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HARRINGTON
TRAILS

DEVELOPMENT AREA DECLARATION

[RESIDENTIAL FR]

Montgomery County, Texas

Declarant: FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation

Cross reference to Harrington Trails Amended and Restated Master Covenant [*Residential*], recorded as Document No. [2022061485] in the Official Public Records of Montgomery County, Texas.

HARRINGTON
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HARRINGTON TRAILS
DEVELOPMENT AREA DECLARATION
[RESIDENTIAL FR]

This Development Area Declaration for Harrington Trails *[Residential FR]* (this "**Development Area Declaration**") is made by **FORESTAR (USA) REAL ESTATE GROUP INC.,** a Delaware corporation (the "**Declarant**"), and is as follows:

RECITALS

A. Declarant previously Recorded that certain Harrington Trails Amended and Restated Master Covenant, recorded as Document No. [20220614857] in the Official Public Records of Montgomery County, Texas (the "**Covenant**").

B. Pursuant to the Covenant, Declarant served notice that portions of the Property may be made subject to one or more Development Area Declarations upon the Recording of one or more Notices of Applicability in accordance with *Section 9.5* of the Covenant, and once such Notices of Applicability have been Recorded, the portions of the Property described therein will constitute the Development Area and will be governed by and fully subject to this Development Area Declaration in addition to the Covenant.

A Development Area is a portion of Harrington Trails which is subject to the terms and provisions of the Covenant. A Development Area Declaration includes specific restrictions which apply to the Development Area, in addition to the terms and provisions of the Covenant.

C. Upon the further Recording of one or more Notices of Applicability, portions of the Property identified in such notice or notices will be subject to the terms and provisions of this Development Area Declaration. The Property made subject to the terms and provisions of this Development Area Declaration will be referred to herein as the "**Development Area**".

NOW, THEREFORE, it is hereby declared: (i) those portions of the Property as and when made subject to this Development Area Declaration by the filing of a Notice of Applicability will be held, sold, conveyed, and occupied subject to the following covenants, conditions and restrictions which will run with such portions of the Property and will be binding upon all parties having right, title, or interest in or to such portions of the Property or any part thereof, their heirs, successors, and assigns and will inure to the benefit of each Owner thereof; (ii) each contract or deed conveying those portions of the Property which are made subject to this Development Area Declaration will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not the same are set out in full or by reference in said contract or deed; and (iii) that this Development Area Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Covenant.

ARTICLE 1
DEFINITIONS

Capitalized terms used but not defined in this Development Area Declaration shall have the meaning subscribed to such term in the Covenant. Unless the context otherwise specifies or requires, all other capitalized terms when used in this Development Area Declaration shall have the following meanings:

"**Area of Common Responsibility**" means those portions of a Dwelling or Lot that are owned by the Owner but are designated, from time to time, by this Development Area Declaration or the Association to be maintained, repaired, and replaced by the Association, as a common expense, as reflected in the Designation of Area of Common Responsibility and Maintenance Chart attached to this Development Area Declaration as **Exhibit "A"**.

"**Dwelling**" means the residence located on a Lot, together with any garage incorporated therein, whether or not the Dwelling is occupied for residential purposes.

"**Solar Energy Device**" means a system or series of mechanisms designed primarily to provide heating or cooling or to produce electrical or mechanical power by collecting and transferring solar-generated energy. The term includes a mechanical or chemical device that has the ability to store solar-generated energy for use in heating or cooling or in the production of power.

"**Standby Electric Generator**" means a device that converts mechanical energy to electrical energy and is (a) powered by natural gas, liquefied petroleum gas, diesel fuel, biodiesel fuel, or hydrogen; (b) fully enclosed in an integral manufacturer supplied sound attenuating enclosure; (c) connected to the main electrical panel of a Dwelling by a manual or automatic transfer switch; and (d) rated for a generating capacity of not less than seven (7) kilowatts.

ARTICLE 2
USE RESTRICTIONS

All of the Development Area will be owned, held, encumbered, leased, used, occupied and enjoyed subject to the following limitations and restrictions:

2.01 Use Restrictions. The Development Area shall be used solely for single-family residential purposes, which may include residential amenities such as pools, areas for outdoor fitness and recreation, dog parks, gazebos and/or playgrounds. The Development Area may not be used for any other purposes without the prior written consent of the Declarant, which consent may be withheld by Declarant in its sole and absolute discretion. No professional, business, or commercial activity to which the general public is invited shall be conducted on any portion of the Development Area, except an Owner or Occupant may conduct business activities within a Dwelling so long as: (i) such activity complies with Applicable Law; (ii) participation in the

business activity is limited to the Owner(s) or Occupant(s) of a Dwelling; (iii) the existence or operation of the business activity is not apparent or detectable by sight, *i.e.*, no sign may be erected advertising the business within the Development Area, sound, or smell from outside the Dwelling; (iv) the business activity does not involve door-to-door solicitation of residents within the Development; (v) the business does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles parked within the Development Area which is noticeably greater than that which is typical of Dwellings in which no business activity is being conducted; (vi) the business activity is consistent with the residential character of the Development Area and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Development as may be determined in the sole discretion of the Board; and (vii) the business does not require the installation of any machinery other than that customary to normal household operations. In addition, for the purpose of obtaining any business or commercial license, neither the Dwelling nor the Lot will be considered open to the public. Notwithstanding the foregoing to the contrary, the Owner or Owners of the Development Area shall have the right to use one of the Dwellings located on a Lot within the Development Area as a leasing office for purposes of leasing Dwellings located on Lots within the Development Area during normal business hours. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (x) such activity is engaged in full or part-time; (y) such activity is intended to or does generate a profit; or (z) a license is required.

2.02 **Rentals**. No portion of the Development Area may be used as an apartment house, flat, lodging house, hotel, bed and breakfast lodge, or any similar purpose, but the Dwelling constructed on a Lot may be leased for residential purposes. All leases shall be in writing. All leases shall be for a term of at least three (3) months. The Owner must provide to its lessee copies of the Documents. Notice of any lease, which shall include the mailing address of the Dwelling and the lessee's name and email address, must be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease. All leases must be for the entire Dwelling. Notwithstanding anything contained in the Documents, no Dwelling may be advertised for lease as a short-term rental on any short-term rental websites, such as Airbnb, VRBO, HomeAway or other similar websites, as determined in the sole and absolute discretion of the Board. Violations of this *Section 2.02* shall result in fines levied by the Association in amounts determined from time to time by the Board. For the avoidance of doubt, notwithstanding whether any Community Enhancement Covenant has been recorded against the Development Area, no lease or rental by an Owner of a Dwelling located on a Lot within the Development Area shall be deemed a transfer of such Lot, and no fee shall be levied or collectible by the Board in connection with any such lease or rental of such Dwelling.

2.03 Trash Containers. Trash containers and recycling bins must be stored in one of the following locations:

(a) inside the garage of the Dwelling constructed; or

(b) behind or on the side of a Dwelling in such a manner that the trash container and recycling bin is not visible from any street, alley, or adjacent Dwelling, e.g. behind a privacy fence or other appropriate screening.

2.04 Unsightly Articles; Vehicles. No article deemed to be unsightly by the Board will be permitted to remain on any Lot so as to be visible from adjoining property or from public or private thoroughfares. Without limiting the generality of the foregoing, trailers, graders, trucks other than pickups, recreational vehicles, boats and other watercraft, stored or inoperable vehicles, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden maintenance equipment, and commercial vehicles (other than any vehicle that any Owner or Occupant is required by such Owner's or Occupant's employer to park at the Dwelling during non-working hours) shall be kept at all times except when in actual use, (i) in enclosed structures, or (ii) behind a fence so as to not be visible from any other portion of the Development Area, and no repair or maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures; provided, construction, service and delivery vehicles may be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Dwelling. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics must be appropriately screened from view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials, scrap, refuse or trash shall be kept, stored, or allowed to accumulate on any portion of the Development Area except within enclosed structures or appropriately screened from view. No: (i) racing vehicles; or (ii) other vehicles (including, without limitation, motorcycles or motor scooters) that are inoperable or do not have a current license tag will be permitted to remain visible on any Lot or to be parked on any roadway within the Development Area. Motorcycles must be operated in a quiet manner.

Mobile homes are prohibited. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Harrington Trails Reviewer shall be permitted.

2.05 Outside Burning. No exterior fires are permitted with the exception of barbecues, outside fireplaces, braziers and incinerator fires contained within facilities or receptacles and in areas designated and approved by the Harrington Trails Reviewer. No Owner may permit any condition upon its portion of the Development Area which creates a fire hazard or violates Applicable Law.

2.06 Animals - Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be

kept, maintained, or cared for on or within the Development Area (as used in this paragraph, the term "domestic household pet" does not mean or include non-traditional pets such pot-bellied pigs, miniature horses, chickens, exotic snakes or lizards, ferrets, monkeys or other exotic animals). The Board may conclusively determine, in its sole discretion, whether a particular pet is a domestic household pet within the ordinary meaning and interpretation of such words. No Owner or Occupant may keep on a Lot more than three (3) cats and dogs, in the aggregate, without the prior written consent of the Board. No animal may be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Development Area other than within a Dwelling, or the fenced yard space associated therewith, unless confined to a leash. The Association may restrict pets to certain areas on the Development Area. No animal may be stabled, maintained, kept, cared for, or boarded for hire or remuneration on the Development Area, and no kennels or breeding operations will be allowed. No animal may be allowed to run at large, and all animals must be kept within enclosed areas which must be clean, sanitary, and reasonably free of refuse, insects, and waste at all times. No pet may be left unattended in yards, porches or other outside areas of the Lot. All pet waste will be removed and appropriately disposed of by the owner of the pet in a timely manner. All pets must be registered, licensed and inoculated as required by Applicable Law. All pets not confined to a Dwelling must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the Owner or Occupant, upon written notice, may be required to remove the pet from the Development Area.

