

Little River Ranch

# Homeowners Association Operations

Matagorda County, Texas

Declarant: Sitz Family Investments, LLC, a Texas limited liability company

# Homeowners Association Operations

## Article 6 - Article 15

page 24 - 45

### **ARTICLE 6.**

ASSOCIATION OPERATIONS .....	24
6.1. THE ASSOCIATION.....	24
6.2. BOARD. ....	24
6.3. MEMBERSHIP. ....	24
6.4. VOTING BY OWNERS. ....	24
6.5. GOVERNANCE. ....	25
6.6. BOOKS & RECORDS. ....	25

6.7.	INDEMNIFICATION. ....	25
6.8.	OBLIGATIONS OF OWNERS. ....	26
6.9.	HOME RESALES. ....	26

**ARTICLE 7.**

	COVENANT FOR ASSESSMENTS .....	27
7.1.	PURPOSE OF ASSESSMENTS. ....	27
7.2.	PERSONAL OBLIGATION. ....	28
7.3.	TYPES OF ASSESSMENTS. ....	28
7.4.	CONTROL FOR ASSESSMENT INCREASES. ....	29
7.5.	BASIS & RATE OF ASSESSMENTS. ....	30
7.6.	ANNUAL BUDGET. ....	30
7.7.	DUE DATE. ....	30
7.8.	RESERVE FUNDS. ....	30

**ARTICLE 8.**

	ASSESSMENT LIEN .....	31
8.1.	ASSESSMENT LIEN. ....	31
8.2.	SUPERIORITY OF ASSESSMENT LIEN. ....	31
8.3.	EFFECT OF MORTGAGEE'S FORECLOSURE. ....	31
8.4.	NOTICE AND RELEASE OF NOTICE. ....	31
8.5.	POWER OF SALE. ....	31
8.6.	FORECLOSURE OF LIEN. ....	31

**ARTICLE 9.**

	EFFECT OF NONPAYMENT OF ASSESSMENTS .....	32
9.1.	INTEREST. ....	32
9.2.	LATE FEES. ....	32
9.3.	COSTS OF COLLECTION. ....	32
9.4.	ACCELERATION. ....	32
9.5.	SUSPENSION OF USE AND VOTE. ....	33
9.6.	MONEY JUDGMENT. ....	33
9.7.	NOTICE TO MORTGAGEE. ....	33
9.8.	FORECLOSURE OF ASSESSMENT LIEN. ....	33
9.9.	APPLICATION OF PAYMENTS. ....	33

**ARTICLE 10.**

	ENFORCING THE DOCUMENTS .....	33
10.1.	ENFORCEMENT DISCRETION. ....	33
10.2.	NOTICE AND HEARING. ....	34
10.3.	REMEDIES. ....	34
10.4.	NO WAIVER. ....	35
10.5.	ENFORCEMENT BY OWNER. ....	35
10.6.	RECOVERY OF COSTS. ....	35

**ARTICLE 11.**

MAINTENANCE AND REPAIR OBLIGATIONS ..... 35  
11.1. ASSOCIATION MAINTAINS. .... 35  
11.2. OWNER RESPONSIBILITY. .... 36  
11.3. OWNER’S DEFAULT IN MAINTENANCE. .... 37  
11.4. PARTY WALL FENCES. .... 37

**ARTICLE 12.**

INSURANCE ..... 38  
12.1. GENERAL PROVISIONS. .... 38  
12.2. PROPERTY. .... 39  
12.3. GENERAL LIABILITY. .... 39  
12.4. DIRECTORS & OFFICERS LIABILITY. .... 39  
12.5. OTHER COVERAGES. .... 39  
12.6. OWNER’S RESPONSIBILITY FOR INSURANCE. .... 39

**ARTICLE 13.**

AMENDMENTS ..... 40  
13.1. CONSENTS REQUIRED. .... 40  
13.2. METHOD OF AMENDMENT. .... 40  
13.3. EFFECTIVE. .... 40  
13.4. DECLARANT PROVISIONS. .... 40  
13.5. PUBLIC LAW COMPLIANCE. .... 40  
13.6. MERGER. .... 40  
13.7. TERMINATION. .... 40  
13.8. CONDEMNATION. .... 41

**ARTICLE 14.**

DISPUTE RESOLUTION ..... 41  
14.1. INTRODUCTION & DEFINITIONS. .... 41  
14.2. MANDATORY PROCEDURES. .... 42  
14.3. NOTICE. .... 42  
14.4. NEGOTIATION AND MEDIATION. .... 42  
14.5. TERMINATION OF MEDIATION. .... 42  
14.6. ALLOCATION OF COSTS. .... 43  
14.7. LITIGATION APPROVAL & SETTLEMENT. .... 43

**ARTICLE 15.**

GENERAL PROVISIONS ..... 43  
15.1. COMPLIANCE. .... 43  
15.2. HIGHER AUTHORITY. .... 43  
15.3. COMMUNICATIONS. .... 43  
15.4. NOTICE. .... 44  
15.5. USE OF LITTLE RIVER RANCH NAMES. .... 44

15.6.	LIBERAL CONSTRUCTION.	44
15.7.	SEVERABILITY.	44
15.8.	CAPTIONS.	44
15.9.	APPENDIXES.	44
15.10.	INTERPRETATION.	44
15.11.	DURATION.	45

ARTICLE 6.  
ASSOCIATION OPERATIONS

6.1. THE ASSOCIATION. The duties and powers of the Association are those set forth in the Documents, together with the general and implied powers of a property owners' association and a nonprofit corporation organized under the laws of the State of Texas. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its members, subject only to the limitations on the exercise of such powers as stated in the Documents. The Association comes into existence on issuance of its corporate charter. The Association will continue to exist at least as long as the Declaration is effective against the Property, regardless of whether its corporate charter lapses from time to time.

6.2. BOARD. After the Declarant Control Period, the Association will be governed by a board of directors elected by the members. Unless the Association's bylaws or articles of incorporation provide otherwise, the board will consist of at least 3 persons elected at the annual meeting of the Association, or at a special meeting called for that purpose. Unless the Documents expressly reserve a right, action, or decision to the members/owners, Declarant, or another party, the board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Documents to the "Association" may be construed to mean "the Association acting through its board of directors."

6.3. MEMBERSHIP. Each owner is a member of the Association, ownership of a lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the lot. The board may require satisfactory evidence of transfer of ownership before a purported owner is entitled to vote at meetings of the Association. If a lot is owned by more than one person or entity, each co-owner is a member of the Association and may exercise the membership rights appurtenant to the lot. A member who sells his lot under a contract for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the board. However, the contract seller remains liable for all assessments attributable to his lot until fee title to the lot is transferred. Unless the Documents provide otherwise, any action requiring approval of the members may be approved in writing by owners of at least a majority of all lots, or at a meeting by owners of at least a majority of the lots that are represented at the meeting at which a quorum is present.

6.4. VOTING BY OWNERS. The right to cast votes and the number of votes which may be cast for election of members to the Board and on all other matters to be voted on by the Members will be calculated as set forth below:

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

6.4.2. Declarant Votes. In addition to the votes to which Declarant is entitled by reason of Section 6.4.1., for every one (1) vote outstanding in favor of any other person or entity, Declarant will have four (4) additional votes until the expiration or termination of the Development Period.

6.4.3. Co-Owner Votes. When more than one person or entity owns a portion of the fee simple interest in any Lot, all such persons or entities will be Members. The vote or votes (or fraction thereof ) for such Lot will be exercised by the person so designated in writing to the Secretary of the Association by the Owner of such Lot, and in no event will the vote for such Lot exceed the total votes to which such Lot is otherwise entitled under this Section 6.4.1.

