/or cable companies; these cannot be disturbed or relocated by any Owner without the written consent and approval of Declarant or the Association.

Section 3. Owner's Responsibility. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another residence or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other residences or their Owners. An Owner shall not construct or maintain a fence or any other improvement of any nature in, on, upon, across or under any Drainage Easement. An Owner shall not place or allow the placement of any temporary buildings, portable buildings or other structures upon any Drainage Easement; nor shall an Owner use or allow the use of any Drainage Easement area for storage, temporary or otherwise, of any items, including, without limitation, motor vehicles.

Section 4. Neglect or Act of Owner. In the event that clearing or removing of any improvement, item or artifact from a Drainage Easement is necessitated as a result of the willful or negligent act of the Owner, his family, or guests, invitees, employees or agents, the cost of such shall be added to and become a part of the assessment to which such Building Plot is subject. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, invitees, employees or agents, the cost of maintenance or repairs shall be added to and become a part of the assessment to which such Building Plot is subject.

Section 5. Authority of Association. In the event an Owner is responsible for certain exterior maintenance and such Owner shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, or in the event that an Owner violates the provisions of Section 2, Section 3 or Section 4 above, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said Building Plot and to repair, maintain and restore the Building Plot and any improvements erected

thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Building Plot is subject.

## **ARTICLE VII** **USE RESTRICTIONS**

**Section 1. Residential Use.** No Owner shall occupy or use his Building Plot or building thereon, or permit the same or any part thereof to be occupied or used for any purpose other than as a private single family residence for the Owner, his family, guests and tenants. No Building Plot shall be used or occupied for any business, commercial, trade or professional purposes either apart from or in connection with the use thereof as a residence. An exception to the foregoing is that the property management company may lease one Unit for the purpose of leasing Units within WINDY HILL SUBDIVISION – 11 AC. and Owners may have a home office so long as it meets the following requirements: (a) no additional exterior sign of activity is present, (b) no additional traffic, that would not be there normally, is created, and (c) nothing dangerous is present that should not be there.

**Section 2. Obstruction of Common Area, Streets and Drainage Easements.** There shall be no obstruction of the Common Area or Drainage Easements. Nothing shall be stored in the Common Area or Drainage Easements without the prior written consent of the Board of Directors. Vehicles shall not be parked along any public or private road. All vehicles must be parked on the Building Plot driveway or in a garage.

**Section 3. Insurance.** Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in the Common Area which will result in the cancellation of insurance on any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area.

**Section 4. Nuisances.** No noxious or offensive activity shall be carried on upon any Building Plot, or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the other Owners. No repair work, dismantling or assembling of motor vehicles or any other machinery or equipment shall be permitted in any street, driveway or yard adjacent to a street, or in the Common Area. No vehicle shall be parked on streets or driveways so as to obstruct ingress and egress by the Owners of Building Plots, their families, guests and invitees except for the reasonable needs of emergency, construction, or service vehicles, which shall be temporary in nature. No boats, trailers, camping Units, or any other personal vehicles can be stored on the driveway of any Building Plot or on the streets within WINDY HILL SUBDIVISION.

**Section 5. Temporary Structures.** No structure of a temporary character, trailer, basement, tent, shack, barn, servants quarters or other out buildings shall be used on any Building Plot at any time as a residence either temporarily or permanently; nor shall any used residence or other used structure be moved onto any Building Plot. During the construction and sales period of the initial dwelling Units the builder may erect and maintain such structures as is customary in connection with such construction and sale of such property, including, but without limitation, a business office, storage areas, construction yards, portable toilet facilities, signs, model Units and sales offices.

**Section 6. Signs.** No advertisement, poster or sign of any kind shall be displayed to public view on any Building Plot or Building except as authorized by the Association. During the construction and initial sales period of the dwelling Units the builder may use other signs and displays to advertise the merits of the property for sale or rent. To the extent federal or state law limits this restriction, such signs are

permitted, subject to the rights and privileges of the Association to restrict the size and location of such signs under applicable law.

Section 7. Oil and Mining Operations. No gas or oil drilling, gas or oil development corporations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Building Plot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Building Plot.

Section 8. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Building Plot, except that dogs, cats, or other household pets, not to exceed a total of two (2) pets, may be kept provided that they shall not become a nuisance and are not kept, bred, or maintained for any commercial purposes.

