

Denton County  
Juli Luke  
County Clerk

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Instrument Number: 110299

ERecordings-RP

NOTICE

Recorded On: September 04, 2019 02:22 PM

Number of Pages: 28

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" Examined and Charged as Follows: "

Total Recording: \$134.00

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Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 110299  
Receipt Number: 20190904000533  
Recorded Date/Time: September 04, 2019 02:22 PM  
User: Terri B  
Station: Station 20

**Record and Return To:**

Corporation Service Company



STATE OF TEXAS  
COUNTY OF DENTON

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Denton County, Texas.


Juli Luke  
County Clerk  
Denton County, TX

**NOTICE OF FILING FOR  
BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.**

STATE OF TEXAS           §  
  §  
COUNTY OF DENTON       §

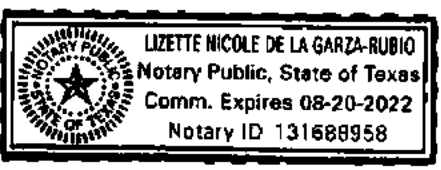
Notice is hereby given to all persons with any interest in or claim to any parts of the property within the jurisdiction of Big Sky Estates Homeowners Association, Inc. that said property is subject to the Certificate of Formation of Big Sky Estates Homeowners Association, Inc. attached hereto as Exhibit A and incorporated herein for all purposes and the Bylaws of Big Sky Estates Homeowners Association, Inc. attached hereto as Exhibit B and incorporated herein for all purposes.

Thus signed and certified this 4<sup>th</sup> day of September, 2019.

  
\_\_\_\_\_  
Shanna R. Castro  
Barton Benson Jones PLLC  
745 E. Mulberry Ave., Ste. 550  
San Antonio, Texas 78212

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

On this 4<sup>th</sup> day of September, 2019, before me, the undersigned notary public, personally appeared Shanna R. Castro, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he or she executed the same for the purposes set forth therein.



  
\_\_\_\_\_  
Notary Public, State of Texas

**AFTER RECORDING RETURN TO:**  
Barton Benson Jones PLLC  
Attn: Shanna R. Castro  
745 E. Mulberry Ave., Ste. 550  
San Antonio, Texas 78212

**EXHIBIT A**

**CERTIFICATE OF FORMATION OF  
BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.**

**[ON FOLLOWING PAGES]**

SEP 03 2019

Corporations Section

**CERTIFICATE OF FORMATION  
OF  
BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.**

The undersigned, a natural person, having the capacity of contract and acting as organizer of Big Sky Estates Homeowners Association, Inc. (the "Association") under the Texas Business Organizations Code (the "TBOC"), does hereby adopt the following Certificate of Formation of the Association:

**ARTICLE I. NAME**

The name of the Association is Big Sky Estates Homeowners Association, Inc.

**ARTICLE II. NONPROFIT CORPORATION**

The Association is a Texas nonprofit corporation organized under the TBOC.

No part of the assets or net earnings of the Association shall inure to the benefit of, or be distributable to its members, directors, trustees, officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distribution in furtherance of the purposes set forth in Article IV below. No substantial part of the activities of the Association shall be to carry on of propaganda, or otherwise attempt to influence legislation, and the Association shall not participate in, or otherwise intervene in any political campaign on behalf of any candidate for public office (including publishing or distribution of statements). Notwithstanding any other provision of this Certificate, the Association shall not carry on any other activities not permitted to be carried on by an Association exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code or any corresponding section of any future federal tax code.

**ARTICLE III. DURATION**

The Association shall exist perpetually.

**ARTICLE IV. PURPOSES AND POWERS**

The purposes for which the Association is organized are:

1. To promote the health, safety and welfare of the residents in the subdivision known as Big Sky Estates Subdivision in Denton County, Texas (the "Subdivision"), as well as all property that may be annexed into the Subdivision;
2. To improve and maintain the Common Areas;
3. At the Association's election, to enforce any covenants, conditions and restrictions governing the Subdivision and any additions thereto as may hereinafter be brought within the jurisdiction of the Association; and

4. For any other lawful purpose.

In order to carry out the aforementioned purposes, the Association will have all those powers, rights, and privileges permitted to nonprofit entities under Chapter 2 of the TBOC, and all the powers listed in the Declaration, bylaws, and other governing documents which govern the operation of the Association.

#### ARTICLE V. MEMBERSHIP

The Association shall have members, without certificates or shares of stock. Every record owner (whether one (1) or more persons or entities) of fee simple title in any lot that is subject to the Declaration, including contract sellers, shall be a member of the Association. The foregoing does not include those leasing from record holders of fee simple title or those having an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot that is subject to the Declaration.