6.5. GOVERNANCE. The Association will be administered in accordance with the bylaws, the other Documents, and applicable State law. Although the board may delegate the performance of certain functions to one or more managers or managing agents of the Association, the board is ultimately responsible to the members for governance of the Association. As more specifically described in the Bylaws, the Board will consist of at least three (3) persons elected at the annual meeting of the Association, or at a special meeting called for such purpose. Notwithstanding the foregoing provision or any provision in this Declaration to the contrary, Declarant will have the sole right to appoint and remove all members of the Board until the 10th anniversary of the date this Declaration is Recorded. Not later than the 10th anniversary of the date this Declaration is Recorded, or sooner as determined by Declarant, the Board shall hold a meeting of Members of the Association for the purpose of electing one-third of the Board (the "Initial Member Election Meeting"), which Board member(s) must be elected by Owners other than the Declarant. Declarant shall continue to have the sole right to appoint and remove two-thirds of the Board from and after the Initial Member Election Meeting until expiration or termination of the Development Period.

6.6. BOOKS & RECORDS. The Association will maintain copies of the Documents and the Association's books, records, and financial statements. Books and records of the Association will be made available for inspection and copying pursuant to applicable law, such as Article 1396-2.23.B. of the Texas Nonprofit Corporation Act.

6.7. INDEMNIFICATION. To the fullest extent permitted by Applicable Law but without duplication (and subject to) any rights or benefits arising under the Certificate or Bylaws of the Association, the Association will indemnify any officer, director, committee chair, and committee member (for purposes of this Section, "Leaders") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. The Association may maintain general liability and directors and officers liability insurance to fund this obligation. Additionally, the

Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

6.8. OBLIGATIONS OF OWNERS. Without limiting the obligations of owners under the Documents, each owner has the following obligations:

6.8.1. Address. Each owner will maintain one or more effective mailing addresses with the Association, including an email address (if any) and a U. S. postal address.

6.8.2. Mortgagee Information. On request by the Association, each owner will provide the Association with current information about each and every mortgage or deed of trust lien against the owner's lot, including the mortgagee's name, address, and loan number.

6.8.3. Resident Information. If the owner does not occupy his home, the owner will maintain with the Association the names and phone numbers of the residents, and the name, address, and phone number of owner's managing agent, if any.

6.8.4. Pay Assessments. Each owner will timely pay assessments properly levied by the Association against the owner or his lot, and will pay regular assessments without demand by the Association.

6.8.5. Comply. Each owner will comply with the Documents as amended from time to time.

6.8.6. Reimburse. Each owner will pay for damage to the Property caused by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, contractors, agents, or invitees.

6.8.7. Liability. Each owner is liable to the Association for violations of the Documents by the owner, a resident of the owner's lot, or the owner or resident's family, guests, employees, agents, or invitees, and for costs incurred by the Association to obtain compliance, including attorney's fees whether or not suit is filed.

6.9. HOME RESALES. This Section applies to every sale or conveyance of a lot or an interest in a lot:

6.9.1. Resale Certificate. An owner intending to sell his home will notify the Association and will request a resale certificate from the Association.



6.9.2. No Right of First Refusal. The Association does not have a right of first refusal and may not compel a selling owner to convey the owner's lot to the Association. If the Developer retains a right of first refusal it will be contained in the deed.

6.9.3. Other Transfer-Related Fees. A number of independent fees may be charged in relation to the transfer of title to a lot, including but not limited to fees for resale certificates, estoppel certificates, copies of Documents, compliance inspections, ownership record changes, and priority processing, provided the fees are customary in amount, kind, and number for the local marketplace. Transfer-related fees are not refundable and may not be regarded as a prepayment of or credit against regular or special assessments. Transfer-related fees may be charged by the Association or by the Association's managing agent, provided there is no duplication of fees. Transfer-related fees charged by or paid to a managing agent must have the prior written approval of the Association, are not subject to the Association's assessment lien, and are not payable by the Association. This Section does not obligate the board or the manager to levy transfer-related fees.

6.9.4. Information. Within 30 days after acquiring an interest in a lot, an owner will provide the Association with the following information: a copy of the settlement statement or deed by which owner has title to the lot; the owner's email address (if any), U. S. postal address, and phone number; any mortgagee's name, address, and loan number; the name and phone number of any resident other than the owner; the name, address, and phone number of owner's managing agent, if any.

6.9.5. Exclusions. The requirements of this Section do not apply to the following transfers: (1) the initial conveyance from a Builder to the first homeowner; a) foreclosure of a mortgagee's deed of trust lien, a tax lien, or the Association's assessment lien; conveyance by a mortgagee who acquires title by foreclosure or deed in lieu of foreclosure; (2) transfer to, from, or by the Association; voluntary transfer by an owner to one or more co-owners, or to the owner's spouse, child, or parent; (3) a transfer by a fiduciary in the course of administering a decedent's estate, guardianship, conservatorship, or trust; (4) a conveyance pursuant to a court's order, including a transfer by a bankruptcy trustee; or (5) a disposition by a government or governmental agency.

## ARTICLE 7. COVENANT FOR ASSESSMENTS

7.1. PURPOSE OF ASSESSMENTS. The Association will use assessments for the general purposes of preserving and enhancing the Property, and for the common benefit of owners and residents, including but not limited to (1) maintenance, repair, and replacement of real and personal property; (2) management and operation of the Association; and (3) any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the board's decision with respect to the use of assessments is final.

7.2. PERSONAL OBLIGATION. An owner is obligated to pay assessments levied by the board against the owner or his lot. An owner makes payment to the Association at its principal office or at any other place the board directs. Payments must be made in full regardless of whether an owner has a dispute with the Association, another owner, or any other person or entity regarding any matter to which this Declaration pertains. No owner may exempt himself from his assessment liability by waiver of the use or enjoyment of the common area or by abandonment of his lot. An owner's obligation is not subject to offset by the owner, nor is it contingent on the Association's performance of the Association's duties. Payment of assessments is both a continuing affirmative covenant personal to the owner and a continuing covenant running with the lot.

7.3. TYPES OF ASSESSMENTS. There are four types of assessments: Regular, Special, Individual, and Deficiency.

7.3.1. Regular Assessments. Regular assessments are based on the annual budget. Each lot is liable for its equal share of the annual budget. If the board does not approve an annual budget or fails to determine new regular assessments for any year, or delays in doing so, owners will continue to pay the regular assessment as last determined. If during the course of a year the board determines that regular assessments are insufficient to cover the estimated common expenses for the remainder of the year, the board may increase regular assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. The initial regular assessment is \$650.00 per year per lot. Increases or decreases in the rate of regular assessments are determined by the board and do not require amendment of this Declaration. Regular assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. maintenance, repair, and replacement, as necessary, of the common area.
- b. maintenance of property or improvements within, adjacent to, or near the property, the appearance or condition of which is deemed important to the Association, to the extent the Association is permitted or not prevented from performing such work.
- c. expenses pertaining to the Association's employment of personnel.
- d. utilities billed to the Association.
- e. services billed to the Association and serving all lots.
- f. taxes on property owned by the Association and the Association's income taxes, if any.
- g. management, legal, accounting, auditing, and professional fees for services to the Association.
- h. costs of operating the Association, such as telephone, postage, office supplies, printing, meeting expenses, and educational opportunities of benefit to the Association.
- i. premiums and deductibles on insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association,

- including fidelity bonds and directors and officers liability insurance.
- j. contributions to the reserve funds.
- k. any other expense which the Association is required by law or the Documents to pay, or which in the opinion of the board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Documents.