2.07 **Antennas**. Except as expressly provided below, no exterior radio or television antennas or aerial or satellite dish or disc, nor any Solar Energy Device, may be erected, maintained or placed on a Lot without the prior written approval of the Harrington Trails Reviewer; provided, however, that:

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

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

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

(collectively, (i) through (iii) are referred to herein as the **"Permitted Antennas"**) may be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Harrington Trails Reviewer, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association shall have the right, but not the obligation, to erect an aerial, satellite dish, or other

apparatus for a master antenna, cable, or other communication system for the benefit of all or any portion of the Development Area; provided, however, that no Owner or Occupant shall be obligated to purchase communication services from the Declarant or the Association.

2.08 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and may not encroach upon any street, Common Area, Special Common Area, or any other portion of the Development Area. A Permitted Antenna may be installed in a location on the Lot from which an acceptable quality signal can be obtained and where least visible from the street and the Development Area, other than the Lot. In order of preference, the locations of a Permitted Antenna which will be considered least visible by the Harrington Trails Reviewer are as follows:

(i) attached to the back of the principal Dwelling constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street; then

(ii) attached to the side of the principal Dwelling constructed on the Lot, with no part of the Permitted Antenna any higher than the lowest point of the roofline and screened from view of adjacent Lots and the street.

Notwithstanding the foregoing, Permitted Antennas may not be attached or installed on the front of any Dwelling or in the front yard of any Lot unless an Owner provides evidence to the Harrington Trails Reviewer that a quality signal cannot be obtained from anywhere else on the Dwelling or Lot. The Harrington Trails Reviewer may, from time to time, modify, amend, or supplement the rules regarding installation and placement of Permitted Antennas.

Satellite dishes one meter or less in diameter, *e.g.*, DirecTV or Dish satellite dishes, are permitted; HOWEVER, you are required to comply with the rules regarding installation and placement. These rules and regulations may be modified by the Harrington Trails Reviewer from time to time. Please contact the Harrington Trails Reviewer for the current rules regarding installation and placement.

2.09 Signs. Unless otherwise permitted by Applicable Law, no sign of any kind may be displayed to the public view on any Lot without the prior written approval of the Harrington Trails Reviewer, except for:

(a) Declarant Signs. Signs erected by the Declarant or erected with the advance written consent of the Declarant;

(b) Security Signs. One small security service sign per Lot, provided that the sign has a maximum face area of two (2) square feet and is located no more than five (5) feet from the front elevation of the principal Dwelling constructed upon the Lot;

(c) Permits. Permits as may be required by Applicable Law, legal proceedings or any governmental entity;

(d) For Sale and For Lease Signs. One (1) temporary "For Sale" or "Available" or "For Lease" sign per Lot, provided that the sign will be limited to: (i) a maximum face area of five (5) square feet on each visible side and, if free standing, is mounted on a single or frame post; (ii) an overall height of the sign from finished grade at the spot where the sign is located may not exceed four feet (4'); and (iii) the sign must be removed within two (2) business days following the sale or leasing of the Lot, as applicable;

(e) Political Signs. Political signs may be erected provided the sign: (i) is erected no earlier than the 90th day before the date of the election to which the sign relates; (ii) is removed no later than the 10th day after the date of the election to which the sign relates; and (iii) is ground-mounted. Only one sign may be erected for each candidate or ballot item. In addition, signs which include any of the components or characteristics described in Section 259.002(d) of the Texas Election Code are prohibited; and

(f) No Soliciting Signs. One "no soliciting" sign near or on the front door to the principal Dwelling constructed upon the Lot, provided, that the sign may not exceed twenty-five (25) square inches.

(g) School Signs. a maximum of two (2) school spirit or youth affiliated signs shall be permitted, provided the sign(s): (a) is located in the landscaping bed of the front yard and blends in with the existing landscaping; (b) is no larger than 36" x 42" and does not exceed five feet (5') in height above natural ground; (c) is constructed of wood, plastic or metal and are not flags or banners, as determined in the sole and absolute discretion of the Board; (d) is kept in good condition and repair, as determined in the sole and absolute discretion of the Board; (e) does not cause embarrassment, discomfort and/or annoyance to other Owners, as determined in the sole and absolute discretion of the Board; and (f) does not contain any telephone numbers or commercial advertisements;

Except for signs which are erected by the Declarant or erected with the advance written consent of the Declarant, no sign may be displayed in the window of any Improvement located on a Lot.

(h) Owner Signage. The Owner or Owners of the Development Area shall be provided the opportunity to place branded signage on all directional signage installed by Declarant that includes the name of the applicable Homebuilder. Subject to the advance written approval of the Harrington Trails Reviewer, in the Harrington Trails Reviewer's sole discretion, the Owner or Owners of the Development Area also shall be provided the opportunity to place monument signage at the entrance to the portion of the Development Area owned by such Owner or Owners. In addition, the Owner or Owners of the

Development Area shall be provided the same opportunity to place branded signage that has been or will be afforded to other Homebuilders at the Property.

2.10 Flags. Owners are permitted to display certain flags on the Owner's Lot, as further set forth below.

(a) Approval Requirements. An Owner is permitted to display the flag of the United States of America, the flag of the State of Texas, an official or replica flag of any branch of the United States Military, or one (1) flag with official insignia of a college or university (**"Permitted Flag"**) and permitted to install a flagpole no more than five feet (5') in length affixed to the front of a Dwelling near the principal entry or affixed to the rear of a Dwelling (**"Permitted Flagpole"**). Only two (2) permitted Flagpoles are allowed per Dwelling. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Harrington Trails Reviewer. Approval by the Harrington Trails Reviewer is required prior to installing vertical freestanding flagpoles installed in the front or back yard area of any Lot (**"Freestanding Flagpole"**). To obtain approval of any Freestanding Flagpole, the Owner shall provide the Harrington Trails Reviewer with the following information: (i) the location of the Freestanding Flagpole to be installed on the Lot; (ii) the type of Freestanding Flagpole to be installed; (iii) the dimensions of the Freestanding Flagpole; and (iv) the proposed materials of the Freestanding Flagpole (the **"Flagpole Application"**). A Flagpole Application may only be submitted by an Owner. The Flagpole Application shall be submitted in accordance with the provisions of Article 6 of the Covenant.

(b) Installation and Display. Unless otherwise approved in advance and in writing by the Harrington Trails Reviewer, Permitted Flags, Permitted Flagpoles and Freestanding Flagpoles, installed in accordance with the Flagpole Application, must comply with the following:

(i) No more than one (1) Freestanding Flagpole OR no more than two (2) Permitted Flagpoles are permitted per Lot, on which only Permitted Flags may be displayed;

(ii) Any Permitted Flagpole must be no longer than five feet (5') in length and any Freestanding Flagpole must be no more than twenty feet (20') in height;

(iii) Any Permitted Flag displayed on any flagpole may not be more than three feet in height by five feet in width (3' x 5');

(iv) The flag of the United States of America must be displayed in accordance with 4 U.S.C. Sections 5-10 and the flag of the State of Texas must be displayed in accordance with Chapter 3100 of the Texas Government Code;

(v) The display of a Permitted Flag, or the location and construction of a Permitted Flagpole or Freestanding Flagpole must comply with Applicable Law, easements and setbacks of record;

(vi) Each Permitted Flagpole and Freestanding Flagpole must be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(vii) Any Permitted Flag, Permitted Flagpole and Freestanding Flagpole must be maintained in good condition and any deteriorated Permitted Flag or deteriorated or structurally unsafe Permitted Flagpole or Freestanding Flagpole must be repaired, replaced or removed;

(viii) A Permitted Flag may be illuminated by no more than one (1) halogen landscaping light of low beam intensity which will not be aimed towards or directly affect any neighboring Lot. Such illumination shall also comply with the outdoor lighting restrictions set forth in the Documents; and

(ix) Any external halyard of a Permitted Flagpole or Freestanding Flagpole must be secured so as to reduce or eliminate noise from flapping against the metal of the Permitted Flagpole or Freestanding Flagpole.

2.11 **Tanks**. The Harrington Trails Reviewer must approve any tank used or proposed in connection with a Dwelling, including tanks for storage of fuel, water, oil, or liquid petroleum gas (LPG), and including swimming pool filter tanks. No elevated tanks of any kind may be erected, placed or permitted on any Lot within the Development Area without the advance written approval of the Harrington Trails Reviewer. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Harrington Trails Reviewer. This provision shall not apply to a tank used to operate standard residential gas grills, nor shall it apply to barrels used as part of a Rainwater Harvesting Systems with a capacity of less than 50 gallons, so long as such barrels are actively being used for rainwater collection and storage.

2.12 **Temporary Structures**. No tent, shack, or other temporary building, Improvement, or structure may be placed upon the Development Area without the prior written approval of the Harrington Trails Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant, approval to include the nature, size, duration, and location of such structure.

2.13 **Mobile Homes, Travel Trailers and Recreational Vehicles**. No mobile homes, travel trailers or recreational vehicles may be parked or placed on any street, right of way, Lot or

used as a Dwelling, either temporary or permanent, at any time. However, such vehicles may be parked temporarily for a period not to exceed twenty-four (24) consecutive hours while such vehicle is being loaded or unloaded. Notwithstanding the foregoing, sales trailers or other temporary structures expressly approved by the Harrington Trails Reviewer or allowed pursuant to *Section 9.2* of the Covenant will be permitted.