#### ARTICLE VI. BOARD OF DIRECTORS

The management of the affairs of the Association is vested in its Board of Directors pursuant to TBOC Section 22.201. Until Class B Membership ceases, the three (3) initial directors appointed by Declarant shall so serve. The names and addresses of the persons who are to serve as the three (3) initial directors are:

<u>NAME</u>	<u>ADDRESS</u>
Bryan Merchant	1450 Lake Robbins Drive, Suite 430 The Woodlands, Texas 77380
Lucas Lansman	1450 Lake Robbins Drive, Suite 430 The Woodlands, Texas 77380
Kyle Hanna	1450 Lake Robbins Drive, Suite 430 The Woodlands, Texas 77380

The initial Board shall serve until the Control Transfer Date occurs; the "Control Transfer Date" shall mean that point in time when the Declarant, at its sole option, shall cause an instrument transferring control to the Association to be recorded in the Official Public Records of Real Property of the county where the Subdivision is located. After the Control Transfer Date, the affairs of the Association shall be managed by the Board, which shall consist of at least three (3) persons, all of whom must be members of the Association. Upon the Control Transfer Date, a new Board shall be elected. Notwithstanding anything herein to the contrary, until the Control Transfer Date, directors need not be owners.

## ARTICLE VII. WINDING UP AND TERMINATION

The Association may be wound up and terminated pursuant to the TBOC with the assent given in writing and signed by not less than two-thirds (2/3rds) of each class of members. Upon winding up and termination of the Association, other than incident to a merger or consolidation, the assets (if any) of the Association shall be dedicated to a public body or conveyed to a nonprofit corporation with purposes similar to those of the Association.

## ARTICLE VIII. AMENDMENTS

Amendment of this Certificate of Formation shall require the assent of two-thirds (2/3) of the votes of the entire membership of each class of members; provided further, however, that so long as there is Class B Membership, joinder of the Declarant will also be required. Furthermore, the Declarant has the right to unilaterally amend this Certificate of Formation under the following circumstances:

1. If the amendment is necessary to bring any provision in this Certificate of Formation into compliance with a governmental statute, rule or regulation or judicial determination;
2. If the amendment is required by an institutional or governmental lender or purchaser of mortgage loans to enable such lender or purchaser to make or purchase mortgage loans on the Property;
3. If the amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Property;
4. If the amendment is necessary to enable a reputable title insurance company to issue title insurance coverage on Lots;
5. To correct any error or omission or to clarify any ambiguity in this Certificate of Formation; and
6. In the Declarant's sole discretion, as necessary for the development of the Property.

## ARTICLE IX. REGISTERED AGENT & REGISTERED OFFICE

Devin "Buck" Benson is the initial registered agent of the Association. The address of the initial registered agent and the registered office address is 745 E. Mulberry Ave., Ste. 550, San Antonio, Texas 78212.

## ARTICLE X. INDEMNIFICATION

To the fullest extent permitted by Texas law, as the same exist or as they may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits broader limitation than permitted prior to such amendment) a director of the Association shall not be liable to the Association for monetary damages for an act or omission in the director's capacity as a

director. Any amendment of this Certificate of Formation shall be prospective only and shall not adversely offset any limitation on the personal liability of a director of the Association existing at the time of such repeal or amendment.

(a) Subject to the exceptions and limitations contained in Article X(b) hereof:

(1) Every person who is or has been a director, officer, or managing agent of the Association shall be indemnified by the Association to the fullest extent permitted by law against liability and against all expenses reasonably incurred or paid by him in connection with any demand, claim, action, suit (or threat thereof) or proceeding in which he/she becomes involved as a party or otherwise by virtue of his/her being or having been a director or officer and against amounts paid or incurred by him/her in the settlement thereof; and

(2) The words "claim," "action," "suit," or "proceeding" shall apply to all claims, actions, suits, or proceedings (civil, criminal, or other, including appeals), actual or threatened, made or commenced subsequent to the adoption of this Certificate of Formation; and the words "liability" and "expenses" shall include, without limitation, attorneys' fees, costs, judgments, amounts paid in settlement, fines, penalties, and other liabilities.