Section 9. Garbage and Refuse Disposal. No Building Plot shall be used or maintained as dumping ground for rubbish. Trash, garbage or other waste shall be kept behind fencing or in a garage so as to conceal them from public view on days when trash is not collected. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and concealed from public view.

Section 10. Sewage and Water. No sewage treatment system nor water well shall be permitted on any Building Plot.

Section 11. Fences and Exterior Maintenance. Except in enclosed areas on a Building Plot, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon the Properties except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated Architectural Committee. Except as specifically set forth in the next sentence, Owners are responsible for maintaining the exterior of their Building Plot and their fences. Before any alterations are made to the exterior of any Building Plot, fences or any other improvements the Owner must receive written approval from the Architectural Committee. Except for the right of ingress and egress and the right and easement of enjoyment as defined herein, the Owners are hereby prohibited and restricted from using any of the Properties outside the interior property lines of each Building Plot, except as may be allowed by the Association's Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area shall be taken by the Board of Directors or by its duly delegated representatives. No fence or wall shall be erected, placed, or altered on any Lot nearer to the street than the minimum building setback lines as shown on the subdivision Plat or stated herein. No fence or wall shall be erected or placed within any Drainage Easement. The erection of a chain link fence on any Lot is expressly prohibited. If an Owner fails to maintain the portion Building Plot in front of the Unit constructed thereon, the Association may do so, without being required to do so, and all costs incurred by the Association shall be added to and become part of the assessment to which such Building Plot is subject.

Section 12. Outside Antennas. Without prior written approval of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Properties, nor upon any structure situated upon the Properties other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna. To the extent federal or state law limits this restriction, such antennas are permitted, subject to the rights and privileges of the Association to restrict the size and location of such devices under applicable law.

Section 13. Non-Discrimination. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

Section 14. Annoyance. No activity shall be carried on upon any Building Plot or the Common Area which might reasonably be considered as being a nuisance or annoying to neighbors of ordinary sensibilities and which might be calculated to reduce the desirability of the Properties as a residential neighborhood, even though such activity be in the nature of a hobby and not carried on for profit. The Board of Directors of the Association shall have the sole and exclusive discretion to determine what constitutes an annoyance.

Section 15. Unsightly Objects. Each Owner shall keep clean and in good condition and repair the windows and interiors of his residence and shall not permit garments, rugs, laundry or other unsightly items to extend from or be placed outside of his residence, including but not limited to, over windows or on patios and balconies. No aluminum foil or similar reflective material shall be used or placed over doors or windows. No Owner or other occupant of any residence shall make any alteration, modification or improvement, nor add any awnings, patio covers or other devices to any residences except with the written consent of the Board of Directors or Architectural Committee. No unsightly objects which might reasonably be considered to be annoying to neighbors of ordinary sensibilities shall be placed or allowed to remain in any yard or on any patio or balcony. The Association shall have the sole and exclusive discretion to determine what constitutes an unsightly object.

Section 16. Roofing Material. Minimum roofing material shall be three tab composition shingles of a wood tone color to be constructed or used on any building in any part of the Properties with the written approval of the Board of Directors or Architectural Committee.

Section 17. Air Conditioners and Heating Systems. No window or wall type air conditioners/heaters shall be permitted to be used, erected, placed or maintained in or on any building in any part of the Properties.

Section 18. Building Materials. The front of a residential building (the "front" being that portion of such building facing the street address of such Building Plot) shall be constructed primarily with a stone, brick or stucco finish.

Section 19. Minimum Size of Living Area and Garage. The living area of each residential Unit on a Building Plot shall contain at least nine hundred (900) square feet and shall be served by a central air conditioning and heating system. For purposes of this Section 19, the garage shall not be considered as the living area of any Unit. Each Unit shall contain at least a one or two vehicle garage that is continually and continuously usable as an area for parking a motor vehicle, and shall not be converted to use as a living area. Notwithstanding, this Section 19 does not prohibit placing a garage under the service of a central air conditioning and heating system, providing that such does not circumvent the primary purpose of the use of the garage as a place to park a motor vehicle and not as a living area.