7.3.2. **Special Assessments.** In addition to regular assessments, and subject to the owners' control for assessment increases, the board may levy one or more special assessments against all lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special assessments do not require the approval of the owners, except that special assessments for the following purposes must be approved by owners of at least a majority of the lots:

- a. acquisition of real property, other than the purchase of a lot at the sale foreclosing the Association's lien against the lot.
- b. construction of additional improvements within the Property, but not replacement of original improvements.
- c. any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

7.3.3. **Individual Assessments.** In addition to regular and special assessments, the board may levy an individual assessment against a lot and its owner. Individual assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent assessments; reimbursement for costs incurred in bringing an owner or his lot into compliance with the Documents; fines for violations of the Documents; insurance deductibles; transfer-related fees and resale certificate fees; fees for estoppel letters and project documents; reimbursement for damage or waste caused by willful or negligent acts; common expenses that benefit fewer than all of the lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-lot basis; and "pass through" expenses for services to lots provided through the Association and which are equitably paid by each lot according to benefit received.

7.3.4. **Deficiency Assessments.** The board may levy a deficiency assessment against all lots for the purpose of defraying, in whole or in part, the cost of repair or restoration if insurance proceeds or condemnation awards prove insufficient.

7.4. **CONTROL FOR ASSESSMENT INCREASES.** This Section of the Declaration may not be amended without the approval of owners of at least two-thirds of the lots. In addition to other rights granted to owners by this Declaration, owners have the following powers and controls over the Association's budget:

7.4.1. Veto Increased Dues. At least 30 days prior to the effective date of an increase in regular assessments, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the increase. The increase will automatically become effective unless owners of at least a majority of the lots, in person or by actual proxy, disapprove the increase by petition or at a meeting of the Association. In that event, the last-approved budget will continue in effect until a revised budget is approved.

7.4.2. Veto Special Assessment. At least 30 days prior to the effective date of a special assessment, the board will notify an owner of each lot of the amount of, the budgetary basis for, and the effective date of the special assessment. The special assessment will automatically become effective unless owners of at least majority of the lots, in person or by actual proxy, disapprove the special assessment by petition or at a meeting of the Association.

7.5. BASIS & RATE OF ASSESSMENTS. The share of liability for common expenses allocated to each lot is uniform for all lots, regardless of a lot's location or the value and size of the lot or dwelling. Nevertheless, a lot that is owned by Declarant during the Development Period is eligible for the assessment exemption in Appendix B.

7.6. ANNUAL BUDGET. The board will prepare and approve an estimated annual budget for each fiscal year. The budget will take into account the estimated income and expenses for the year, contributions to reserve funds, and a projection for uncollected receivables. The board will make the budget or its summary available to an owner of each lot, although failure to receive a budget or summary does not affect an owner's liability for assessments.

7.7. DUE DATE. The board may levy regular assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular assessments are due on the first day of the period for which levied. Special and individual assessments are due on the date stated in the notice of assessment or, if no date is stated, within 10 days after notice of the assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

7.8. RESERVE FUNDS. The Association will establish, maintain, and accumulate reserves for operations and for replacement and repair of the common areas. The Association must budget for reserves and may fund reserves out of regular assessments.

7.8.1. Operations Reserves. The Association will endeavor to maintain operations reserves at a level determined by the board to be sufficient to cover the cost of operational or maintenance emergencies or contingencies, including the full amount of deductibles on insurance policies maintained by the Association.

7.8.2. Replacement & Repair Reserves. The Association will maintain replacement and repair reserves at a level that anticipates the scheduled replacement or major repair of components of the common area.

ARTICLE 8.  
ASSESSMENT LIEN

8.1. **ASSESSMENT LIEN.** Each owner, by accepting an interest in or title to a lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the lot and is secured by a lien on the lot. Each owner, and each prospective owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his lot.

8.2. **SUPERIORITY OF ASSESSMENT LIEN.** The assessment lien is superior to all other liens and encumbrances on a lot, except only for (1) real property taxes and assessments levied by governmental and taxing authorities, (2) a deed of trust or vendor's lien recorded before this Declaration, (3) a recorded deed of trust lien securing a loan for construction of the original dwelling, and (4) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due. The assessment lien is subordinate and inferior to a recorded deed of trust lien that secures a first or senior purchase money mortgage, an FHA-insured mortgage, or a VA-guaranteed mortgage.

8.3. **EFFECT OF MORTGAGEE'S FORECLOSURE.** If a foreclosure of a superior lien extinguishes the Association's claim against the lot for unpaid assessments that became due before the sale, the Association's claims against the former owner are not extinguished. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

8.4. **NOTICE AND RELEASE OF NOTICE.** The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded in the county's Real Property Records. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing owner.

8.5. **POWER OF SALE.** By accepting an interest in or title to a lot, each owner grants to the Association a private power of nonjudicial sale in connection with the Association's assessment lien. The board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a board meeting.

8.6. **FORECLOSURE OF LIEN.** The assessment lien may be enforced by judicial or nonjudicial foreclosure. A foreclosure must comply with the requirements of applicable law, such as Chapter 209 of the Texas Property Code. A nonjudicial foreclosure must be conducted in accordance with

the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees, subject to applicable provisions of the bylaws and applicable law, such as Chapter 209 of the Texas Property Code. The Association has the power to bid on the lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same. The Association may not foreclose the assessment lien if the debt consists solely of fines and/or a claim for reimbursement of attorney's fees incurred by the Association.

**ARTICLE 9.  
EFFECT OF NONPAYMENT OF ASSESSMENTS**

An assessment is delinquent if the Association does not receive payment in full by the assessment's due date. The Association, acting through the board, is responsible for taking action to collect delinquent assessments. The Association's exercise of its remedies is subject to applicable laws, such as Chapter 209 of the Texas Property Code, and pertinent provisions of the bylaws. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the board in its sole discretion deems appropriate, to the Association's manager, an attorney, or a debt collector. Neither the board nor the Association, however, is liable to an owner or other person for its failure or inability to collect or attempt to collect an assessment. The following remedies are in addition to and not in substitution for all other rights and remedies which the Association has.

9.1. **INTEREST.** Delinquent assessments are subject to interest from the due date until paid, at a rate to be determined by the board from time to time, not to exceed the lesser of 18 percent or the maximum permitted by law. If the board fails to establish a rate, the rate is 10 percent per annum.

9.2. **LATE FEES.** Delinquent assessments are subject to reasonable late fees, at a rate to be determined by the board from time to time.

9.3. **COSTS OF COLLECTION.** The owner of a lot against which assessments are delinquent is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent assessments, including attorneys fees and processing fees charged by the manager.

9.4. **ACCELERATION.** If an owner defaults in paying an assessment that is payable in installments, the Association may accelerate the remaining installments on 10 days' written notice to the defaulting owner. The entire unpaid balance of the assessment becomes due on the date stated in the notice.

9.5. SUSPENSION OF USE AND VOTE. If an owner's account has been delinquent for at least 30 days, the Association may suspend the right of owners and residents to use The Red Barn and common services during the period of delinquency. The Association may also suspend the right to vote appurtenant to the lot. Suspension does not constitute a waiver or discharge of the owner's obligation to pay assessments.

9.6. MONEY JUDGMENT. The Association may file suit seeking a money judgment against an owner delinquent in the payment of assessments, without foreclosing or waiving the Association's lien for assessments.

9.7. NOTICE TO MORTGAGEE. The Association may notify and communicate with the holder of any lien against a lot regarding the owner's default in payment of assessments.

9.8. FORECLOSURE OF ASSESSMENT LIEN. As provided by this Declaration, the Association may foreclose its lien against the lot by judicial or nonjudicial means.