(b) No indemnification shall be provided hereunder to a director, officer, or managing agent of the Association:

(1) Against any liability to the Association by reason of willful misfeasance, bad faith, gross negligence, breach of fiduciary duty, criminal misconduct or reckless disregard of the duties involved in the conduct of his/her office; and

(2) With respect to any matter as to which he/she shall have been finally adjudicated not to have acted in good faith

(c) The rights of indemnification herein provided may be insured against by policies maintained by the Association, shall be severable, shall not affect any other rights to which any director or officer now or hereafter may be entitled, shall continue as to a person who has ceased to be a director or officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(d) Expenses in connection with the preparation and presentation of a defense to any claim, action, suit, or proceeding of the character described in this Article X may be advanced by the Association before final disposition thereof upon receipt of an undertaking by or on behalf of the director(s), officer(s), or managing agent(s) secured by a surety bond or other suitable insurance issued by a company authorized to conduct such business in the State of Texas, to repay such amount if it is ultimately determined that he/she is not entitled to indemnification under Article X.

#### ARTICLE XI. LIABILITY OF THE ASSOCIATION AND ACKNOWLEDGEMENTS

THE ASSOCIATION, ITS BOARD OF DIRECTORS, OFFICERS, MANAGERS, EMPLOYEES, AGENTS AND/OR ITS ATTORNEYS, (collectively, the "ASSOCIATION AND

**RELATED PARTIES") SHALL NOT IN ANY WAY BE CONSIDERED AN INSURER OR GUARANTOR OF SECURITY WITHIN THE PROPERTY. NEITHER SHALL THE ASSOCIATION AND RELATED PARTIES BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.**

**MEMBERS AND TENANTS, ON BEHALF OF THEMSELVES, ALL OCCUPANTS OF THE LOT OWNED OR BEING LEASED, GUESTS AND INVITEES OF THE MEMBER OR TENANT, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES, OR SECURITY SYSTEMS (IF ANY ARE PRESENT) WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP OR OTHERWISE, NOR THAT FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED.**

**MEMBERS AND TENANTS, ON BEHALF OF THEMSELVES, ALL OCCUPANTS OF THE LOT OWNED OR BEING LEASED, THEIR GUESTS AND INVITEES OF THE MEMBER OR TENANT, AS APPLICABLE, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION AND RELATED PARTIES ARE NOT AN INSURER AND THAT EACH MEMBER, TENANT, AND OCCUPANT OF ANY LOT ON BEHALF OF THEMSELVES AND THEIR GUESTS AND INVITEES ASSUME THE RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGE THAT THE ASSOCIATION AND RELATED PARTIES HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY MEMBER OR TENANT ON BEHALF OF THEMSELVES, ALL OCCUPANTS OF THE LOT OWNED OR BEING LEASED, THEIR GUESTS OR INVITEES, AS APPLICABLE, RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION, BURGLAR ALARM SYSTEMS, ACCESS CONTROL SYSTEMS, PATROL SERVICES, SURVEILLANCE EQUIPMENT, MONITORING DEVICES OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTY.**

#### **ARTICLE XII. ORGANIZER**

**The name and address of the organizer is Shanna R. Castro, 745 E. Mulberry Ave., Ste. 550 San Antonio, Texas 78212.**

#### **ARTICLE XIII. MISCELLANEOUS**

**All capitalized terms used herein and not otherwise defined herein shall have the same meanings as set forth in the Declaration of Covenants, Conditions and Restrictions for Big Sky Estates. Said Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter referred**



to as the "Declaration" and is incorporated herein as if set forth at length.

EXECUTED on the 3<sup>rd</sup> day of September, 2019.

A handwritten signature in black ink, appearing to be 'a' followed by a long horizontal stroke.

---

Shanna R. Castro, Organizer

**PLEASE RETURN TO:**  
Barton Benson Jones PLLC  
Attn: Shanna R. Castro  
745 E. Mulberry Ave., Ste. 550  
San Antonio, Texas 78212

**EXHIBIT B**

**BYLAWS OF  
BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.**

**[ON FOLLOWING PAGES]**

**BYLAWS  
OF  
BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I.  
NAME, PRINCIPAL OFFICE, PROPERTY, AND DEFINITIONS**

Section 1. Name. The name of the corporation is Big Sky Estates Homeowners Association, Inc. (the "**Association**").

Section 2. Principal Office. The initial principal office of the corporation is 1450 Lake Robbins Drive, Suite 430, The Woodlands, Texas 77380. Prior to conversion of Class B Membership, the principal office of the corporation shall be located at any place in Texas as may be designated by the Board of the Association from time to time. Upon and after conversion of Class B Membership, the principal office of the corporation shall be located in Denton County, Texas (the "**County**") or such other place as may be designated by the Board of the Association from time to time.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Big Sky Estates to be recorded on in the Official Public Records of Real Property of the County (said Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter referred to as the "**Declaration**").