Section 20. Landscape. Before any landscaping shall be done in the front of any newly constructed dwelling, the landscape layout and plans have to be approved by the Architectural Committee. The Architectural Committee shall allow landscaping that provides for xeriscape and/or low water plants.

Unless otherwise agreed by a vote of the Owners of 51% of the Lots in the Subdivision, the Association shall maintain the Landscaping located in the front yard of each Lot. Each owner, by accepting a deed to a Lot, grants the Association an access Easement across the front yard for such maintenance.

Section 21. Homes. No dwelling shall be industrialized housing, double wide, triple wide or manufactured homes, single wide mobile homes, or prefab houses regardless of whether the same are placed upon permanent foundation, and said homes are not permitted within the Subdivision. As used herein, "Manufactured home" includes but is not limited to any prefabricated or pre-built dwelling which consists of one (1) or more transportable sections or components and shall also be deemed to include manufactured housing, manufactured home, HUD-code manufactured home and mobile home as defined by the Texas Manufactured Housing Standards Act, Title 83, Article 5221f, Vernon's Texas Civil Statutes.

## **ARTICLE VIII** **EASEMENTS**

Section 1. Construction. Each Building Plot and the Property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure is partially or totally destroyed, and then rebuilt, the Owners so affected agree that minor encroachments of parts of the adjacent residential Units or Common Areas due to construction shall be permitted and a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. Utility, Emergency and Association. There is hereby created a blanket and perpetual easement upon, across, over, under and above all of the Properties for ingress, egress, installations, replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, gas, communication, electricity, and cable systems. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone/communication company and/or cable company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone/communication wires, circuits and conduits on, above, across and under the roofs and exterior walls of said residences. An easement is further granted to all police, fire protection, ambulance, garbage and trash collector pick-up vehicles and all similar persons to enter upon the Common Area in performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company, its officers, agents, and employees selected by the Association to enter in or to cross over the Common Area and any Building Plot to perform the duties of maintenance and repair of the residence or Common Area or Drainage Easement provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewer, electrical lines, water lines, cable or other utilities may be installed or relocated on the Properties except as initially approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement without conflicting with the terms hereof. The easements provided for in this Article shall in no way affect any other recorded easement on said premises.

Section 3. Use of Easements. Easements for underground utility services may be crossed by driveways and walkways provided the Declarant or an Owner makes prior arrangements with the utility furnishing service. Such easements for underground services shall be kept clear of all other improvements, including building, patios, or other pavings, other than crossing walkways or driveways, and neither Declarant nor any utility company using the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants, to shrubbery, trees, flowers, or other improvements of the Owner located on the land covered by said easements.

Section 4. Changes and Additions to Easements. The Declarant reserves the right to make minor changes and additions to the above easements, as to any Building Plots owned by it, for the purposes of efficiently and economically installing and operating the above mentioned utilities.

Section 5. Landscape Easement. Each Building Plot shall be subject to an easement over, across and in the front yard of the Building Plot for landscape maintenance by the Association or its agents.

## **ARTICLE IX** **MORTGAGES**

Section 1. Notice to Association. An Owner who mortgages his Unit shall notify the Association giving the name and address of his mortgagee.

Section 2. Notice of Default. The Association may notify a first mortgagee in writing, upon request of such mortgagee, of any default by the mortgagor in the performance of such mortgagor's obligations as set forth in the Declaration which is not cured within thirty (30) days.

Section 3. Leases. The Association requires that all leases of any Units must: (i) provide that such leases are specifically subject in all respects to the provisions of the Declaration, Certificate of Formation and Bylaws of the Association, and that any failure by the lessee to comply with the terms and conditions of such documents shall be a default under such lease. Other than the foregoing, there shall be no restriction on the right of any Owner to lease his Building Plot.

Section 4. Management Agreements. The Declarant may enter into a management contract with a management company for a term of one year. After that term has expired, the Association may enter into a management contract with a management company that will manage the entire development.

Section 5. Delegations of Owner's Use of Common Area. Regarding an Owner's delegation of his rights of enjoyment to the Common Areas and facilities as provided for Article II, Section 2 of this Declaration, no such delegation shall work a severance of the rights of enjoyment of the Common Areas and facilities from the Ownership of a Building Plot, and any such delegation by any Owner shall automatically terminate upon conveyance of legal title to such Building Plot by said Owner.