2.14 Outside Storage Buildings. Outside storage buildings located in a fenced rear yard of a Lot are allowed with the prior written approval of the Harrington Trails Reviewer. One (1) permanent storage building will be permitted if: (i) the surface area of the pad on which the storage building is constructed is no more than one hundred (100) square feet; (ii) the height of the storage building, measured from the surface of the Lot to the peak of the roof of the storage building, is no more than eight (8) feet; (iii) the exterior of the storage building is constructed of the same or substantially similar materials and of the same color as the principal residential structure constructed on the Lot; (iv) the roof of the storage building is the same material and color as the roof of the principal residential structure constructed on the Lot; (v) the storage building is constructed within all applicable building setbacks; and (vi) the storage building is screened from view of the street. "Barn style" and metal sheds are prohibited. Notwithstanding the foregoing, ready-made or composite sheds are permitted as long as such sheds are no more than six feet (6') in height. No storage building may be visible from the street or any Common Area or used for habitation.

2.15 Basketball Goals; Permanent and Portable. Permanent basketball goals are permitted with the prior written approval of the Harrington Trails Reviewer, provided they are located at least ten feet (10') away from the street curb in the front of the Dwelling located on the Lot. Permanent basketball goals are not permitted in any street right-of-way. The basketball goal backboard must be clear and perpendicular to the street and mounted on a green or black metal pole permanently installed in the ground. Portable basketball goals are permitted but must be stored in the rear of the Lot or inside the garage when not in immediate use. Portable basketball goals are not permitted in any street right-of-way, or placed in a way as to promote playing in the street, including cul-de-sacs. Basketball goals must be properly maintained and painted, and not supported with exterior weights (rocks, sand bags, bricks, etc.), with the net in good repair. Chain nets are prohibited.

2.16 Party Walls and Fences. A fence or wall located on or near the dividing line between two (2) Lots and intended to benefit both Lots constitutes a "**Party Wall**". To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions will apply thereto. Party Walls will also be subject to the following:

(a) Encroachments & Easement. If the Party Wall is on one Lot due to an error in construction, the Party Wall is nevertheless deemed to be on the dividing line for purposes of this Section. Each Lot sharing a Party Wall is subject to an easement for the existence and continuance of any encroachment by the Party Wall as a result of

construction, repair, shifting, settlement, or movement in any portion of the Party Wall, so that the encroachment may remain undisturbed as long as the Party Wall stands. Each Lot is subject to a reciprocal easement for the maintenance, repair, replacement, or reconstruction of the Party Wall.

(b) Right to Repair. If the Party Wall is damaged or destroyed from any cause, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, the Owner of either Lot may repair or rebuild the Party Wall to its previous condition, and the other Owner or Owners that the wall serves will thereafter contribute to the cost of restoration thereof in equal proportions without prejudice, subject however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions. The Owners of both Lots, their successors and assigns, have the right to the full use of the repaired or rebuilt Party Wall. No Party Wall may be constructed, repaired, or rebuilt without the advance written approval of the Harrington Trails Reviewer in accordance with Article 6 of the Covenant.

(c) Maintenance Costs. The Owners of the adjoining Lots share equally the costs of repair, reconstruction, or replacement of the Party Wall, subject to the right of one Owner to call for larger contribution from the other under any rule of law regarding liability for negligence or willful acts or omissions. If an Owner is responsible for damage to or destruction of the Party Wall, that Owner will bear the entire cost of repair, reconstruction, or replacement. If an Owner fails or refuses to pay his share of costs of repair or replacement of the Party Wall, the Owner advancing monies has a right to file a claim of lien for the monies advanced in the Official Public Records of Montgomery County, Texas, and has the right to foreclose the lien as if it were a mechanic's lien. The right of an Owner to require contribution from another Owner under this Section is appurtenant to the Lot and passes to the Owner's successors in title.

(d) Alterations. The Owner of a Lot sharing a Party Wall may not cut openings in the Party Wall or alter or change the Party Wall in any manner that affects the use, condition, or appearance of the Party Wall to the adjoining Lot. The Party Wall will always remain in the same location as when erected unless otherwise approved by the Owner of each Lot sharing the Party Wall and the Harrington Trails Reviewer.

(e) Dispute Resolution. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section (the "Dispute"), the parties must submit the Dispute to mediation. Should the parties be unable to agree on a mediator within ten (10) days after written request therefore by the Board, the Board will appoint a mediator. If the Dispute is not resolved by mediation, the Dispute will be resolved by binding arbitration. Either party may initiate the arbitration. Should the parties be unable to agree on an arbitrator within ten (10) days after written request therefore by the Board, the

Board will appoint an arbitrator. The decision of the arbitrator will be binding upon the parties and will be in lieu of any right of legal action that either party may have against the other. In the event an Owner fails to properly and on a timely basis (both standards to be determined by the Board in the Board's sole and absolute discretion) implement the decision of the mediator or arbitrator, as applicable, the Board may implement said mediator's or arbitrator's decision, as applicable. If the Board implements the mediator's or arbitrator's decision on behalf of an Owner, the Owner otherwise responsible therefor will be personally liable to the Association for all costs and expenses incurred by the Association in conjunction therewith. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1-1/2%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot hereunder will be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s).

2.17 Water Quality Facilities, Drainage Facilities and Drainage Ponds. The Development Area may include one or more water treatment plants, waste water treatment plants, water quality facilities, sedimentation, drainage and detention facilities, or ponds which serve all or a portion of the Development Area and are inspected, maintained and administered by the Association in accordance with all Applicable Laws. Access to these facilities and ponds is limited to persons engaged by the Association to periodically maintain such facilities. Each Owner is advised that the water treatment plant, waste water treatment plant, water quality facilities, sedimentation, drainage and detention facilities, and ponds are an active utility feature integral to the proper operation of the Development Area and may periodically hold standing water. Each Owner is advised that entry into the water treatment plant, waste water treatment plant, water quality facilities, sedimentation, drainage and detention facilities, or ponds may result in injury and is a violation of the Rules.

2.18 No Warranty of Enforceability. Declarant makes no warranty or representation as to the present or future validity or enforceability of the Documents. Any Owner acquiring a Lot in reliance on one or more of the Documents will assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

2.19 Owner's Obligation to Maintain Street Landscape. Each Owner will be responsible, at such Owner's sole cost and expense, for maintaining mowing, replacing, pruning, and irrigating the landscaping between the boundary of such Owner's Lot and the edge of the pavement of any adjacent public right-of-way, street or alley (the "ST Landscape Area") unless the responsibility for maintaining the ST Landscape Area or any portion thereof has been assumed by the Association, in the Board's sole discretion, in a Recorded written instrument

identifying all or any portion of the ST Landscape Area to be maintained (the "Association Landscape Area"). If the Association assumes such responsibility as set forth herein, Owner may neither perform any maintenance in the Association Landscape Area nor construct any Improvements therein. Otherwise specifically, and not by way of limitation, each Owner, at such Owner's sole cost and expense, will be required to maintain, irrigate and replace any trees located within the ST Landscape Area. No landscaping, including trees, may be removed from or installed within the ST Landscape Area without the advance written consent of the Board unless such removal or installation is in compliance with the any plans for the ST Landscape Area approved by the Harrington Trails Reviewer. In the event an Owner fails to properly and on a timely basis (both standards to be determined by the Board in the Board's sole and absolute discretion) mow, replace, prune, and/or irrigate any landscaping, including trees, in such Owner's ST Landscape Area, such failure will constitute a violation of the Documents and the Board may cause such landscaping, including trees, to be mowed, replaced, pruned and/or irrigated in a manner determined by the Board, in its sole and absolute discretion. If the Board causes such landscaping, including trees, to be mowed, replaced, pruned and irrigated, the Owner otherwise responsible therefor will be personally liable to the Association for all costs and expenses incurred by the Association for effecting such work. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one-half percent (1½%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot hereunder will be secured by the liens reserved in the Covenant for Assessments and may be collected by any means provided in the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). EACH OWNER AND OCCUPANT WILL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF THE ASSOCIATION'S ACTS OR ACTIVITIES UNDER THIS SECTION INCLUDING ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE.

2.20 <u>Compliance with Documents</u>. Each Owner and his or her Permittees, will comply strictly with the provisions of the Documents as the same may be amended from time to time. Failure to comply with any of the Documents will constitute a violation thereof and may result in a fine against the Owner in accordance with *Section 5.14* of the Covenant, and will give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by the Declarant, the Board on behalf of the Association, the Harrington Trails Reviewer, or by an

aggrieved Owner. Without limiting any rights or powers of the Association, either the Board or the Harrington Trails Reviewer may (but neither will be obligated to) remedy or attempt to remedy any violation of any of the provisions of Documents, and the Owner whose violation has been so remedied will be personally liable to the Association for all costs and expenses of effecting (or attempting to effect) such remedy. If such Owner fails to pay such costs and expenses upon demand by the Association, such costs and expenses (plus interest from the date of demand until paid at the maximum lawful rate, or if there is no such maximum lawful rate, at the rate of one and one half percent (1½%) per month) will be assessed against and chargeable to the Owner's Lot(s). Any such amounts assessed and chargeable against a Lot will be secured by the liens reserved in this Development Area Declaration and/or the Covenant for Assessments and may be collected by any means provided in this Development Area Declaration and/or the Covenant for the collection of Assessments, including, but not limited to, foreclosure of such liens against the Owner's Lot(s). Each such Owner will release and hold harmless the Association and its officers, directors, employees and agents from any cost, loss, damage, expense, liability, claim or cause of action incurred or that may arise by reason of the Association's acts or activities under this Section (including any cost, loss, damage, expense, liability, claim or cause of action arising out of the Association's negligence in connection therewith), except for such cost, loss, damage, expense, liability, claim or cause of action arising by reason of the Association's gross negligence or willful misconduct. "Gross negligence" as used herein does not include simple negligence, contributory negligence or similar negligence short of actual gross negligence.