**ARTICLE II.  
MEMBERSHIP AND VOTING RIGHTS**

Section 1. Membership. Each Owner shall be a Member of the Association.

Section 2. Allocation of Voting Rights. The Association shall have two (2) classes of voting membership – Class A and Class B, as more fully set forth in the Declaration. The voting rights of both classes shall be based on the number of Lots owned, and are determined as follows:

- a. Class A. Each Class A Member is entitled to one (1) vote per platted Lot owned. In no event shall more than one (1) vote be cast with respect to any single Lot owned by a Class A Member.
- b. Class B. Each Class B Member is entitled to ten (10) votes per platted Lot owned.

Section 3. Conversion. Class B Membership shall convert to Class A Membership upon the Control Transfer Date. The "**Control Transfer Date**" shall mean that point in time when the Declarant, at its sole option, shall cause an instrument transferring control to the Association to be recorded in the Official Public Records of Real Property of the County.

Upon the Control Transfer Date: (i) any remaining Class B Members shall become Class A Members; (ii) the Owners shall manage the Association; and (iii) the members of the Board at the time of conversion shall elect the Board. **UPON THE CONTROL TRANSFER DATE AND ANYTIME THEREAFTER, THE ASSOCIATION SHALL INDEMNIFY AND HOLD THE DECLARANT HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS OR DAMAGES OF EVERY KIND ARISING OUT OF THE DEVELOPMENT OF THE PROPERTY AND THE OPERATION OF THE ASSOCIATION.**

Prior to the Control Transfer Date: (i) the Declarant shall manage the Association; and (ii) the Association shall reimburse the Declarant for any expenses incurred in such management.

Section 4. **Member Rights in Association.** No Member shall have any direct interest in the funds and assets of the Association, but shall have only a membership interest therein which shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the Owner's interest in the Owner's Lot. Membership in the Association shall be mandatory.

### ARTICLE III. MEETING OF MEMBERS

Section 1. **Annual Meetings.** The first annual meeting and each subsequent regular annual meeting of the Members shall be held on a date and time determined by the Board. At each annual meeting after conversion of Class B Membership, directors shall be elected.

Section 2. **Special Meetings.** Special meetings of the Members may be called at any time by the President of the Association (the "President") or by the Board, or upon written request of the Members who are entitled to vote one-fourth (1/4<sup>th</sup>) of all of the votes of the Members.

Section 3. **Place of Meetings.** While Class B Membership exists: (a) meetings of the Board shall be held at the principal office of the Association or at such other suitable place within Texas that is convenient to the Board; and (b) meetings of the Members shall be held at a suitable place within the County or an adjacent county that is convenient to the Members as may be designated by the Board from time to time. After Class B Membership ceases, meetings of Members and the Board shall be held at the principal office of the Association or at such other suitable place within the County or an adjacent county that is convenient to the Members as may be designated by the Board from time to time.

Section 4. **Notice of Meetings.** Written or printed notice of annual and special meetings must state the place, day, and hour of any meeting of the Association and must be delivered, either personally or by mail, fax or other electronic media, to each Member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting. Such notice of the annual meeting of the Members must be given by or at the direction of the Secretary of the Association (the "Secretary"). Such notice of a special meeting must be given by whoever called the meeting and must contain a description of the topics or issues to be discussed.

Notice to a Member by e-mail or facsimile must be sent to the e-mail address or facsimile number provided to the Association in writing by that Member. If e-mailed, the notice of meeting shall be deemed to be delivered as of the date and time the e-mail was sent. If faxed, the notice of meeting shall be deemed to be delivered as of the date and time shown on a written confirmation that the facsimile was successfully transmitted.

Notice to a Member by mail shall be sent to the address of the Member's Lot in the Property, unless the Member has provided another mailing address to the Association in writing. If mailed, the notice of meeting shall be deemed delivered as of the date it is deposited in the United States mail. One (1) notice, addressed to multiple Members at the same address, shall suffice if more than one (1) Member resides at or occupies any address.

For any given meeting, the Association may use any combination of the alternative methods for providing notice to the Members.

For the purpose of determining the Members who shall receive notice of a meeting, the Members of the Association shall be determined on the date the notice of meeting is first given.