Section 6. FHLMC, FHA, VA and FNMA Regulations. Notwithstanding anything in this Declaration to the contrary, Declarant may amend this Declaration to conform with the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal Housing Authority and the Federal National Mortgage Association or any similar duly constituted governmental authority, by written instrument executed by Declarant only and duly recorded in the records of the County Clerk of Hays County, Texas.

## **ARTICLE X** **ANNEXATION AND REMOVAL OF PROPERTY**

Section 1. Annexation and withdrawal.

(A) Incorporation and Withdrawal. The Declarant, its successors and assigns, shall have the sole right, without requiring the consent or approval of any third party, including the Owners of any Lots or lienholders on those lots, at any time prior to June 1, 2026, to (i) annex or incorporate within the scheme of this Declaration additional phases of the Development (a) following the acquisition of such property, or (b) barring acquisition of such property, with the consent of the record owner of such other property; or (ii) withdraw any property from the Subdivision.

(B) Filing Affidavit. To evidence the incorporation or annexation of additional property or withdrawal of property from the Subdivision, Declarant shall record an Affidavit stating that such property has been incorporated into, annexed into or withdrawn from the Subdivision.

Section 2. Merger or Consolidation. Upon a merger or consolidation of the Association with another association, the Association's properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided. The Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger, consolidation or annexation shall have the consent (in writing or at a meeting duly called for such purpose) of those Members entitled to cast not less than two-thirds (2/3rds) of the votes of the Association.

## **ARTICLE XI**

### **ASSOCIATION RIGHTS AND RESPONSIBILITIES**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges, including but not limited to fines, now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Any Owner who is in violation of any restriction, condition, covenant, reservation or lien shall pay the Association or any Owner who is enforcing this Declaration all reasonable and necessary attorney's fees, costs and expenses. The attorney's fees, costs and expenses shall be a lien and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessment.

Section 2. Conveyances. The association may grant and convey to any person or entity the real property and/or other interest therein, including but not limited to fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over or under any Common Areas for the purpose of constructing, erecting, operating, repairing or maintaining such common areas.

Section 3. Common Areas. Subject to and in accordance with this Declaration, the Association, acting through the Board, shall have the following duties:

(A) To accept, own, operate and maintain all Common Areas which may be conveyed or leased to it by Declarant, together with all Improvements of whatever kind and for whatever purpose which may be located in said area; and to accept, own, operate and maintain all other Common Areas, real and personal, conveyed or leased to the Association by the Declarant and to maintain in good repair and condition all lands improvements and other Association property owned by or leased to the Association. Such maintenance shall include, but not be limited to, mowing and removal of rubbish or debris of any kind.

(B) To maintain, mow and remove all rubbish or debris of any kind from that certain temporary turnaround easement shown on the plat of the subdivision.

(C) To construct, maintain, repair and replace landscape improvements and irrigation systems which lie within public rights-of-way, pursuant to any agreement with the City of Kyle or other appropriate governmental authority.

(D) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the members of the Association. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(E) Upon the approval of the Owners (including Declarant) entitled to cast 51% of the votes at a meeting held by the Association, to execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association. Additionally, the Association may accept lands in Common Areas, whether or not improved, from Declarant subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether Declarant or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether Declarant or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees or Assessment paid by the members of the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(F) To take out and maintain a current policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Area, as well as casualty coverage on all real and personal property owned by the Association, and in such amounts as determined by the Board, if the Board shall deem the same appropriate.

(G) To make any rules or regulations it deems necessary for such Common Areas.

(H) To hire any company, including a company owned by Declarant or a property owner, to provide maintenance, repair or other services to the Association.

Section 4. Indemnification. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was director, officer, committee member (including but not limited to the Architectural Control Committee), employee, servant or agent of the Association against expenses, including attorney's fees, reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a Court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interest of the Association, and (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceedings by settlement, or upon a plea of Nolo Contendere or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would



have the power to indemnify him against such liability hereunder or otherwise.