2.21 Insurance Rates. Nothing may be done or kept on the Development Area that would increase the rate of casualty or liability insurance or cause the cancellation of any such insurance on the Common Area or Special Common Area, or the Improvements located thereon, without the prior written approval of the Board.

2.22 Release. EACH OWNER HEREBY RELEASES AND HOLDS HARMLESS THE ASSOCIATION, DECLARANT, THE HARRINGTON TRAILS REVIEWER AND THEIR AFFILIATES, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION INCURRED OR THAT MAY ARISE BY REASON OF SUCH OWNER'S USE OF ANY COMMON AREA OR SPECIAL COMMON AREA.

Neither the Association nor Declarant will assume any responsibility or liability for any personal injury or property damage which is occasioned by use of any Common Area or Special Common Area, and in no circumstance will words or actions by the Association or Declarant constitute an implied or express representation or warranty regarding the fitness or condition of any Common Area or Special Common Area.

2.23 Decorations, Yard Art and Lighting. No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the Dwelling or on the front yard or on any other portion of a Lot which is visible from any street, unless such specific items have been approved in writing by the Harrington Trails

Reviewer. Customary seasonal decorations for holidays are permitted without approval by the Harrington Trails Reviewer but shall not be displayed earlier than thirty (30) days prior to the applicable holiday or later than thirty (30) days after the applicable holiday. Outside lighting fixtures shall be placed so as to illuminate only the yard of the applicable Lot and so as not to affect or reflect into surrounding Dwellings or yards. No mercury vapor, sodium or halogen light shall be installed on any Lot which is visible from any street unless otherwise approved by the Harrington Trails Reviewer.

2.24 Window Treatments. An Owner may install window treatments inside the Dwelling constructed on his or her Lot, provided that the window treatments, including drapes, blinds, shades or shutters, must appear to be (i) clear, (ii) white, (iii) near-white light neutral; or (iv) light wood tone when viewed from adjacent property. The use of newspaper, bed sheets, tablecloths, or other obviously non-drapery fabrics, aluminum foil, and reflective materials as window treatments are expressly prohibited.

2.25 Shared Mailboxes. Several mailbox kiosks (the "**Shared Mailboxes**") have been installed by Declarant to serve the Owners. Such Shared Mailboxes are hereby designated as Common Area, and the Association shall maintain the Shared Mailboxes in good condition and repair in accordance with United States Postal Service requirements. The costs incurred, or estimated to be incurred, by the Association for maintenance of the Shared Mailboxes shall be discharged through Assessments. Notwithstanding the foregoing, individual Owners are required to replace the locks and/or keys as needed and are responsible for the cost associated therewith. Neither the Association, the Declarant nor any Homebuilder shall be responsible for any locks or key replacements.

2.26 Parking. All Owners and Residents are encouraged to park vehicles in the garage on their Lot and use the driveways on their Lot as overflow parking. On street parking is limited to guests and visitors. No vehicle may obstruct the flow of traffic, constitute a nuisance, or otherwise create a safety hazard, as determined by the Board in its sole discretion. No vehicle may be parked in a manner that obstructs mailboxes or otherwise blocks ingress and egress to any part of the Property by an emergency vehicle, as determined by the Board in its sole discretion. The parking of vehicles in the yard of any Lot is not permitted.

2.27 Exterior Window Air Conditioning Units. No exterior window air conditioning units are permitted on any Lot without the advance written approval of the Harrington Trails Reviewer.

2.28 Playscapes, Sports Equipment and Sports Courts. Playscapes, sports equipment and sport courts are permissible at the sole discretion of the Harrington Trails Reviewer. Metal swing sets are prohibited. Swing sets shall have a maximum height of eight (8) feet, playscapes, playhouses or forts shall have a green canvas or wood roof with a maximum roof peak height of twelve (12) feet. If allowed, these facilities must be properly sited and screened in rear of dwelling

so as to minimize the visual and audio impact of the facility on adjacent properties. Sport Courts may not be lighted or enclosed with netting. Tennis courts are not permitted.

2.29 Easement of Cooperative Support. Each Owner is granted an easement of cooperative support over each adjoining Lot as needed for the common benefit of the Development Area or Improvements that share any aspect of the Development Area that requires cooperation. By accepting an interest in or title to a Lot, each Owner: (i) acknowledges the necessity for cooperation; (ii) agrees to try to be responsive and civil in communications pertaining to the Development Area and to the Association; (iii) agrees to provide access to his Lot when needed by the Association to fulfill its duties; and (iv) agrees to try refraining from actions that interfere with the Association's maintenance and operation of the Development Area.

ARTICLE 3
CONSTRUCTION RESTRICTIONS

3.01 Construction of Improvements. Unless constructed by Declarant, no Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any portion of the Development Area unless approved in advance and in writing by the Harrington Trails Reviewer in accordance with the Covenant. Pursuant to *Section 6.4.2* of the Covenant, the Harrington Trails Reviewer may adopt Design Guidelines applicable to the Development Area. If adopted, all Improvements must strictly comply with the requirements of the Design Guidelines unless a variance is obtained pursuant to the Covenant. The Design Guidelines may be supplemented, modified, amended, or restated by the Harrington Trails Reviewer as authorized by the Covenant.

3.02 Utility Lines. Unless otherwise approved by the Harrington Trails Reviewer, no sewer, drainage or utility lines or wires or other devices for the communication or transmission of electric current, power, or signals including telephone, television, microwave or radio signals, shall be constructed, placed or maintained anywhere in or upon any portion of the Development Area other than within Dwellings or other buildings unless the same shall be contained in conduits or cables constructed, placed or maintained underground, concealed in or under Dwellings or other buildings, or within easements.

3.03 Garages. All garages, carports and other open automobile storage units must be approved in advance of construction by the Harrington Trails Reviewer. No garage may be permanently enclosed or otherwise used for habitation.

3.04 Fences. All fences and walls shall comply with all Applicable Law. Unless otherwise approved by the Harrington Trails Reviewer, no fence, wall or hedge will be erected or maintained on any Lot nearer to the street than the front elevation of the Dwelling constructed on the Lot, except for fences erected in conjunction with the model homes or sales offices. The Harrington Trails Reviewer will have the sole discretion to determine the front elevation of the Dwelling for the purpose of this *Section 3.04*. No chain-link, metal, vinyl or agricultural fences

may be installed or maintained on a Lot, except by Declarant. All wood fences shall be six (6) feet in height and constructed using metal posts and spruce (or better quality wood), stained medium brown, unless installed by Declarant or required by Applicable Law. If required by the Plat, the Owner of each Lot shall construct, at such Owner's sole cost and expense and prior to occupying any Improvement, a sidewalk on such Owner's Lot, located and designed in conformance with the Plat. Each Owner must maintain all fences on such Owner's Lot in good condition, including but not limited to periodically re staining all fences on such Owner's Lot using stain substantially similar to the stain applied to the fences as originally constructed (if any), as determined by the Harrington Trails Reviewer. Any broken pickets, fallen or leaning panels must be repaired or replaced. In the event that a fence on an Owner's Lot is replaced, the Owner is responsible for staining the new fence with stain substantially similar to the stain applied to the fences as original constructed (if any), as determined by the Harrington Trails Reviewer.

Notwithstanding the foregoing, unless otherwise approved in advance and in writing by the Harrington Trails Reviewer, (i) fences along the rear boundary lines adjacent to a greenbelt or floodplain shall be constructed of wrought iron or decorative metal (any wrought iron or decorative metal shall be of a color, height and style specified by the Harrington Trails Reviewer), and (ii) notwithstanding the above, fences that face major thoroughfares or that are non-Party Wall fences located on a corner Lot must be constructed with cap and trim wood privacy fences.

3.05 Driveways. All driveways shall comply with all Applicable Law. The design, construction material, and location of: (i) all driveways, and (ii) culverts incorporated into driveways for ditch or drainage crossings, must be approved by the Harrington Trails Reviewer. Each Owner will be responsible, at such Owner's sole cost and expense, for properly and on a timely basis (both standards to be determined by the Board in the Board's sole and absolute discretion) maintaining and repairing the driveway on such Owner's Lot. Any driveway repair shall be replaced with the construction material(s) originally used, unless otherwise approved by the Harrington Trails Reviewer.

3.06 Roofing. All roofing material must be approved in advance of construction by the Harrington Trails Reviewer. In addition, roofs of buildings may be constructed with "Energy Efficiency Roofing" with the advance written approval of the Harrington Trails Reviewer. For the purpose of this Section, "Energy Efficiency Roofing" means shingles that are designed primarily to: (i) be wind and hail resistant; (ii) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (iii) provide solar generation capabilities. The Harrington Trails Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (a) resemble the shingles used or otherwise authorized for use within the Development Area; (b) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (c) match the aesthetics of adjacent property. An Owner who desires to install Energy Efficient Roofing will be required to comply with the architectural review and approval procedures set forth the Documents. In conjunction with any such approval process, the Owner

should submit information which will enable the Harrington Trails Reviewer to confirm the criteria set forth in this Section. Any other type of roofing material will be permitted only with the advance written approval of the Harrington Trails Reviewer.