In the case of a special meeting or when required by statute or these Bylaws, the purpose(s) for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Either before or after such meeting, any Member may, in writing, waive notice of any meeting of the Association. Attendance at a meeting by a Member, either in person or by proxy, shall be deemed waiver by such Member of notice of the time, date, and place of the meeting, unless such Member specifically objects to lack of proper notice in writing before the time the meeting is called to order. Additionally, casting a vote by a Member on any issue to be voted upon at the meeting by any technological means authorized in these Bylaws shall be deemed a waiver by such Member of notice of the meeting. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised in writing before the business is put to a vote.

Section 6. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, either in person or by proxy, the presiding officer or a majority of the Members who are present at such meeting, in person or by proxy, may adjourn the meeting to a later time. At the reconvened meeting, if a quorum is present, either in person or by proxy, any business that might have been transacted at the meeting originally called may be transacted. All votes cast by Members prior to the originally called meeting by proxy or by any technological means authorized in these Bylaws on issues to be considered at the meeting shall be valid and may be counted at the reconvened meeting at which a quorum is present; provided that, a Member who cast a vote on an issue by proxy or by any technological means authorized in these Bylaws may change that Member's vote at any time prior to the time that a call for a vote on the issue is made at the reconvened meeting at which a quorum is present. A Member may change the Member's vote by attending the reconvened meeting in person,

submitting a proxy at the reconvened meeting that either directs or authorizes the proxy holder to vote in a different manner, or changing the Member's vote by any technological means for voting authorized in these Bylaws. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

Section 7. Proxies. At all meetings of Members, each Member may vote in person or by proxy. Any reference in these Bylaws to “**Members Present**” means “Members present in person or by proxy.”

All proxies shall be in writing and filed with the Secretary: (i) before the appointed time of each meeting; or (ii) by any earlier date or time specified in the notice of meeting. Proxies submitted by facsimile or any other method provided for by these Bylaws shall be valid.

Proxies not delivered prior to the start of any meeting or by any earlier date or time specified in the notice of meeting shall not be valid. Every proxy shall be revocable and shall automatically cease upon: (i) conveyance by the Member of the Member's interest in the property; (ii) receipt of notice by the Secretary of the death or judicially declared incompetence of a Member; (iii) receipt of written revocation; or (iv) expiration of eleven months from the date of the proxy. If a Member executes more than one (1) proxy, only the proxy with the most current date shall be valid.

Section 8. Voting. At all meetings of Members at which a quorum is present, all questions (except those the manner of which is otherwise expressly governed by statute, the Association's Certificate of Formation, the Declaration or the Bylaws) shall be decided by the majority of votes cast by the Members Present (each Member being entitled to cast all votes allotted to it by these Bylaws) and entitled and eligible to vote. All voting of Members present in person shall be via voice, except voting shall be by ballot upon the determination of the presiding officer of any meeting or upon the demand of a majority of Members Present. Each ballot shall be signed by the Member voting or by the Member's proxy. At the option of the Board, any vote may be taken by mail ballot, or by any combination of mail, proxy or in person. Mail ballots may be counted toward a quorum of Members Present (as if in attendance at a meeting).

Section 9. Alternative Means of Voting. To the extent permitted by law, a Member may vote on any question to be voted upon by the Members via absentee ballot, which is delivered to the Association by mail, facsimile or electronic communication over the internet or the Association network. To be valid, any vote cast by a Member by mail, fax or electronic communication must be received by the Association by: (i) midnight of the day before the date of the scheduled meeting; or (ii) any earlier date or time specified in the notice of meeting.

The mechanism for voting by electronic communication must provide a sufficient method of identifying the Member and verifying the Member's vote. Any requirement for a signature on any such absentee ballot, which is imposed by the Certificate of Formation, the Declaration, the Bylaws, any regulation or resolution imposed by the Board, or any applicable law, shall be satisfied by a digital signature.

Section 10. **Majority.** As used in these Bylaws, the term "majority" shall mean those votes, owners or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

Section 11. **Quorum.** Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of Owners representing ten percent (10%) of the total eligible votes in the Association shall constitute a quorum at all meetings of the Association.

The Members Present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment. However, in the event a sufficient number of Members leave less than a quorum at such meeting, business may continue to be conducted provided that: (i) at least five percent (5%) of the total eligible votes of the Association remains present in person and/or by proxy; and (ii) any action taken shall be approved by at least a majority of the total eligible votes of the Association remaining present in person and/or by proxy.

Section 12. **Conduct of Meetings.** The President shall preside over all meetings of the Association. The Secretary shall keep or cause to be kept the minutes of all meetings and record in a minute book all resolutions adopted at all meetings and all transactions occurring at all meetings.