9.9. APPLICATION OF PAYMENTS. The board may adopt and amend policies regarding the application of payments. The Association may refuse to accept partial payment, i.e., less than the full amount due and payable. The Association may also refuse to accept payments to which the payer attaches conditions or directions contrary to the board's policy for applying payments. The Association's policy may provide that endorsement and deposit of a payment does not constitute acceptance by the Association, and that acceptance occurs when the Association posts the payment to the lot's account.

#### ARTICLE 10. ENFORCING THE DOCUMENTS

10.1. ENFORCEMENT DISCRETION. Neither the board nor the ACC is required to treat all violations in a lockstep uniform and consistent manner. However, the board and the ACC should be consistent in responding to similarly situated properties, or comparable types of situations. For example, the board may be more lenient towards owners who are experiencing personal loss, than towards owners who are flagrant and repeat violators. Similarly, the Association may have different policies for responding to architectural violations on homes along prominent thoroughfare versus violations on a quiet cul de sac. The board may use its sole discretion in determining whether to pursue a violation of the Documents, provided the board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any or further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interests, based on hardship, expense, or other reasonable criteria.

10.2. NOTICE AND HEARING. Before the Association may exercise many of its remedies for a violation of the Documents or damage to the Property, the Association must give an owner written notice and an opportunity for a hearing, according to the requirements and procedures in the bylaws and in applicable law, such as Chapter 209 of the Texas Property Code. Notices are also required before an owner is liable to the Association for certain charges, including reimbursement of attorneys fees incurred by the Association.

10.3. REMEDIES. The remedies provided in this Article for breach of the Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Documents and by law, the Association has the following right to enforce the Documents, subject to applicable notice and hearing requirements:

10.3.1. Nuisance. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation.

10.3.2. Fine. The Association may levy reasonable charges, as an individual assessment, against an owner and his lot if the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate a provision of the Documents. Fines may be levied for each act of violation or for each day a violation continues, and does not constitute a waiver or discharge of the owner's obligations under the Documents.

10.3.3. Suspension. The Association may suspend the right of owners and residents to use The Red Barn for any period during which the owner or resident, or the owner or resident's family, guests, employees, agents, or contractors violate the Documents. A suspension does not constitute a waiver or discharge of the owner's obligations under the Documents.

10.3.4. Self-Help. The Association has the right to enter any part of the Property, including lots, to abate or remove, using force as may reasonably be necessary, any erection, thing, animal, person, vehicle, or condition that violates the Documents. In exercising this right, the board is not trespassing and is not liable for damages related to the abatement. The board may levy its costs of abatement against the lot and owner as an individual assessment. Unless an emergency situation exists in the good faith opinion of the board, the board will give the violating owner at least 15 days written notice of its intent to exercise self-help. The Association's right to enter a lot is secured by the Association's access easement in Article 3 of this Declaration.

10.3.5. Suit. Failure to comply with the Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both. Prior to commencing any legal proceeding, the Association will give the defaulting party reasonable notice and an opportunity to cure the violation.



10.4. NO WAIVER. The Association and every owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Documents. Failure by the Association or by any owner to enforce a provision of the Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Documents at any future time. No officer, director, or member of the Association is liable to any owner for the failure to enforce any of the Documents at any time.

10.5. ENFORCEMENT BY OWNER. The right of individual owners to enforce the Documents is not intended to deputize every owner as a community enforcer, nor to substitute an owner's interpretation of the Documents for the collective judgment of the Association's directors. Any owner who desires to have the Documents enforced on a particular matter must inform the board in writing about the situation requiring enforcement, and may request a hearing before the board to discuss the enforcement issue. The board may respond to the owner in writing or at a hearing for which minutes are taken. If the board (1) considers the owner's issue, (2) makes an informed decision within its discretionary powers, and (3) communicates the decision to the owner, either in writing or at a hearing for which minutes are taken, the owner's right to enforce the Documents will have been exercised. An owner who is not satisfied by that outcome may utilize the dispute resolution procedures of Article 14 to continue the enforcement process. The requirements of this Section for formal responses to enforcement issues raised by individual owners may be modified or waived by the board for an owner who submits more than 5 enforcement requests in a 12-month period.

10.6. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Documents or the restraint of violations of the Documents, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorneys' fees.

#### ARTICLE 11. MAINTENANCE AND REPAIR OBLIGATIONS

11.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on lots or common areas:

- a. the common areas, including The Red Barn.
- b. any real and personal property owned by the Association but which is not a common area, such as a lot owned by the Association.
- c. any property adjacent to Little River Ranch if maintenance of same is deemed to

be in the best interests of the Association and if not prohibited by the owner or operator of said property.

- d. any area, item, easement, or service - the maintenance of which is assigned to the Association by this Declaration or by the plat.

11.2. OWNER RESPONSIBILITY. Every owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural requirements of Article 4 and the restrictions of Article 5.

11.2.1. House Maintenance. Each owner, at the owner's expense, must maintain all improvements on the lot, including but not limited to the dwelling, fences, sidewalks, and driveways. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each owner is expected to maintain his lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

11.2.2. Yard Maintenance. Each owner, at the owner's expense, must maintain the yards on his lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each owner must:

- a. maintain an attractive ground cover or lawn on all yards visible from a street.
- b. edge the street at regular intervals.
- c. mow the lawns and grounds at regular intervals.
- d. prevent weeds or grass from exceeding 6 inches in height in lawns and beds.
- e. not plant vegetable gardens that are visible from a street.
- f. maintain an attractive appearance for shrubs and trees visible from a street or alley.
- g. replace plant material, as needed, to maintain the minimum landscaping requirements of the Little River Ranch Architectural Standards.

11.2.3. Avoid Damage. An owner may not do any work or to fail to do any work which, in the reasonable opinion of the board, would materially jeopardize the soundness and safety of the Property, reduce the value of the Property, adversely affect the appearance of the Property, or impair any easement relating to the Property.

11.2.4. Responsible for Damage. An owner is responsible for his own willful or negligent acts and those of his or the resident's family, guests, agents, employees, or contractors when those acts necessitate maintenance, repair, or replacement to the common areas or the property of another owner.

11.3. OWNER'S DEFAULT IN MAINTENANCE. If the board determines that an owner has failed to properly discharge his obligation to maintain, repair, and replace components of his house, yard, and lot for which the owner is responsible, the board may contact the owner about the need for repairs.

11.3.1. Notice. Before the board exercises any of its remedies, the board must give the owner a written notice, or a series of written notices that collectively state, with reasonable particularity, (1) the maintenance deemed necessary, (2) a reasonable period of time in which to complete the work, (3) the charges and fines that may be levied against the owner and his lot if the owner does not timely perform the work, (4) the owner's 30-day right to request a hearing before the board, and (5) whether the Association intends to pursue self-help or legal remedies, or both, to cure the violation. To the extent permitted by applicable law, the fine and notice requirements may be varied for an owner who repeats the same violation for which he was given the notice required by this Section.

11.3.2. Emergency. In case of an emergency, the board may take any action it deems necessary to protect persons or property from imminent damage, the cost of the action being the owner's expense. In that event, the written notice will also recite the circumstances deemed to be an emergency and the action taken

11.3.3. Self-Help. If the owner fails or refuses to timely perform the maintenance described in the notice, and does not request or prevail at a hearing before the board, the board may give the owner written notice of the Association's intent to exercise its access easement (provided in Article 3 of this Declaration) for the purpose of entering the owner's lot to perform some or all of the work described in the board's notice to the owner. As appropriate for the circumstances, and without limitation, the Association may enter and work on an unfenced yard, a driveway, a fenced yard, and the exterior surfaces of the house (such as the roof and wood trim). The board may levy an individual assessment against the lot and its owner to reimburse the Association's expenses. This Subsection may not be construed as a requirement to exercise self-help and may not be construed as a prerequisite or required alternative to instituting legal actions against the owner or the lot.