3.07 Swimming Pools. Any swimming pool constructed on a Lot must be enclosed with a fence or other enclosure device completely surrounding the swimming pool which, at a minimum, satisfies all Applicable Law and be approved in advance by the Harrington Trails Reviewer. Additionally, all pool equipment (e.g., pumps, filtration systems) must be screened from view. No pool or related equipment shall be constructed or placed within any easement area and must be at least feet (5') from the rear or side boundary lines of the Lot. Nothing in this *Section 3.07* is intended or shall be construed to limit or affect an Owner's obligation to comply with any Applicable Law concerning swimming pool enclosure requirements. Unless otherwise approved in advance by the Harrington Trails Reviewer, above-ground or temporary swimming pools are not permitted on a Lot.

3.08 HVAC Location. No air-conditioning apparatus may be installed on the ground in front of a Dwelling or on the roof of any Dwelling, unless otherwise approved in advance by the Harrington Trails Reviewer. No window air-conditioning apparatus or evaporative cooler may be attached to any front wall or front window of a Dwelling or at any other location where it would be visible from any street, any other Dwelling, Common Area, or Special Common Area. All HVAC units must be screened in a manner approved in advance by the Harrington Trails Reviewer, or as otherwise set forth in the Design Guidelines.

3.09 Solar Energy Device. Solar Energy Devices may be installed with the advance written approval of the Harrington Trails Reviewer, or after the expiration or termination of the Development Period the ACC, in accordance with the procedures and requirements set forth below:

(a) Application. To obtain approval of a Solar Energy Device, the Owner will provide the Harrington Trails Reviewer with the following information: (i) the proposed installation location of the Solar Energy Device; and (ii) a description of the Solar Energy Device, including the dimensions, manufacturer, and photograph or other accurate depiction (the "**Solar Application**"). A Solar Application may only be submitted by an Owner. The Solar Application must be submitted in accordance with the provisions of Article 6 of the Covenant.

(b) Approval Process. The Harrington Trails Reviewer will review the Solar Application in accordance with the terms and provisions of Article 6 of the Covenant. The Harrington Trails Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 3.09(c)* below **UNLESS** the Harrington Trails Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 3.09(c)*, creates a condition that substantially interferes with the use and enjoyment of property within the Development by causing unreasonable discomfort or annoyance to

persons of ordinary sensibilities. The Harrington Trails Reviewer's right to make a written determination in accordance with the foregoing sentence is negated if all Owners of Lots immediately adjacent to the Owner/applicant provide written approval of the proposed placement. Any proposal to install a Solar Energy Device on property owned or maintained by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this *Section* when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Harrington Trails Reviewer, each Solar Application and each Solar Energy Device to be installed in accordance therewith must comply with the following:

(i) The Solar Energy Device must be located on the roof of the Dwelling located on the Owner's Lot, entirely within a fenced area of the Owner's Lot, or entirely within a fenced patio located on the Owner's Lot. If the Solar Energy Device is located on the roof of the Dwelling, the Harrington Trails Reviewer may designate the location for placement unless the location proposed by the Owner increases the estimated annual energy production of the Solar Energy Device, as determined by using a publicly available modeling tool provided by the National Renewable Energy Laboratory, by more than ten percent (10%) percent above the energy production of the Solar Energy Device if installed in the location designated by the Harrington Trails Reviewer. If the Owner desires to contest the alternate location proposed by the Harrington Trails Reviewer, the Owner should submit information to the Harrington Trails Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device is located in the fenced area of the Owner's Lot or patio, no portion of the Solar Energy Device may extend above the fence line.

(ii) If the Solar Energy Device is mounted on the roof of the principal Dwelling located on the Owner's Lot, then: (a) the Solar Energy Device may not extend higher than or beyond the roofline; (b) the Solar Energy Device must conform to the slope of the roof and the top edge of the Solar Device must be parallel to the roofline; (c) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

3.10 Rainwater Harvesting Systems. Rainwater Harvesting Systems may be installed with the advance written approval of the Harrington Trails Reviewer.

(a) Application. To obtain Harrington Trails Reviewer approval of a Rainwater Harvesting System, the Owner must provide the Harrington Trails Reviewer with the following information: (i) the proposed installation location of the Rainwater Harvesting System; and (ii) a description of the Rainwater Harvesting System, including the color, dimensions, manufacturer, and photograph or other accurate depiction (the

"**Rainwater Harvesting System Application**"). A Rainwater Harvesting System Application may only be submitted by an Owner.

(b) Approval Process. The decision of the Harrington Trails Reviewer will be made in accordance with Article 6 of the Covenant. Any proposal to install a Rainwater Harvesting System on property owned by the Association or property owned in common by Members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to this Section when considering any such request.

(c) Approval Conditions. Unless otherwise approved in advance and in writing by the Harrington Trails Reviewer, each Rainwater Harvesting System Application and each Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

(i) The Rainwater Harvesting System will be consistent with the color scheme of the Dwelling constructed on the Owner's Lot, as reasonably determined by the Harrington Trails Reviewer.

(ii) The Rainwater Harvesting System does not include any language or other content that is not typically displayed on such a device.

(iii) The Rainwater Harvesting System is in no event located between the front of the Dwelling constructed on the Owner's Lot and any adjoining or adjacent street.

(iv) There is sufficient area on the Owner's Lot to install the Rainwater Harvesting System, as reasonably determined by the Harrington Trails Reviewer.

(d) Guidelines. If the Rainwater Harvesting System is installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, the Harrington Trails Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rainwater Harvesting System Application, such application should describe methods proposed by the Owner to shield the Rainwater Harvesting System from the view of any street, Common Area, Special Common Area, or another Owner's Lot. When reviewing a Rainwater Harvesting System Application for a Rainwater Harvesting System that will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, the Common Area, Special Common Area, or another Owner's Lot, any additional requirements imposed by the Harrington Trails Reviewer to regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System, may not prohibit the economic installation of the Rainwater Harvesting System, as reasonably determined by the Harrington Trails Reviewer.

3.11 Xeriscaping. As part of the installation and maintenance of landscaping on an Owner's Lot, an Owner may submit plans for and install drought tolerant landscaping ("**Xeriscaping**") upon written approval by the Harrington Trails Reviewer. All Owners implementing Xeriscaping must comply with the following:

(a) Application. Approval by the Harrington Trails Reviewer is required prior to installing Xeriscaping. To obtain the approval of the Harrington Trails Reviewer for Xeriscaping, the Owner must provide the Harrington Trails Reviewer with the following information: (i) the proposed site location of the Xeriscaping on the Owner's Lot; (ii) a description of the Xeriscaping, including the types of plants, border materials, hardscape materials and photograph or other accurate depiction and (iii) the percentage of yard to be covered with gravel, rocks and cacti (the "**Xeriscaping Application**"). A Xeriscaping Application may only be submitted by an Owner unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Xeriscaping Application. The Harrington Trails Reviewer is not responsible for: (i) errors or omissions in the Xeriscaping Application submitted to the Harrington Trails Reviewer for approval; (ii) supervising installation or construction to confirm compliance with an approved Xeriscaping Application or (iii) the compliance of an approved application with Applicable Law.

(b) Approval Conditions. Unless otherwise approved in advance and in writing by the Harrington Trails Reviewer each Xeriscaping Application and all Xeriscaping to be installed in accordance therewith must comply with the following:

(i) The Xeriscaping must be aesthetically compatible with other landscaping in the community as reasonably determined by the Harrington Trails Reviewer. For purposes of this *Section 3.11(b)(i)*, "aesthetically compatible" will mean overall and long-term aesthetic compatibility within the community. For example, an Owner's Lot plan may be denied if the Harrington Trails Reviewer determines that: (a) the proposed Xeriscaping would not be harmonious with already established turf and landscaping in the overall community; and/or (b) the use of specific turf or plant materials would result in damage to or cause deterioration of the turf or landscaping of an adjacent property owner, resulting in a reduction of aesthetic appeal of the adjacent property Owner's Lot.

(ii) No Owner may install gravel, rocks or cacti that in the aggregate encompass over ten percent (10%) of such Owner's front yard or ten percent (10%) of such Owner's back yard.

(iii) The Xeriscaping may not attract diseases and insects that are harmful to the existing landscaping on neighboring Lots, as reasonably determined by the Harrington Trails Reviewer.

(c) Process. The decision of the Harrington Trails Reviewer will be made within a reasonable time, or within the time period otherwise required by the specific provisions in the Design Guidelines, if adopted, or other provisions in the Documents that govern the review and approval of improvements. A Xeriscaping Application submitted to install Xeriscaping on property owned by the Association or property owned in common by members of the Association will not be approved. Any proposal to install Xeriscaping on property owned by the Association or property owned in common by members of the Association must be approved in advance and in writing by the Board, and the Board need not adhere to the requirements set forth in this *Section 3.11* when considering any such request.

(d) Approval. Each Owner is advised that if the Xeriscaping Application is approved by the Harrington Trails Reviewer installation of the Xeriscaping must: (i) strictly comply with the Xeriscaping Application; (ii) commence within thirty (30) days of approval; and (iii) be diligently prosecuted to completion. If the Owner fails to cause the Xeriscaping to be installed in accordance with the approved Xeriscaping Application, the Harrington Trails Reviewer may require the Owner to: (i) modify the Xeriscaping Application to accurately reflect the Xeriscaping installed on the property; or (ii) remove the Xeriscaping and reinstall the Xeriscaping in accordance with the approved Xeriscaping Application. Failure to install Xeriscaping in accordance with the approved Xeriscaping Application or an Owner's failure to comply with the post-approval requirements constitutes a violation of the Covenant and may subject the Owner to fines and penalties. Any requirement imposed by the Harrington Trails Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application will be at the Owner's sole cost and expense

3.12 Construction Activities. The Restrictions will not be construed or applied so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by the Declarant or a Homebuilder upon or within the Property. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of the Restrictions by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence and conforms to usual construction practices in the area. If during the course of construction upon any Lot there is excessive accumulation of debris of any kind which would render the Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to it or any other portion of the Property, then the Harrington Trails Reviewer may contract for or cause such debris to be removed, and the Owner of the Lot will be liable for all reasonable expenses incurred in connection therewith. For purposes of this *Section 3.12*, the Board, in its sole and absolute discretion, shall determine what constitutes a nuisance or excessive accumulation of debris in areas of the Property where construction is ongoing.