Section 13. **Action Without a Meeting.** Any action required by law to be taken at a meeting of the Association or any action that may be taken at a meeting of the Association, may be taken without a meeting if written consent setting forth the action so taken is signed by Members holding the number of votes necessary to pass a proposition concerning the subject matter thereof, and any such consent shall have the same force and effect as a unanimous vote of the Members.

Section 14. **Actions.** When a quorum is present at a meeting, the majority of votes cast by the Members Present (each Member being entitled to cast all votes allotted to it by these Bylaws) shall decide any question brought before the meeting, except as otherwise provided in the Certificate of Formation, the Declaration or these Bylaws.

#### ARTICLE IV. BOARD OF DIRECTORS

##### A. **Composition and Selection of the Board**

Section 1. **Governing Body: Composition.** The affairs of the Association shall be governed by a Board of Directors consisting of at least three (3) but no more than nine (9) directors. Each director shall be entitled to one (1) vote. While Class B Membership exists, directors need not be Owners. After Class B Membership ceases, each director shall be an Owner and a Member. A Member who is a registered sex offender or who has been convicted of a crime of moral turpitude may not be a director. Directors may serve consecutive terms if so

elected or appointed. If an entity is an Owner, the entity may submit a written resolution of the entity to the Secretary, designating one (1) representative, who shall be eligible to serve as a director. Only one (1) representative of any such entity, except for the Declarant (or its successor as declarant), may serve on the Board at any given time.

**Section 2. Election of Directors.**

During the existence of Class B Membership, the Declarant shall appoint the directors. At the first annual meeting after the Control Transfer Date has passed, the members of the Association will elect new directors. After the existence of Control Transfer Date, election to the Board shall be by secret written ballot. Voting for directors shall take place at the annual meeting of the Members and/or by votes delivered to the Secretary by mail, electronic communication, or facsimile before the appointed time of the annual meeting or by any earlier date or time specified in the notice of meeting. The Board may determine the method of voting and include said method in the notice of meeting for the annual meeting. At such election, the Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**Section 3. Term of Office.** At the first annual meeting of the Members which takes place after Class B Membership has ceased, the Members shall elect one (1) director for a term of one (1) year, one (1) director for a term of two (2) years, and one (1) director for a term of three (3) years. At each annual meeting thereafter, the members shall elect one (1) director for a term of three (3) years.

**Section 4. Nomination.** After Class B Membership has ceased, the Board may establish a nominating committee consisting of a chairperson, who shall be a member of the Board, and three (3) or more Members or representatives of Members. If established, the nominating committee shall be appointed by the Board not less than thirty (30) days prior to each annual meeting of the Members to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine but in no event less than the number of positions to be filled. The Board may also choose to take nominations from the floor, and/or to take nominations by any other means determined appropriate by the Board.

**Section 5. Vacancy and Removal.** After Class B Membership has ceased, any vacancy created during the term of a Board member may be filled by the remaining directors.

If a director ceases to be an Owner during his or her term as director, he or she is automatically disqualified from serving as a director or officer, and the majority of the Board may: (i) elect a successor to fulfill the remainder of said director's term; or (ii) wait to elect a successor at the next annual meeting of the Members. In the event of the death, disability, other disqualification or resignation of a director, a vacancy may be declared by the Board and the remaining directors may appoint a successor.



Any director who has three (3) consecutive unexcused absences from Board meetings may be removed by a majority of the directors present at any Board meeting at which a quorum is present, and a successor may be appointed by the Board to fill the director's vacancy for the remainder of the term.

Any director may be removed, with or without cause, by the vote of a majority of quorum of the Members. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by Members, a successor shall then and there be elected by the Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Section 6. Compensation. No director shall receive compensation for any service he or she may render to the Association. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

## **B. Meetings of the Board**

Section 1. Organization Meetings. Each year the Board shall hold a meeting at such time and place as shall be fixed by the Board, so long as the meeting is held within sixty (60) days after each annual meeting of the Members.

Section 2. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least one (1) such meeting shall be held during each fiscal year. Notice of the time and place of the meeting shall be communicated to the directors not less than four (4) days prior to the meeting; provided however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 3. Special Meetings. Special meetings of the Board shall be held when called by written notice at the request of the President or by written resolution of a majority of the Board. The notice shall specify the time and place of the meeting and shall be given to each director by one (1) of the following methods: (i) personal delivery; (ii) first class mail, postage pre-paid; or (iii) telephone communication, facsimile or electronic communication, either directly to the director or to a person at the director's office or home who could reasonably be expected to communicate such notice promptly to the director. All such notices shall be given at the director's telephone number or sent to the director's mailing address or e-mail address as shown on the Association's records. Notice sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, facsimile or electronic communication shall be delivered at least seventy-two (72) hours before the time set for the meeting.