11.4. PARTY WALL FENCES. A fence located on or near the dividing line between 2 lots and intended to benefit both lots constitutes a Party Wall Fence and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence, willful acts, or omissions.

11.4.1. Encroachments & Easement. If the Party Wall Fence is on one lot or another due to an error in construction, the fence is nevertheless deemed to be on the dividing line for purposes of this Section. Each lot sharing a Party Wall Fence is subject to an easement for the existence and continuance of any encroachment by the fence as a result of construction, repair, shifting, settlement, or movement in any portion of the fence, so that the encroachment may

remain undisturbed as long as the fence stands. Each lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall Fence.

11.4.2. Right to Repair. If the Party Wall Fence is damaged or destroyed from any cause, the owner of either lot may repair or rebuild the fence to its previous condition, and the owners of both lots, their successors and assigns, have the right to the full use of the repaired or rebuilt fence.

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

11.4.4. Alterations. The owner of a lot sharing a Party Wall Fence may not cut openings in the fence or alter or change the fence in any manner that affects the use, condition, or appearance of the fence to the adjoining lot. The Party Wall Fence will remain in the same location as when erected.

## ARTICLE 12. INSURANCE

12.1. GENERAL PROVISIONS. All insurance affecting the Property is governed by the provisions of this Article, with which the board will make every reasonable effort to comply. The cost of insurance coverages and bonds maintained by the Association is an expense of the Association. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies obtained by the Association. Additionally:

12.1.1. Insurance Trustee. Each owner of a common area that is not owned by the Association, and each owner of a lot, irrevocably appoints the Association, acting through its board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

12.1.2. Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give at least 10 days' prior written notice to the board before the policy may be canceled, terminated, materially modified,

or allowed to expire, by either the insurer or the insured.

12.1.3. **Deductibles.** An insurance policy obtained by the Association may contain a reasonable deductible, which will be paid by the party who would be liable for the loss or repair in the absence of insurance. If a loss is due wholly or partly to an act or omission of an owner or resident or their invitees, the owner must reimburse the Association for the amount of the deductible that is attributable to the act or omission.

12.2. **PROPERTY.** To the extent it is reasonably available, the Association will obtain blanket all-risk insurance for insurable common area improvements. If blanket all-risk insurance is not reasonably available, then the Association will obtain an insurance policy providing fire and extended coverage. Also, the Association will insure the improvements on any lot owned by the Association.

12.3. **GENERAL LIABILITY.** The Association will maintain a commercial general liability insurance policy over the common areas - expressly excluding the liability of each owner and resident within his lot - for bodily injury and property damage resulting from the operation, maintenance, or use of the common areas. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an owner's claim because of negligent acts of the Association or other owners.

12.4. **DIRECTORS & OFFICERS LIABILITY.** To the extent it is reasonably available, the Association will maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

12.5. **OTHER COVERAGES.** The Association may maintain any insurance policies and bonds deemed by the board to be necessary or desirable for the benefit of the Association, including but not limited to worker's compensation insurance, fidelity coverage, and any insurance and bond requested and required by an Underwriting Lender for planned unit developments as long as an Underwriting Lender is a mortgagee or an owner.

12.6. **OWNER'S RESPONSIBILITY FOR INSURANCE.** Each owner will obtain and maintain property insurance on all the improvements on his lot, in an amount sufficient to repair or reconstruct the improvements in event of damage or destruction from any hazard for which property owners customarily obtain insurance.

ARTICLE 13.  
AMENDMENTS

13.1. **CONSENTS REQUIRED.** As permitted by this Declaration, certain amendments of this Declaration may be executed by Declarant alone, or by the board alone. Otherwise, amendments to this Declaration must be approved by owners of at least a majority of the lots.

13.2. **METHOD OF AMENDMENT.** For an amendment that requires the approval of owners, this Declaration may be amended by any method selected by the board from time to time, pursuant to the bylaws, provided the method gives an owner of each lot the substance if not exact wording of the proposed amendment, a description of the effect of the proposed amendment, and an opportunity to vote for or against the proposed amendment.

13.3. **EFFECTIVE.** To be effective, an amendment must be in the form of a written instrument referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto; signed and acknowledged by an officer of the Association, certifying the requisite approval of owners and, if required, Eligible Mortgagees; and recorded in the Real Property Records of Matagorda County, Texas.

13.4. **DECLARANT PROVISIONS.** Declarant has an exclusive right to unilaterally amend this Declaration for the purposes stated in Appendix B. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without Declarant's written and acknowledged consent.

13.5. **PUBLIC LAW COMPLIANCE.** When amending the Documents, the Association must consider the validity and enforceability of the amendment in light of current public law.

13.6. **MERGER.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. The amendment must be approved by owners of at least a majority of the lots. Upon a merger or consolidation of the Association with another association, the property, rights, and obligations of another association may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to the merger. The surviving or consolidated association may administer the provisions of the Documents within the Property, together with the covenants and restrictions established upon any other property under its jurisdiction. No merger or consolidation, however, will effect a revocation, change, or addition to the covenants established by this Declaration within the Property.

13.7. **TERMINATION.** Termination of the terms of this Declaration and the status of the Property as a planned unit development are according to the following provisions. In the event of substantially total damage, destruction, or public condemnation of the Property, an amendment

to terminate must be approved by owners of at least two-thirds of the lots. In the event of public condemnation of the entire Property, an amendment to terminate may be executed by the board without a vote of owners. In all other circumstances, an amendment to terminate must be approved by owners of at least 85 percent of the lots. The owners' approvals must be obtained from the actual owners or their actual proxies, and not by use of Voting Delegates.

13.8. CONDEMNATION. In any proceeding, negotiation, settlement, or agreement concerning condemnation of the common area, the Association will be the exclusive representative of the owners. The Association may use condemnation proceeds to repair and replace any damage or destruction of the common area, real or personal, caused by the condemnation. Any condemnation proceeds remaining after completion, or waiver, of the repair and replacement will be deposited in the Association's reserve funds.

#### ARTICLE 14. DISPUTE RESOLUTION

14.1. INTRODUCTION & DEFINITIONS. The Association, the owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "Parties") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, have the following specified meanings:

14.1.1. "Claim" means any claim, grievance, or dispute between Parties involving the Properties, except Exempt Claims as defined below, and including without limitation:

- a. claims arising out of or relating to the interpretation, application, or enforcement of the Documents.
- b. claims relating to the rights and/or duties of Declarant as Declarant under the Documents.
- c. claims relating to the design, construction, or maintenance of the Property.

14.1.2. "Claimant" means any Party having a Claim against any other Party.

14.1.3. "Exempt Claims" means the following claims or actions, which are exempt from this Article:

- a. the Association's claim for assessments, and any action by the Association to collect assessments.

- b. an action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration.
- c. enforcement of the easements, architectural control, maintenance, and use restrictions of this Declaration.
- d. a suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

14.1.4. "Respondent" means the Party against whom the Claimant has a Claim.

14.2. MANDATORY PROCEDURES. Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article. Although this Article describes several steps that are precedent to litigation, the parties may mutually agree to waive any of the steps and proceed to the method of dispute resolution that is favored by the parties.

14.3. NOTICE. Claimant must notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely: (1) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (2) the basis of the Claim (i.e., the provision of the Documents or other authority out of which the Claim arises); (3) what Claimant wants Respondent to do or not do to resolve the Claim; and (4) that the Notice is given pursuant to this Section.