3.13 Plan Approval. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 6.4.7* thereof, the approval of the Harrington Trails Reviewer of any final plans and specifications for the Development Area, and any variances granted by the Harrington Trails Reviewer shall be valid for a period of twenty-four (24) months only. If construction in accordance with such plans and specifications or variance is not commenced within such twenty-four (24) month period and diligently prosecuted to completion within either: (i) three years after issuance of approval of such plans and specifications; or (ii) such other period thereafter as determined by the Harrington Trails Reviewer, in its sole and absolute discretion, the Owner shall be required to resubmit such final plans and specifications or request for a variance to the Harrington Trails Reviewer, and the Harrington Trails Reviewer shall have the authority to re-evaluate such plans and specifications in accordance with *Section 6.4.7* of the Covenant and may, in addition, consider any change in circumstances which may have occurred since the time of the original approval.

ARTICLE 4
MAINTENANCE AND REPAIR OBLIGATIONS

4.01 Overview. Generally, unless otherwise denoted on **Exhibit "A"** as further described herein, the Association maintains the Common Area, and the Owner maintains his or her Lot and the Dwelling located thereon. If any Owner fails to maintain his or her Lot and the Dwelling located thereon, the Association may perform the work at the Owner's expense. This Development Area Declaration designates portions of the Lots as an "Area of Common Responsibility", as defined and described below. Those areas of a Lot designated as Area of Common Responsibility are maintained by the Association and not the Owner. On the date of this Development Area Declaration, the initial designation of components of Dwellings and Lots included within the Area of Common Responsibility is attached hereto as **Exhibit "A"**.

4.02 Association Maintains. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. Unless otherwise provided in this Development Area Declaration, the Association maintains, repairs, and replaces the portions of the Development Area listed below, regardless of whether the portions are on an Owner's Lot:

(a) the Common Area;

(b) those areas of a Lot designated as Area of Common Responsibility;

(c) any real and personal property owned by the Association not otherwise designated as a Common Area;

(d) any property adjacent to the Development Area 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; and,

(e) any portion of the Development Area, any item, easements or services, the maintenance of which is assigned to the Association by this Development Area Declaration or in accordance with any Recorded easement or Recorded plat of the Development Area.

The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that: (i) such maintenance responsibility is assigned to an Owner under this Development Area Declaration; (ii) such maintenance responsibility is otherwise assumed by or assigned to an Owner; or (iii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area or to a portion of a Lot designated as Area of Common Responsibility by an Owner or Occupant that is otherwise the responsibility of the Association hereunder shall be performed at the sole expense of such Owner or Occupant and the Owner and Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner or Occupant of any Lot or any other person or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Area or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except for injuries or damages arising after the Owner or Occupant of a Lot has put the Association on written notice of a specific leak or flow from any portion of the Common Area and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to any Owner or Occupant of any Lot for loss or damage, by theft or otherwise, of any property, which may be stored in or upon any of the Common Area or any Lot. The Association shall not be liable to any Owner or Occupant, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Development Area Declaration or for inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or from any action taken by the Association to comply with any law ordinance or with any order or directive of any municipal or other governmental authority.

4.03 Area of Common Responsibility. The Association, acting through its Members only, has the right but not the duty to designate, from time to time, portions of a Dwelling and

Lot as Area of Common Responsibility to be treated, maintained, repaired, and/or replaced by the Association. The costs or expenses incurred by the Association in treating, maintaining, repairing, and replacing the Area of Common Responsibility on each Lot shall levied against the Owner as an Individual Assessment.

(a) **Easement**. The Association is hereby granted an easement over and across each Lot and Dwelling to the extent reasonably necessary or convenient for the Association or its designee to maintain, repair, and/or replace those portions of a Dwelling and Lot designated as Area of Common Responsibility. Unless otherwise agreed to by the Owner of the Lot, access to those portions of a Dwelling and Lot designated as Area of Common Responsibility is limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in conjunction with actual maintenance activities. If the Association damages any Improvements located within a Lot or Dwelling in exercising the easement granted hereunder, the Association will be required to restore such Improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged Improvements.

(b) **Change in Designation**. The Declarant, during the Development Period, and the Association may, from time to time, designate additional components of Dwellings and Lots as part of the Area of Common Responsibility; however, unless otherwise approved by the Declarant during the Development Period, in no event may the Association at any time remove from the Area of Common Responsibility components of Lots or Dwellings previously designated as part of the Area of Common Responsibility under this Development Area Declaration. During the Development Period, any addition to the Area of Common Responsibility must also be approved by the Declarant. During the Development Period, those portions of a Dwelling and Lot designated as part of the Area of Common Responsibility may be modified or amended by the Declarant, acting alone. Any modification or amendment to the areas designated as part of the Area of Common Responsibility must be recorded in the Official Public Records of Montgomery County, Texas. Notwithstanding the foregoing to the contrary, neither Declarant nor the Association shall have any right to designate additional components of Dwellings and Lots within the Development Area as part of the Area of Common Responsibility without the prior written consent of the applicable Owner.

4.04 Inspection Obligations.

(a) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Development Area Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Development Area Declaration) or otherwise retain the services of independent, qualified, licensed

individuals or entities to inspect those portions of a Dwelling and Lot designated as part of the Area of Common Responsibility for the Association.

(b) Schedule of Inspections. Such inspections shall take place at least once every three (3) years. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board shall report the contents of such written reports to the Members of the Association at the next meeting of the Members following receipt of such written reports or as soon thereafter as reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of the Development Area Declaration below, the Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(c) Notice to Declarant. During the Development Period, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

4.05 Owner Responsibility. This Development Area Declaration contemplates that the Association will maintain components of the Lots as an Area of Common Responsibility. Every Owner is responsible for the maintenance, repair and replacement of all Improvements located on such Owner's Lot, unless such Improvements are maintained by the Association as part of the Area of Common Responsibility or a Service Area. Every Owner has the following responsibilities and obligations for the maintenance, repair and replacement of their Lot:

(a) to maintain, repair, and replace the Dwelling located on the Owner's Lot and any Improvements which exclusively serve such Owner's Lot, except for those areas designated as part of the Area of Common Responsibility;

(b) to not do any work or fail to do any work which, in the reasonable opinion of the Board, would materially jeopardize the soundness and safety of the Development Area, reduce the value thereof, or impair any easement or real property right thereto;

(c) to be responsible for his or her own willful or negligent acts and those of his or her or the Occupant's Permittees when those acts necessitate maintenance, repair, or replacement of Common Area, Special Common Area or the property of another Owner, or any component of the Development Area for which the Association has maintenance and/or insurance responsibility;

(d) to perform his or her responsibilities in such manner so as not to unreasonably disturb other Owners and Occupants;

(e) to promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible;

(f) to pay for the cost of repairing, replacing or cleaning up any item that is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her Permittees, with the cost thereof to be added to and to become part of the Owner's next chargeable Assessment.

SEE EXHIBIT "A"
IF A PORTION OF A LOT OR DWELLING IS NOT DESIGNATED AS PART OF AN AREA OF COMMON RESPONSIBILITY OR A SERVICE AREA, THEN IT'S THE OWNER'S INDIVIDUAL RESPONSIBILITY.

4.06 Disputes. If a dispute arises regarding the allocation of maintenance responsibilities by this Development Area Declaration, the dispute will be resolved by the Board, who shall delegate such maintenance responsibility to either the Association or the individual Owner(s), as determined by the Board in its sole and absolute discretion.

ARTICLE 5
DEVELOPMENT

5.01 Notice of Applicability. Upon Recording, this Development Area Declaration serves to provide notice that at any time, and from time to time, Declarant, and Declarant only, may subject all or any portion of the Property to the terms, covenants, conditions, restrictions and obligations of this Development Area Declaration. This Development Area Declaration will apply to and burden a portion or portions of the Property upon the filing of a Notice of Applicability in accordance with *Section 9.5* of the Covenant describing such Property by a legally sufficient description and expressly providing that such Property will be subject to the terms, covenants conditions, restrictions and obligations of this Development Area Declaration. To add land to the Development Area, Declarant will be required only to Record a Notice of Applicability filed pursuant to *Section 9.5* of the Covenant containing the following provisions

(a) A reference to this Development Area Declaration, which will include the recordation information thereof;

(b) A statement that such land will be considered a part of the Development Area for purposes of this Development Area Declaration, and that all of the terms,

covenants, conditions, restrictions and obligations of this Development Area Declaration will apply to the added land; and,

(c) A legal description of the added land.

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

(a) A reference to this Development Area Declaration, which will include the recordation information thereof;

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

(c) A legal description of the withdrawn land.

5.03 Assignment of Declarant's Rights. Notwithstanding any provision in this Development Area Declaration to the contrary, Declarant may, by Recorded instrument, assign, in whole or in part, any of its privileges, exemptions, rights, and duties under this Development Area Declaration to any person or entity and may permit the participation, in whole, in part, exclusively, or non-exclusively, by any other person or entity, in any of its privileges, exemptions, rights, and duties hereunder. Copies of any such assignment of Declarant's privileges, exemptions, rights, or duties shall be provided to each Owner of any portion of the Development Area by the Declarant.