Section 4. Waiver of Notice. The transaction of any meeting of the Board, however called and noticed or wherever held, shall be valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present; and (ii) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the

meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting in writing before or at its commencement about the lack of adequate notice.

Section 5. Quorum. At all meetings of the Board, a majority of the directors present shall constitute a quorum for the transaction of business. The votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board.

If any meeting cannot be held because a quorum is not present, a majority of the directors who are present at such meeting may adjourn the meeting to a later time. At the reconvened meeting, if a quorum is present, any business that might have been transacted at the meeting originally called may be transacted without further notice.

Section 6. Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall keep or cause to be kept a minute book of meetings of the Board, recording therein all resolutions adopted by the Board and all transactions and proceedings occurring at such meetings.

Section 7. Open Meetings. Subject to the provisions of Sections B(8) & (9) of this Article, all meetings of the Board may be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on the Member's behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, excluding Members, to discuss or vote on matters of a sensitive nature, including but not limited to pending or threatened litigation and personnel matters.

Section 8. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if consent in writing, setting forth the action so taken, is signed by all of the directors. Such consent shall have the same force and effect as a unanimous vote.

Section 9. Executive Session. The Board may close a portion of its meeting for the purpose of discussing items that require confidentiality, matters involving the personal accounts of Owners, matters currently in litigation and other matters that the Board, in its sole discretion, considers to be of a sensitive nature.

### **C. Powers and Duties of the Board**

Section 1. Powers. The Board shall be responsible for the affairs of the Association and shall have all of the powers necessary for the administration of the Association's affairs, including but not limited to the following:

- a. Making, adopting and amending rules and regulations that will, in the Board's sole discretion: (i) promote the welfare, health and/or safety of the Members and/or the Association; (ii) promote the maintenance of the Common Area, or govern the use of the Common Area and the personal conduct of the Members and their guests thereon;

- and/or (iii) clarify a provision set forth in these Bylaws, the Declaration or the Certificate of Formation;
- b. Promulgating, implementing and collecting reasonable fines for violations of any corporate document of the Association, which fines shall constitute liens on the Lots owned by the violating Owners and may be collected as assessments under the Declaration;
  - c. Suspending a Member's voting rights and rights to use the Common Area during any period in which such Member is in default in the payment of any Assessment levied by the Association or in violation of any other duty imposed under the Declaration, these Bylaws, or any rules and regulations duty adopted by the Association, after notice and an opportunity to be heard (if notice and an opportunity to be heard is required by law); provided, however, such rights may not be suspended for a period to exceed 60 days for infraction of published rules and regulations and the Member's ingress and egress to or from a Lot shall not be limited;
  - d. Exercising self-help (including, but not limited to, towing vehicles that are in violation of parking rules and regulations and performing exterior maintenance) for violations of any corporate document of the Association by entering Lots or Common Area and enjoining, repairing, or performing any other correction necessary without any liability for trespass therefor, and charging the responsible party with the costs therefor, which may be collected as assessments under the Declaration;
  - e. Enforcing any provision of the Declaration, these Bylaws, or the Association's rules and regulations by bringing a lawsuit at law or in equity to enjoin any violation or to recover monetary damages or both
  - f. Exercising for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Certificate of Formation or the Declaration;
  - g. Acquiring (by gift, purchase or otherwise), owning, holding, improving, building upon, operating, maintaining, conveying, selling, leasing, transferring, dedicating for public use or otherwise disposing of real or personal property in connection with the affairs of the Association (provided, however, that if a conveyance would transfer substantially all of the Association's property, then no such conveyance, sale, dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3rds) of each class of Members agreeing to such conveyance, dedication, sale or transfer);
  - h. Participating in mergers and consolidations with any other nonprofit corporation organized for the same or similar purposes or annex additional residential property and common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3rds) of each class of Members or as may be provided for in the Declaration;

- i. Making assessments, establishing the means and methods of collecting such assessments, and establishing the payment schedule for Special Assessments;
- j. Collecting assessments, depositing the proceeds thereof in a bank depository that the Board has approved, and using the proceeds to operate the Association; provided, any reserve funds may be deposited, in the Board's business judgment, in depositories other than banks;
- k. Paying all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property by the Association;
- l. Opening bank accounts on the Association's behalf and designating the signatories required; and
- m. Borrowing money for the purpose of maintenance, repair or restoration of the Common Area or for any other proper purpose without the approval of the Members.