**ARTICLE XII**  
**GENERAL PROVISIONS**

Section 1. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 2. Duration. The rights, use, easements, and privileges of the Owners in and to the Common Area as provided for herein shall be deemed to be covenants running with the land and shall of perpetual duration. All other provisions, restrictions, covenants and conditions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by a majority of the Building Plot Owners. Any amendment must be recorded in the Deed Records of Hays County, Texas.

Section 3. Amendments by Declarant. This Declaration or any Supplemental Declaration may be amended by the Declarant acting alone until the Declarant no longer holds a majority of the voting rights. Notwithstanding the foregoing, Declarant may amend this Declaration at any time (i) to correct typographical and grammatical errors, and (ii) in order to comply with VA or FHA requirements for approval of the Property.

Section 4. Rights of Mortgagees, Trustees, or Lien holders. No violations of any of these restrictions, covenants, or conditions, shall affect or impair the rights of any Mortgagee, Trustee, or Lien holder under any mortgage or deed of trust, or the rights of any assignee of any Mortgagee, Trustee or Lien holder under any such mortgage or deed of trust.

Section 5. Joinder of Lien holder. The undersigned lien holder joins in the execution of this instrument for the purpose of evidencing its consent and agreement to the establishment of the foregoing restrictions on the land described herein.

IN WITNESS WHEREOF, the undersigned has hereunto set their hand and seal this 4<sup>th</sup>  
day of April, 2018.

SILVER MOUNT HOLDINGS, LLC., DECLARANT,  
a Texas limited liability company

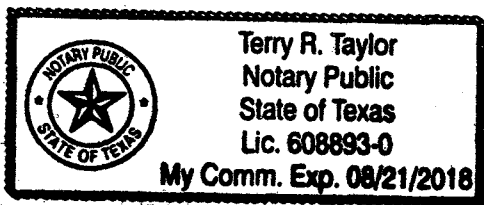
By: Todd Burek  
Todd Burek, its Manager

THE STATE OF TEXAS §

COUNTY OF Comal §

BEFORE ME, the undersigned, a Notary Public in and for said county and State on this day personally appeared TODD BUREK, Manager of SILVER MOUNT HOLDINGS, LLC., a Texas limited liability company, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said SILVER MOUNT HOLDINGS, LLC., a Texas limited liability company, and that he executed the same in the capacity stated and on behalf thereof.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 4<sup>th</sup> day of April, 2018.



Terry R. Taylor  
Notary Public in and for the State of Texas

After Recording Return to:

Kristen Quinney Porter, LLC  
P.O. Box 312643  
New Braunfels, Texas 78131-2643

**FATCO** - 4417040372-UC

**AFFIDAVIT OF ANNEXATION**

THE STATE OF TEXAS     §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS         §

BEFORE ME, the undersigned notary public, appeared TODD BUREK, Manager of Silver Mount Holdings, LLC, who on oath swears that the following statements are true:

"1. Silver Mount Holdings, LLC is the developer of the Windy Hill Subdivision – 11 AC., a subdivision more fully shown on a plat recorded under Clerk's document No. 17040361, of the Map and Plat Records of Hays County, Texas ("Subdivision"); and,

2. On May 21, 2015 Todd Burek purchased land from Stanislaw Golebiewski, Individually and as Independent Administrator of the Estate of Stanislaw Wujec, Deceased and Tadeusz Wujec as more fully set forth in a General Warranty Deed recorded under Clerk's Document No. 15027590, Volume 5311, Page 333 in the Official Public Records of Hays County, Texas, which property "(Property)". Said Property adjoins the Subdvision; and,

3. Todd Burek developed the Property into the Windy Hill Subdivision – 24 AC., which is more fully described on a plat recorded under Clerk's Document No. 17040372 in the Map and Plat Records of Hays County, Texas ("Windy Hill – 24"). Said Plat is incorporated herein for all purposes.

4. Silver Mount Holdings, LLC encumbered the Subdivision with a Declaration of Covenants, Conditions and Restrictions for Windy Hill Subdivision – 11 AC. (AKA Windy Hill Subdivision) ("Restrictions"), which Restrictions are recorded under Document No. 18011941 in the Official Public Records of Hays County, Texas. Said Restrictions reserves the right for Silver Mount Holdings, LLC (as Declarant under the Restrictions) to develop additional property and annex such additional property into the Subdivision. The right to annex additional property is more fully set forth in Article X of the Restrictions; and,

5. Silver Mount Holdings, LLC desires to annex Windy Hill - 24 into the Windy Hill Subdivision – 11 AC. in accordance with the Restrictions and Burek is in agreement with such annexation.