ARTICLE 6
GENERAL PROVISIONS

6.01 Term. The terms, covenants, conditions, restrictions, easements, charges, and liens set out in this Development Area Declaration will run with and bind the portion of the Property described in a Notice of Applicability Recorded pursuant to *Section 9.5* of the Covenant or in any Recorded notice, and will inure to the benefit of and be enforceable by the Association, and every Owner, including Declarant, and their respective legal representatives, heirs, successors, and assigns, for a term beginning on the date this Development Area Declaration is Recorded, and continuing through and including January 1, 2089, after which time this Development Area Declaration will be automatically extended for successive periods of ten (10) years unless a change (the word "change" meaning a termination, or change of term or renewal term) is approved by Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association, voting in person or by proxy at a meeting duly called for such purpose,

written notice of which will be given to all Members at least thirty (30) days in advance and will set forth the purpose of such meeting; provided, however, that such change will be effective only upon the Recording of a certified copy of such resolution. The foregoing sentence will in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to an amendment as contemplated in this *Section 6.01,* it being understood and agreed that any change must be approved by a vote of the Members, with each Member casting their vote individually. Notwithstanding any provision in this *Section 6.01* to the contrary, if any provision of this Development Area Declaration would be unlawful, void, or voidable by reason of any Applicable Law restricting the period of time that covenants on land may be enforced, such provision will expire twenty-one (21) years after the death of the last survivor of the now living, as of the date of the Recording of this document, descendants of Elizabeth II, Queen of England.

6.02 **Amendment**. This Development Area Declaration may be amended or terminated by the Recording of an instrument setting forth the amendment executed and acknowledged by (i) the Declarant, acting alone; or (ii) by the president and secretary of the Association setting forth the amendment and certifying that such amendment has been approved by Declarant (until expiration or termination of the Development Period) and Members entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association. The foregoing sentence will in no way be interpreted to mean sixty-seven percent (67%) of a quorum as established pursuant to the Bylaws. The Representative System of Voting is not applicable to an amendment as contemplated in this *Section 6.02*, it being understood and agreed that any such amendment must be approved by a vote of the Members, with each Member casting their vote individually. No amendment will be effective without the written consent of Declarant during the Development Period.

Notwithstanding any term or provision herein, or in the Covenant, including but not limited to *Section 10.3* thereof, to the contrary, no amendment to the Covenant or this Development Area Declaration will be effective if the amendment: (i) modifies or further restricts the leasing or occupancy of any portion of the Development Area, including without limitation any covenants, conditions and/or restrictions that prohibit the use of one of the Dwellings located on a Lot within the Development Area as a leasing office by the Owner or Owners of the Development Area with appropriate signage that complies with the Covenant and this Development Area Declaration; (ii) prohibits the posting of yard signs related to the leasing of Dwellings located on Lots within the Development Area that otherwise comply with the Covenant and this Development Area Declaration; (iii) contains rules or regulations that will not be applied or enforced consistently against all Owners or Occupants or that would otherwise discriminate against the Owner or Owners of the Development Area, their Occupants or their respective Permittees; (iv) restricts the operation of the Development Area by the Owner or Owners of the Development Area in a manner inconsistent with other housing developments owned or managed by the Owner or Owners of the Development Area; (v) imposes Assessments against Lots within the Development Area that are not levied uniformly against all Assessment

Units for Lots with the same services and access; or (vi) increases the number of Assessment Units allocated to any Lot within the Development Area or otherwise increases the amount of any Assessments allocated to the Lots within the Development Area in proportion to the amount of such Assessments allocated to all other Owners of the Property, without the express written consent of the then Owner or Owners of the Development Area. Further, the Covenant and the Development Area Declaration may not be terminated without the express written consent of the then Owner or Owners of the Development Area, and no amendment modifying this *Section 6.02* may be approved or ratified without the express written consent of the then Owner or Owners of the Development Area. Pursuant to *Section 10.03* of the Covenant, the Covenant may be amended by Declarant acting alone, except as otherwise provided in this *Section 6.02*. To the extent necessary or required to give effect to this provision, this Development Area Declaration shall be considered an amendment to the Covenant.

6.03 Interpretation. The provisions of this Development Area Declaration will be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the Development Area, provided, however, that the provisions of this Development Area Declaration will not be held to impose any restriction, condition or covenant whatsoever on any land owned by Declarant other than the Development Area. This Development Area Declaration will be construed and governed under the laws of the State of Texas.

6.04 Gender. Whenever the context so requires, all words herein in the male gender will be deemed to include the female or neuter gender, all singular words will include the plural, and all plural words will include the singular.

6.05 Enforcement and Nonwaiver. Except as otherwise provided herein, any Owner of a Lot, at such Owner's own expense, Declarant and the Association will have the right to enforce all of the provisions of this Development Area Declaration. The Association and/or the Declarant may initiate, defend or intervene in any action brought to enforce any provision of this Development Area Declaration. Such right of enforcement will include both damages for and injunctive relief against the breach of any provision hereof. Every act or omission whereby any provision of the Documents is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner of a Lot (at such Owner's own expense), Declarant or the Association. Any violation of any Applicable Law pertaining to the ownership, occupancy, or use of any portion of the Development Area is hereby declared to be a violation of this Development Area Declaration and subject to all of the enforcement procedures set forth herein. The failure to enforce any provision of the Documents at any time will not constitute a waiver of the right thereafter to enforce any such provision or any other provision of the Documents.

6.06 Severability. If any provision of this Development Area Declaration is held to be invalid by any court of competent jurisdiction, such invalidity will not affect the validity of any other provision of this Development Area Declaration, or, to the extent permitted by Applicable Law, the validity of such provision as applied to any other person or entity.

6.07 **Acceptance by Owners**. Each Owner of a Lot or other real property interest in the Development Area, by the acceptance of a deed of conveyance, and each subsequent purchaser, accepts the same subject to all terms, restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction rights and powers created or reserved by this Development Area Declaration or to whom this Development Area Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared. Furthermore, each Owner agrees that no assignee or successor to Declarant hereunder will have any liability for any act or omission of Declarant which occurred prior to the effective date of any such succession or assignment. All impositions and obligations hereby imposed will constitute covenants running with the land within the Development Area, and will bind any person having at any time any interest or estate in the Development Area, and will inure to the benefit of each Owner in like manner as though the provisions of this Development Area Declaration were recited and stipulated at length in each and every deed of conveyance.

6.08 **Notices**. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 9.9* and *Section 10.17* thereof, any written notice to be sent to any Owner or Owners of the Development Area pursuant to the Covenant, the Certificate, the Bylaws, or any Rules adopted pursuant to the terms of such documents, or this Development Area Declaration shall be sent to the attention of any management company retained by the Owner or Owners of the Development Area to manage the rental of Dwellings within the Development Area (the "**Owner's Management Company**"). Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 10.4* thereof, in the event of any violation of the Covenant or this Development Area Declaration by a Dwelling or Occupant, the Board shall first provide Owner's Management Company with written notice of such violation, and if the Board does not receive a response to such notice from the applicable Owner within five (5) business days of delivery of such notice, the Board may send a copy of the notice to the Occupant via certified mail, return receipt requested. Except as provided in this *Section 6.08*, no notices shall be sent by the Declarant or the Board to any Occupant of a Dwelling located on a Lot within the Development Area, and the Declarant and Board shall have no direct communication with the Occupant of any Dwelling located on a Lot within the Development Area. In addition, notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 3.8.5* thereof, in no event shall the Declarant or Board have any right to enter into any Dwelling located on a Lot within the Development Area or to communicate directly with any Occupant residing therein, with the exception of any communications with Occupants authorized in writing by the Owner of Owners of the Development Area.

ARTICLE 7
EASEMENTS

7.01 **Owner's Maintenance Easement**. Each Owner is hereby granted an easement over and across any adjoining Dwelling, Lot, or Common Area to the extent reasonably necessary to maintain or reconstruct such Owner's Dwelling, subject to the consent of the Owner of the

adjoining Lot and Dwelling and the consent of the Board as provided below, or the consent of the Board in the case of Common Area, and provided that the Owner's use of the easement granted hereunder does not damage or materially interfere with the use of the adjoining Dwelling, Lot, or Common Area. Requests for entry into an adjoining Lot must be made to the Owner of such Lot in advance. The consent of the adjoining Lot Owner will not be unreasonably withheld; however, the adjoining Lot Owner may require that access to its Lot be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. Access to any Common Area for the purpose of maintaining or reconstructing any Dwelling must be made in advance to the Board. The consent of the Board will not be unreasonably withheld; however, the Board may require that access to any Common Area be limited to Monday through Friday, between the hours of 8 a.m. until 6 p.m., and then only in conjunction with actual maintenance or reconstruction activities. In addition, the Board may require that the Owner abide by additional reasonable rules with respect to use and protection of the Common Area during any such maintenance or reconstruction. If an Owner damages an adjoining Dwelling, Lot, or Common Area in exercising the easement granted hereunder, the Owner will be required to restore the Dwelling, Lot, or Common Area to the condition which existed prior to any such damage, at such Owner's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Owner is notified in writing of the damage by the Association or the Owner of the damaged Dwelling or Lot.

Notwithstanding the foregoing, no Owner shall perform any work to any portion of the Owner's Dwelling or Lot if the work requires access to, over or through any other Dwellings, Lots, or Common Area without the prior consent of the Harrington Trails Reviewer except in case of an emergency. All such work may only be performed by a person who shall deliver the following to the Harrington Trails Reviewer prior to commencement of such work, in form satisfactory to the Board:

(a) releases of the Board, the Harrington Trails Reviewer, and the Association for all claims that such person may assert in connection with such work;

(b) indemnities of the Board, the Harrington Trails Reviewer, and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, the Dwelling, Lot, or Common Area;

(c) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board; and,

(d) all other information and assurances which the Board may reasonably require.