14.4. NEGOTIATION AND MEDIATION. Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. If the parties do not resolve the Claim through negotiation within 60 days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have 30 additional days within which to submit the Claim to mediation under the auspices of a mediation center or individual mediator on which the parties mutually agree. The mediator must have at least two years of experience serving as a mediator and must have technical knowledge or expertise appropriate to the subject matter of the Claim.

14.5. TERMINATION OF MEDIATION. If the Parties do not settle the Claim within 30 days after submission to mediation, or within a time deemed reasonable by the mediator, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, the parties may mutually submit the Claim to arbitration, or Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.



14.6. ALLOCATION OF COSTS. Unless otherwise agreed by the Parties, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorneys fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

14.7. LITIGATION APPROVAL & SETTLEMENT. In addition to and notwithstanding the above alternate dispute resolution procedures, the Association may not initiate any judicial or administrative proceeding without the prior approval of owners of at least a majority of the lots, except that no such approval is required (1) to enforce provisions of this Declaration, including collection of assessments; (2) to challenge condemnation proceedings; (3) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (4) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (5) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of owners in order to preserve the status quo. The board, on behalf of the Association and without the consent of owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims. This Section may not be amended without the approval of owners of at least 75 percent of the lots.

#### ARTICLE 15. GENERAL PROVISIONS

15.1. COMPLIANCE. The owners hereby covenant and agree that the administration of the Association will be in accordance with the provisions of the Documents and applicable laws, regulations, and ordinances, as same may be amended from time to time, of any governmental or quasi- governmental entity having jurisdiction over the Association or Property.

15.2. HIGHER AUTHORITY. The Documents are subordinate to federal and state law, and local ordinances. Generally, the terms of the Documents are enforceable to the extent they do not violate or conflict with local, state, or federal law or ordinance.

15.3. COMMUNICATIONS. This Declaration is drafted in an era of rapidly changing communication technologies. Declarant does not intend to limit the methods by which the Association, owners, and residents communicate with each other. Such communications may be by any method or methods that are available and customary. For example, if the Association is required by the Documents or applicable law to make information available to owners of all lots, that requirement may be satisfied by posting the information on the Association's website or by using electronic means of disseminating the information, unless applicable law requires a specific method of communication. It is foreseeable that meetings of the Association and voting on issues may eventually be conducted via technology that is not widely available on the date of this Declaration. As communication technologies change, the Association may adopt as its universal standard any technology that is used by owners of at least 85 percent of the lots. Also, the

Association may employ multiple methods of communicating with owners and residents.

15.4. NOTICE. All demands or other notices required to be sent to an owner or resident by the terms of this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association at the time of mailing. If an owner fails to give the Association an address for mailing notices, all notices may be sent to the owner's lot, and the owner is deemed to have been given notice whether or not he actually receives it.

15.5. USE OF LITTLE RIVER RANCH NAMES. In creating and naming Little River Ranch, The Red Barn, and Cattle Drive Property Owners' Association, Inc., Declarant intends for those names to be used exclusively by the Association or by persons and entities expressly authorized by Declarant or by the Association. No person may use the above-named terms, or any version of them, in any promotional material or for any public or quasi-public uses without the prior written consent of Declarant during the Development Period, and thereafter the prior written consent of the Association.

15.6. LIBERAL CONSTRUCTION. The terms and provision of each Document are to be liberally construed to give effect to the purposes and intent of the Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved in favor of the operation of the Association and its enforcement of the Documents, regardless which party seeks enforcement.

15.7. SEVERABILITY. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general.

15.8. CAPTIONS. In all Documents, the captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Boxed notices are inserted to alert the reader to certain provisions and are not to be construed as defining or modifying the text.

15.9. APPENDIXES. The following appendixes are attached to this Declaration and incorporated herein by reference:

Appendix A - Description of Subject Land

Appendix B - Declarant Representations & Reservations

Appendix C - Purchasers Covenants During Development Period

15.10. INTERPRETATION. Whenever used in the Documents, unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate.

15.11. DURATION. Unless terminated or amended by owners as permitted herein, the provisions of this Declaration run with and bind the Property, and will remain in effect perpetually to the extent permitted by law.

EXECUTED on June 24, 2015, and effective on the date this instrument is recorded.

DECLARANT:

Sitz Family Investments, LLC  
a Texas limited liability company

By: *David F. Sitz*  
DAVID F. SITZ, as Managing Member

DECLARANT:

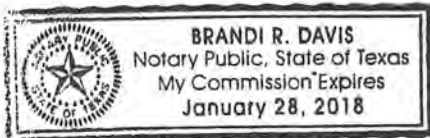
Sitz Family Investments, LLC  
a Texas limited liability company

By: *Marilyn L. Sitz*  
MARILYN L. SITZ, as Managing Member

ACKNOWLEDGMENT

STATE OF TEXAS §  
COUNTY OF MATAGORDA §

This instrument was acknowledged before me on June 24, 2015, by DAVID F. SITZ, in his capacity as Managing Member of Sitz Family Investments, LLC.



*Brandi R. Davis*  
Notary Public, State of Texas

ACKNOWLEDGMENT

STATE OF TEXAS §  
COUNTY OF MATAGORDA §

This instrument was acknowledged before me on June 24, 2015, by MARILYN L. SITZ, in her capacity as Managing Member of Sitz Family Investments, LLC.



*Brandi R. Davis*  
Notary Public, State of Texas

## APPENDIX A

49.929 acres out of the Thomas Cayce Survey, Abstract No. 14, Matagorda County, Texas and being all of that certain 2.348 acre tract and that certain 1.857 acre tract, both of which were conveyed to Sitz Family Limited Partnership, a Texas Limited Partnership by Document No. 2014-4755, Official Records, Matagorda County, Texas and also being part of that certain 68.89 acre tract conveyed to Sitz Family Limited Partnership, a Texas Limited Partnership by Document No. 2013-5151, Official Records, Matagorda County, Texas and being all of that 8.72 acre tract which was conveyed to the Sitz Family Investment, a Texas Limited Partnership by Document No. 2015-1988, Official Records, Matagorda County, Texas.

The Plat of said subdivision is recorded in the Matagorda County Clerk's Office Plat Records as: 533B, 534A, 534B, 535A, 535B, 536A, and 536B (7 pages).

## APPENDIX B

### DECLARANT REPRESENTATIONS & RESERVATIONS

#### B.1. GENERAL PROVISIONS.

B.1.1. Introduction. Declarant intends the Declaration to be perpetual and understands that provisions pertaining to the initial development, construction, marketing, and control of the Property will become obsolete when Declarant's role is complete. As a courtesy to future users of the Declaration, who may be frustrated by then-obsolete terms, Declarant is compiling the Declarant-related provisions in this Appendix.

B.1.2. Purpose. The purpose of this Appendix is to protect Declarant's interest in the Property. This Appendix gives Declarant certain extraordinary rights during the Development Period and the Declarant Control Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of owners and mortgagees.

B.1.3. General Reservation & Construction. Every provision of this Appendix is superior to and controls over any provision elsewhere in the Documents. Notwithstanding other provisions of the Documents to the contrary, nothing contained therein may be construed to, nor may any mortgagee, other owner, or the Association, prevent or interfere with the rights contained in this Appendix which Declarant hereby reserves exclusively unto itself and its successors and assigns. In case of conflict between this Appendix and any other Document, this Appendix controls. The terms and provisions of this Appendix must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

B.1.4. Amendment. This Appendix may not be amended without the prior written consent of Declarant.