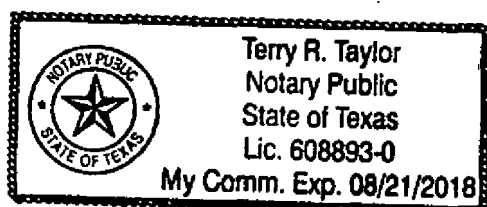
6. Silver Mount Holdings, LLC, with the consent of Todd Burek, files this Affidavit to evidence the annexation of the Windy Hill Subdivision – 24 AC. into the Windy Hill Subdivision – 11 AC. in accordance with Article X of the Restrictions.

7. Further, Todd Burek and Silver Mount Holdings, LLC hereby subject the Windy Hill Subdivision – 24 AC. to the Restrictions recorded under Document No. 18011940 in the Official Public Record of Hays County, Texas and all terms and conditions and obligations of such Restrictions shall apply to the Windy Hill Subdivision – 24 AC.

SILVER MOUNT HOLDINGS, LLC

By: Todd Burek  
TODD BUREK

SUBSCRIBED AND SWORN TO before me, on April 4, 2018, by TODD BUREK, Manager of SILVER MOUNT HOLDINGS, LLC, a Texas limited liability company, in the capacity therein stated, on behalf of said Company.

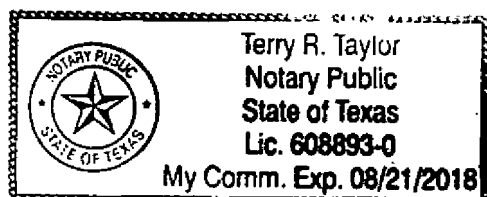


Terry R. Taylor  
NOTARY PUBLIC, STATE OF TEXAS  
Notary's Name Printed: Terry R. Taylor  
My Commission Expires: 8/21/2018

THE STATE OF TEXAS  
COUNTY OF Comal

\*  
\*

This instrument was acknowledged before me on this the 4th day of April, 2018 by TODD BUREK, Manager of SILVER MOUNT HOLDINGS, LLC, a Texas limited liability company, in the capacity therein stated, on behalf of said Company.



Terry R. Taylor  
NOTARY PUBLIC, STATE OF TEXAS  
Notary's Name Printed: Terry R. Taylor  
My Commission Expires: 8/21/2018

## CONSENT

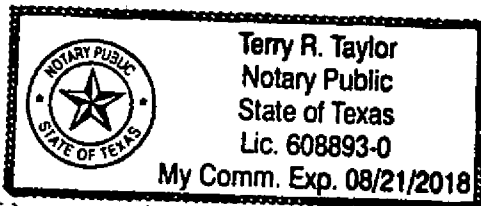
Todd Burek does hereby consent to the annexation of Windy Hill Subdivision – 24 AC., which plat is recorded under Clerk's Document No. 17040372 in the Map and Plat Records of Hays County, Texas into the Windy Hill Subdivision – 11 AC., a subdivision more fully shown on a plat recorded under Clerk's document No. 17040361, of the Map and Plat Records of Hays County, Texas and subjects Windy Hill Subdivision – 24 AC. to the Restrictions recorded under Clerk's Document No. \_\_\_\_\_ in the Official Public Records of Hays County, Texas.

Todd Burek  
TODD BUREK

THE STATE OF TEXAS  
COUNTY OF Comal

\*  
\*

This instrument was acknowledged before me on this the 4th day of April, 2018 by TODD BUREK.



Terry R. Taylor  
NOTARY PUBLIC, STATE OF TEXAS  
Notary's Name Printed: Terry R. Taylor  
My Commission Expires: 8/21/2018

AFTER RECORDING RETURN TO:  
Kristen Quinney Porter, LLC  
P.O. Box 312643  
New Braunfels, Texas, 78131-2643

PREPARED IN THE LAW OFFICE OF:  
Kristen Quinney Porter, LLC  
P.O. Box 312643  
New Braunfels, Texas 78131-2643