7.02 Owner's Ingress/Egress Easement. Each Owner, Occupant and their respective Permittees is hereby granted a perpetual easement over the Development Area, including the

Lots (but excluding any portion of the Lot enclosed by a private fence installed by the Declarant or approved by the Harrington Trails Reviewer creating a private yard space for the Lot Owner), as may be reasonably required, for ingress to and egress from an Owner's Dwelling, but subject to any Rules adopted from time to time by the Board.

7.03 Owner's Encroachment Easement. Every Owner is granted an easement for the existence and continuance of any encroachment by an Owner's Dwelling on any adjoining Dwelling, Lot, or Common Area now existing or which may come into existence hereafter, as a result of construction, repair, shifting, settlement, or movement of any portion of a Dwelling, or as a result of condemnation or eminent domain proceedings, so that the encroachment may remain undisturbed so long such Improvements stand; provided, however, that no such easement shall be granted or deemed to exist with respect to any intentional encroachment by any Owner onto any adjoining Dwelling, Lot, or Common Area.

7.04 Easement Of Cooperative Support. Each Owner is granted an easement of cooperative support over each adjoining Lot and Dwelling as needed for the common benefit of the Development Area, or for the benefit Dwellings that share any aspect of the Development Area that requires cooperation. By accepting an interest in or title to a Lot, each Owner: (i) acknowledges the necessity for cooperation; (ii) agrees to try to be responsive and civil in communications pertaining to the Development Area and to the Association; (iii) agrees to provide access to the Owner's Dwelling and Lot when needed by the Association to fulfill its duties; and (iv) agrees to try refraining from actions that interfere with the Association's maintenance and operation of the Development Area.

7.05 Association's General Easement. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association an easement over, across, under, and through the Development Area, including without limitation, each Lot and each Dwelling and all Improvements thereon, for the following purposes:

(a) For access, entry, and to perform inspections and/or maintenance that is permitted or required of the Association by the Documents or by Applicable Law;

(b) For access, entry, and to perform maintenance that is permitted or required of the Owner by the Documents or by Applicable Law, if the Owner fails or refuses to perform such maintenance;

(c) For access, entry, and to enforce the Documents;

(d) For access, entry, and to exercise self-help remedies permitted by the Documents or by Applicable Law;

(e) For access, entry, and to respond to emergencies;

(f) For access, entry, and to maintain landscaping and make, erect or install non-structural improvements (such as fences, irrigation systems, lighting systems, walking or biking paths, and the like) in or on those portions of each Owner's Lot as part of the Services (but excluding any portion of such Lot enclosed by a private fence installed by the Declarant or approved by the Harrington Trails Reviewer creating a private yard space for the Owner);

(g) to grant easements to utility providers as may be necessary to install, maintain, monitor, and inspect utilities serving any portion of the Development Area; and

(h) to perform any and all functions or duties of the Association as permitted or required by the Documents or by Applicable Law.

7.06 Roadway and Utility Easement. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 8.3* thereof, Declarant shall have no right to (i) install, operate or maintain on the Development Area utilities and associated infrastructure to serve the Development, the Property, or any other property owned by Declarant; (ii) install, operate or maintain on the Development Area cable lines and associated infrastructure for sending and receiving data and/or other electronic signals, security and similar services to serve the Development, the Property, or any other property owned by Declarant; (iii) install, operate or maintain on the Development Area walkways, pathways and trails, drainage systems, street lights and signage to serve the Development, the Property, or any other property owned by Declarant; and (iv) install, locate, relocate, construct, erect or maintain any streets, roadways, or other areas to serve the Development, the Property, or any other property owned by Declarant without the prior written consent of the applicable Owner.

7.07 Entry and Fencing Easement. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 8.4* thereof, Declarant shall have no right to install, maintain, repair or replace on the Development Area fencing and subdivision entry facilities that serve the Development, the Property, or any other property owned by Declarant without the prior written consent of the applicable Owner.

7.08 Landscape, Monumentation and Signage Easement. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 8.5* thereof, Declarant shall have no right to install, maintain, repair or replace landscaping, monumentation and signage on the Development Area which serves the Development, the Property, or any other property owned by Declarant without the prior written consent of the applicable Owner.

7.09 Solar Equipment Easement. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 8.7* thereof, Declarant shall have no right to install a rooftop solar electric generating system on the roof of any Dwelling on the Development Area without the prior written consent of the applicable Owner.

7.10 **Cellular Tower and Telecommunications Easement**. Notwithstanding anything to the contrary set forth in the Covenant, including but not limited to *Section 8.8* thereof, Declarant shall have no right to construct, install, use, maintain, repair, replace, improve, remove and operate CTT Equipment on the Development Area without the prior written consent of the applicable Owner.

[SIGNATURE PAGE FOLLOWS]

EXECUTED TO BE EFFECTIVE on the date this instrument is Recorded.

DECLARANT:

FORESTAR (USA) REAL ESTATE GROUP INC.,
a Delaware corporation

By: Carrie R Cappel
Name: Carrie R. Cappel
Title: Vice President

THE STATE OF TEXAS §
§
COUNTY OF TARRANT §

This instrument was acknowledged before me this 14th day of April, 2022 by Carrie R. Cappel, Vice President of FORESTAR (USA) REAL ESTATE GROUP INC., a Delaware corporation, on behalf of said corporation.

Notary Public Signature

(SEAL)

ALYSSE GRAY LEWIS
NOTARY PUBLIC
STATE OF TEXAS
ID 124308080
EXP 10-01-2024

EXHIBIT "A"

DESIGNATION OF AREA OF COMMON RESPONSIBILITY AND MAINTENANCE CHART

"All aspects" includes maintenance, repair, and replacement, as needed.

COMPONENT OF PROPERTY, LOT OR DWELLING	ASSOCIATION'S RESPONSIBILITY (AND DESIGNATED AS PART OF THE AREA OF COMMON RESPONSIBILITY)	OWNER RESPONSIBILITY (SUBJECT TO APPROVAL BY HARRINGTON TRAILS REVIEWER)
Roofs.	None.	All aspects.
Roof mounted attachments.	None.	All aspects.
Exterior vertical walls of Dwellings, other exterior features of Dwellings not specifically listed in chart.	None.	All aspects.
Dwelling foundations, patio slabs, and A/C slabs.	None.	All aspects.
Concrete driveways, walkways and sidewalks.	None.	All aspects.
Retaining walls.	None.	All aspects.
Displays of street numbers on exterior doors or Dwelling surfaces.	None.	All aspects.
Gutters and downspouts.	None.	All aspects.
Fences and gates around private Dwelling yards.	None.	All aspects.
Routine watering of landscaping	None, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.	All aspects, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.
Maintenance of grounds and landscaping (aside from routine watering)	None, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.	All aspects, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.
Maintenance and repair of yard irrigation system (sprinkler)	None, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.	All aspects, unless designated by Declarant as a Service Area pursuant to *Section 2.4* of the Covenant.

COMPONENT OF PROPERTY, LOT OR DWELLING	ASSOCIATION'S RESPONSIBILITY (AND DESIGNATED AS PART OF THE AREA OF COMMON RESPONSIBILITY)	OWNER RESPONSIBILITY (SUBJECT TO APPROVAL BY HARRINGTON TRAILS REVIEWER)
Exterior light fixtures on Dwelling.	None.	All aspects.
Exterior pest control.	None.	All aspects.
Exterior doors of Dwellings.	None.	All aspects.
Garages.	None.	All aspects.
Skylights.	None.	All aspects.
Attics.	None.	All aspects.
Insulation & weather stripping.	None.	All aspects.
Dwelling interiors, including improvements, fixtures, partition walls & floors within Dwelling.	None.	All aspects.
Sheetrock in Dwellings (walls and ceilings) & treatments on walls.	None.	All aspects.
Surface water drainage systems.	All aspects, including collection drains and drain systems.	None; provided Owners are prohibited from changing the drainage system.
Windows.	None.	All aspects.
Water, sewer, electrical lines & systems.	All aspects within common areas and public areas unless maintained by a utility company or other regulatory authority.	All aspects for lines and systems located on and serving the Lots on the customer side of the meter.
Heating and cooling systems & water heaters.	None.	All aspects.
Intrusion alarms on doors/windows, smoke/heat detectors, monitoring equipment.	None.	All aspects.
Cable for television or internet.	None.	All aspects.
Television antennas & satellite dishes.	None.	All aspects.
Exterior painting.	None.	All aspects.
Patios, balconies, porches, and decks.	None.	All aspects.

COMPONENT OF PROPERTY, LOT OR DWELLING	ASSOCIATION'S RESPONSIBILITY (AND DESIGNATED AS PART OF THE AREA OF COMMON RESPONSIBILITY)	OWNER RESPONSIBILITY (SUBJECT TO APPROVAL BY HARRINGTON TRAILS REVIEWER)
Any other component of a Dwelling and/or Lot not specifically listed in this Exhibit "A".	None.	All aspects.

NOTE 1: The components listed in the first column are applicable only if they exist, and may not be construed to create a requirement to have such a component.

NOTE 2: If an Owner fails or refuses to perform necessary maintenance, repair, or replacement, the Association may perform the work after giving required notices to the Owner and levy an Individual Assessment against the Owner and the Owner's Lot for reimbursement of such costs.

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E-FILED FOR RECORD
05/19/2022 08:18AM

COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

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

05/19/2022

County Clerk
Montgomery County, Texas