B.1.5. Definitions. As used in this Appendix and elsewhere in the Documents, the following words and phrases, when capitalized, have the following specified meanings:

a. "Builder" means a person or entity who purchases, or contracts to purchase, one or more lots from Declarant for the purpose of constructing a dwelling to be marketed for sale or lease, and who contracts with Declarant for the rights and obligations specific to "Builders" under this Declaration.

b. "Declarant Control Period" means that period of time during which Declarant controls the operation of the Association. The duration of the Declarant Control Period will be from the date this Declaration is recorded for a maximum period not to exceed the earlier of:

- (1) Twenty-five years from date this Declaration is recorded; or
- (2) Four months after title to 85 percent of the lots that may be created in the Property and on the Additional Land has been conveyed to owners other than Builders.

B.1.6. Builders. Declarant does not intend to construct dwellings on the lots. Instead, Declarant intends to sell the lots to private individuals and Builders to improve the lots with dwellings to be sold and occupied.

B.2. DECLARANT CONTROL PERIOD RESERVATIONS. Declarant reserves the following powers, rights, and duties during the Declarant Control Period:

B.2.1. Officers & Directors. During the Declarant Control Period, Declarant may appoint, remove, and replace any officer and any director of the Association, none of whom need be members or owners, and each of whom is indemnified by the Association as a "Leader." During the Declarant Control Period, the board may consist of any number of directors, but not less than three. Declarant may change the size of the board from time to time.

B.2.2. Organizational Formalities. During the Declarant Control Period, the Declarant-appointed board will try to ensure that the Association complies with the minimum requirements of applicable law for nonprofit corporations and property owners associations, and is not required to exceed those minimum requirements, even if the Declaration or the Bylaws require or permit higher performance standards.

B.2.3. Voting Delegates. During the Declarant Control Period, Declarant may personally appoint any or all of the Voting Delegates. If Declarant does not make such appointments when notified by the board, the appointments will be made by the board.

B.2.4. Budget Funding. During the Declarant Control Period only, Declarant is responsible for the difference between the Association's operating expenses and the regular assessments received from owners other than Declarant, and will provide any additional funds deemed by the Declarant-appointed board as necessary to pay actual cash outlays of the Association. On termination of the Declarant Control Period, Declarant will cease being responsible for the difference between the Association's operating expenses and the assessments received from owners other than Declarant.

B.2.5. Declarant Assessments. During the Declarant Control Period, any real property owned by Declarant is not subject to assessment by the Association.

B.2.6. Builder Obligations. During the Declarant Control Period only, Declarant has the right but not the duty (1) to reduce or waive the assessment obligation of a Builder, and (2) to

exempt a Builder from any or all liabilities for transfer-related fees charged by the Association or its manager, provided the agreement is in writing. Absent such an exemption, any Builder who owns a lot is liable for all assessments and other fees charged by the Association in the same manner as any owner.

B.2.7. Commencement of Assessments. During the initial development of the Property, Declarant may elect to postpone the Association's initial levy of regular assessments until a certain number of lots are sold. During the Declarant Control Period, Declarant will determine when the Association first levies regular assessments against the lots. Prior to the first levy, Declarant will be responsible for all operating expenses of the Association.

B.2.8. Budget Control. During the Declarant Control Period, the right of owners to veto assessment increases or special assessments is not effective and may not be exercised.

B.2.9. Organizational Meeting. Within 60 days after the end of the Declarant Control Period, or sooner at the Declarant's option, Declarant will call an organizational meeting of the members of the Association for the purpose of electing, by vote of the owners, directors to the board. Notice of the organizational meeting must be given to an owner of each lot at least 10 days before the meeting. For the organizational meeting, owners of 5 percent of the lots constitute a quorum.

B.3. DEVELOPMENT PERIOD RESERVATIONS. Declarant reserves the following easements and rights, exercisable at Declarant's sole discretion, at any time during the Development Period:

B.3.1. Expansion. The Property is subject to expansion. During the Development Period, Declarant may - but is not required to - annex any real property: (1) any portion of which is contiguous with, adjacent to, or within one mile of any real property that is subject to this Declaration, (2) in any addition or subdivision platted by Matagorda County as a phase or section of Little River Ranch, or (3) located in a planned development district created by Matagorda County for the property subject to this Declaration. Declarant annexes real property by subjecting it to the Declaration and the jurisdiction of the Association by recording a supplement or an amendment of this Declaration, executed by Declarant, in the county's Real Property Records. The supplement or amendment of annexation must include a description of the additional real property or a reference to the recorded plat that describes the additional real property. Declarant's right to annex land is for a term of years and does not require that Declarant own land described in Appendix A at the time or times Declarant exercises its right of annexation.

B.3.2. Withdrawal. During the Development Period, Declarant may remove from the effects of this Declaration any portion of the Property (1) that is not platted with house lots or (2) that is platted as a phase of Little River Ranch, provided that no house lot in the phase to be withdrawn has been conveyed to an owner other than Declarant or a Builder. On the date of this Declaration, Declarant anticipates that several parcels of land may be removed from the effects

of this Declaration.

**B.3.3. Changes in Development Plan.** Declarant, at Declarant's sole discretion, may modify the initial development plan. Subject to approval by the owner of the land or lots to which the change would directly apply (if other than Declarant), Declarant may (1) change the sizes, dimensions, and configurations of lots and streets; (2) change the minimum dwelling size; (3) change the building setback requirements; and (4) eliminate or modify any other feature of the Property.

**B.3.4. Adjacent Land Use.** Declarant makes no representations as to future uses of (1) land that is adjacent to Little River Ranch or (2) land that is not subject to this Declaration even if initially platted within a phase of Little River Ranch. Although site maps may show a future school site on land within or near Little River Ranch, Declarant makes no representations about the future location of any school in relation to the Property.

**B.3.5. Builder Limitations.** All documents and materials used by a Builder in connection with the development and sale of lots and homes, including without limitation promotional materials; deed restrictions; forms for deeds, lot sales, and lot closings, must be approved by Declarant. Without Declarant's prior written approval, a Builder may not use a sales office or model in the Property to market houses, lots, or other products located outside the Property or the Additional Land.

**B.3.6. Architectural Control.** During the Development Period, Declarant has the absolute and exclusive right to serve as the Architectural Reviewer pursuant to Article 6. Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under Article 6 and this Appendix. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (1) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (2) to veto any decision by the delegatee. Declarant also has the exclusive and unilateral right to exercise architectural control over vacant lots in the Property. Neither the Association, the board of directors, nor a committee appointed by the Association or board (no matter how the committee is named) may involve itself with the approval of new homes and related improvements on vacant lots.

**B.3.7. Website & Little River Ranch Name.** During the Development Period, Declarant has the unilateral right to approve or disapprove uses of the Little River Ranch website, if any, including all information available on or through the Little River Ranch website, and all uses of "Little River Ranch" by the Association and the Builders.

**B.3.8. For Sale and For Lease Signs.** The design, appearance, and placement of any sign advertising a home for sale or for lease must (1) have the Little River Ranch logo, (2) be in Little River Ranch colors, (3) conform to the Little River Ranch Sign Design Guidelines, and (4) be



approved by Declarant. No corporate or standard broker signs are allowed. Signs may not be placed on common areas, on public property, inside or on windows, in street rights-of-way, off-site on a neighboring property, or mounted on buildings or trees. Declarant may have different sign standards for Builders.

B.3.9. Amendment. During the Development Period, Declarant may amend this Declaration and the other Documents, without consent of other owners or any mortgagee, for the following purposes:

- a. To add real property to the Property.
- b. To withdraw real property from the Property.
- c. To create lots, easements, and common areas within the Property.
- d. To subdivide, combine, or reconfigure lots.
- e. To convert lots into common areas.
- f. To modify the construction and use restrictions of Article 7 of this Declaration.
- g. To modify the Little River Ranch Architectural Standards.
- h. To adopt and/or to modify community rules and policies for Little River Ranch.
- i. To modify or clarify the Association's relationship with the Water District.
- j. To merge the Association with another property owners association.
- k. To comply with requirements of an underwriting lender.
- l. To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.
- m. To enable any reputable title insurance company to issue title insurance coverage on the lots.
- n. To enable an institutional or governmental lender to make or purchase mortgage loans on the lots.
- o. To change the name or entity of Declarant.
- p. To change the name of the addition in which the Property is located.
- q. To change the name of the Association.
- r. For any other purpose, provided the amendment has no material adverse effect on any right of any owner.

B.3.10. Completion. During the Development Period, Declarant has (1) the right to complete or make improvements indicated on the plat; (2) the right to sell or lease any lot owned by Declarant; and (3) an easement and right to erect, construct, and maintain on and in the common area and lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property.

B.3.11. Easement to Inspect & Right to Correct. During the Development Period, Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of

the Property, including the lots, and a perpetual nonexclusive easement of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right. By way of illustration but not limitation, relocation of a screening wall located on a lot may be warranted by a change of circumstance, imprecise siting of the original wall, or desire to comply more fully with public codes and ordinances. This Section may not be construed to create a duty for Declarant or the Association.

**B.3.12. Promotion.** During the Development Period, Declarant reserves for itself and for the Builders an easement and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other owners and residents, for purposes of promoting, identifying, and marketing the Property and/or Builders' houses and lots. Declarant reserves for itself and the Builders an easement and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves for itself and the Builders the right to sponsor sales or marketing events, including parties, at the Property to promote the sale of lots and homes. With the prior written permission of Declarant, a Builder may also exercise the rights herein to market Builder's products located outside the Property.

**B.3.13. Offices.** During the Development Period, Declarant reserves for itself and for the Builders the right to use dwellings owned or leased by the Builders as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself and for the Builders the easement and right to make structural changes and alterations on and to lots and dwellings used by Declarant or the Builders as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted herein.

**B.3.14. Access.** During the Development Period, Declarant has an easement and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property and the Additional Land, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for the home buying public through any existing or future gate that restricts vehicular access to the Property or to the Additional Land in connection with the active marketing of lots and homes by Declarant or Builders, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

**B.3.15. Utility Easements.** During the Development Period, Declarant may grant permits, licenses, and easements over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property.

Declarant reserves the right to make changes in and additions to the easements on any lot, as shown on the plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a common area of the Property or not owned by Declarant, Declarant must have the prior written consent of the land owner.

B.3.16. Assessments. For the duration of the Development Period, any lot owned by Declarant is not subject to assessment. After the Development Period, Declarant is liable for assessments on each lot owned in the same manner as any owner.

B.3.17. Land Transfers. During the Development Period, any transfer of an interest in the Property to or from Declarant is not subject to any transfer-related provision in the Documents, including without limitation an obligation for transfer or resale certificate fees, and the transfer-related provisions of Article 8 of this Declaration. The application of this provision includes without limitation Declarant's lot take-downs, Declarant's sale of lots to Builders, and Declarant's sale of lots to home buyers.

#### B.4. COMMON AREAS.

B.4.1. Little River Ranch Reservation. Declarant hereby reserves an easement over, under, and through Little River Ranch common areas to fulfill the purposes of this Section including, without limitation:

a. The right to install and maintain signs, flags, banners, and lighting in, on, and around the Little River Ranch to direct prospective home buyers.

b. The right to install, maintain, modify, relocate, and remove signs, displays, media presentations, and other items pertaining to the marketing of Little River Ranch.

B.4.4. Conveyance. Declarant will convey title to the common areas to the Association by one or more deeds - with or without warranty. Initial common area improvements will be installed, constructed, or authorized by Declarant, the cost of which is not a common expense of the Association. At the time of conveyance to the Association, the common areas will be free of encumbrance except for the property taxes accruing for the year of conveyance. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association. The transfer of control of the Association at the end of the Declarant Control Period is not a transfer of common areas requiring inspection, evaluation, acceptance, or approval of common area improvements by the owners.

B.5. INITIAL RESERVE FUNDS. Declarant will establish a reserve fund for the Association by requiring home purchasers to make a contribution to this fund, subject to the following conditions:

a. The amount of the contribution will be \$120.00 per lot, and will be collected from the purchaser on the closing of the sale of the lot to an owner other than Declarant, a Successor Declarant, or a Builder.

b. If a lot's contribution is not collected from the purchaser at closing, neither Declarant nor the Builder is thereafter liable for the contribution. The purchaser remains liable to the Association for the contribution.

c. Contributions to the fund are not advance payments of regular assessments and are not refundable to the contributor by the Association, the Builder, or Declarant. This may not be construed to prevent a selling owner from negotiating reimbursement of the contribution from a purchaser.

e. Declarant will transfer the balance of the initial reserve fund to the Association on or before termination of the Declarant Control Period. Declarant may not use the fund to defray Declarant's expenses or construction costs.

B.6. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the Real Property Records of Matagorda County, Texas. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

[End of Appendix B]

## APPENDIX C

### PURCHASERS COVENANTS DURING DEVELOPMENT PERIOD

Each owner of a Little River Ranch home, by the act of accepting an interest in or title to a lot during the Development Period, whether or not it is so expressed in the instrument of conveyance, acknowledges, understand, covenants, and agrees to each of the following statements:

1. During the Development Period, the Declarant has rights and opportunities for marketing Little River Ranch.
2. Little River Ranch is not located within a city, and is not located within a public water supply district.
3. Owner has read and understands the significance of this Declaration of Covenants, Conditions, and Restrictions for Little River Ranch, which contains important information about the nature and ownership of Little River Ranch and owner's obligations.
4. Declarant has reserved for itself the right to control the Association until Little River Ranch is fully phased and developed, and after 85 percent of the lots are sold and closed to home buyers.
5. Declarant or its appointees are the Architectural Reviewer during the Development Period. Neither the owners nor the Association have a voice in the architectural review and approval of new homes on vacant lots.
6. Declarant's development plan for Little River Ranch is subject to change during the Development Period to respond to perceived or actual changes and opportunities in the marketplace.
7. Subject to the approval of governmental entities, if applicable, Declarant may (1) change the sizes, dimensions, and configurations of lots and streets; (2) change the minimum dwelling size; (3) change the minimum lot size; (4) change the building setback requirements; and (5) eliminate or modify any other feature of the Property.
8. In purchasing a lot, owner has not relied on any representation, warranty, or assurance - verbal or otherwise - by any person as to (1) the design, construction, completion, development, use, benefits, or value of Little River Ranch or any common areas; (2) the number, types, sizes, prices, or designs of homes to be built in any part of Little River Ranch; or (3) the type, number, or quality of common area improvements.

9. The Association may not protest or use Association funds to oppose Declarant's development or marketing plan for Little River Ranch by Declarant or Builders pursuant to the Declaration.

10. Declarant is not the Builder from whom owner is purchasing the home.

11. Owner will execute a version of this 2-page document at or prior to closing if so requested by Declarant or a Builder, although failure to execute the document does not affect the validity of this Appendix to the Declaration or its application to the owner or the owner's lot.

12. Whether or not executed by owner, these covenants run with the land and bind owner and owner's successors and assigns.

Property Description:

Lot \_\_\_\_\_, Little River Ranch Subdivision

\_\_\_\_\_  
Purchaser's Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Purchaser's Signature

Date: \_\_\_\_\_