Section 2. Duties. In addition to the duties imposed by these Bylaws, Texas law or by any resolution of the Association that may hereafter be adopted, the Board shall have the duty to:

- a. Levy and collect Assessments as provided in the Declaration;
- b. Prepare and adopt annual budgets;
- c. Provide for the operation, care, upkeep and maintenance of all Common Area, including but not limited to entering into a contract to provide for such operation, care, upkeep and maintenance;
- d. Make or contract for the making of repairs, additions or improvements to or alterations of the Common Area in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;
- e. Designate, hire, and dismiss the personnel necessary for the operation of the Association and the maintenance, operation, repair, and replacement of its property and the Common Area and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and materials to be used by such personnel in the performance of their duties;
- f. Employ a manager, an independent contractor, or such other employees as the Board deems necessary, and to prescribe such manager's, independent contractor's, and/or other employee's duties including but not limited to check writing duties;
- g. Obtain and carry insurance against casualties and liabilities with policy limits, coverage and deductibles as deemed reasonable by the Board and pay the premium costs thereof;

- h. Pay the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners, and
- i. Keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;
- j. Maintain a membership register reflecting, in alphabetical order, the names, property addresses and mailing addresses of all Members;
- k. Upon request for any proper purpose, make available to any prospective purchaser, Owner, first mortgagee, or holder, insurer or guarantors of a first mortgage during normal business hours by advance appointment, copies of the Association Records for a reasonable charge;
- l. Permit utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property; and
- m. Cause all officers or employees having fiscal responsibilities to be bonded, as the Board may deem appropriate.

Section 3. Management. The Board may employ for the Association a professional management agent or agents at a compensation established by the Board to perform such duties and services as the Board shall authorize.

Section 4. Accounts and Reports. The following management standards of performance will be followed unless the Board, by resolution, specifically determines otherwise:

- a. Accrual or cash accounting, as defined by generally accepted accounting principles, shall be employed.
- b. Accounting and controls should conform to generally accepted accounting principles.
- c. Cash accounts of the Association shall not be commingled with any other accounts.
- d. No remuneration without full disclosure and prior agreement of the Board, or as contained in a written management contract, shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise. Anything of value received shall benefit the Association.
- e. Any financial or other interest that any director, or the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

- f. Commencing at the end of the month in which the first Lot is sold and closed, monthly or quarterly, at the direction of the Board, financial reports shall be prepared for the Association containing:
- (i) an income statement reflecting all income and expense activity for the preceding period on an accrual or cash basis;
  - (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
  - (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
  - (iv) a balance sheet as of the last day of the preceding period; and
  - (v) a delinquency report listing all Owners who are delinquent in paying any Assessments at the time of the report and describing the status of any action to collect such Assessments that remain delinquent.
- g. An annual report consisting of at least the following shall be made available at the annual meeting of Members to all Members within 120 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. The annual report referred to above may be prepared on an audited or reviewed basis, as determined by the Board, by an independent public accountant.

#### ARTICLE V. OFFICERS

Section 1. Enumeration of Officers. The officers of the Association shall be a president, vice president, secretary and treasurer, who shall at all times be members of the Board. The Board may appoint other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two (2) or more offices may be held by the same director.

Section 2. Election of Officers and Term of Office. After Class B Membership ceases, the election of officers shall take place at the first meeting of the Board following each annual meeting of the Members. Each officer shall hold office for one (1) year unless he or she resigns sooner, is removed or is otherwise disqualified to serve.

Section 3. Removal and Resignation. Any officer may be removed from office with or without cause by a majority vote of the Board whenever in its judgment the best interests of the Association will be served thereby. If a director is removed from the Board, said director shall be disqualified from serving as an officer. Any officer may resign at any time by giving written notice to the President or the Secretary. Such resignation shall take effect on the date of

receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 4. Vacancies.** After Class B Membership ceases, a vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

**Section 5. Powers and Duties.** The powers and duties of the officers are as follows:

**President:** The President shall be the chief executive officer of the Association, and shall: (i) preside at all meetings of the Board, annual meetings and special meetings that he or she calls; (ii) see that all orders and resolutions of the Board are carried out; and (iii) sign all leases, mortgages, deeds and other written instruments.

**Vice President:** The vice president shall act in the place and stead of the President in the event of his or her absence and/or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.

**Secretary:** The Secretary shall: (i) record or cause to be recorded the votes and keep or cause to be kept the minutes of all meetings and proceedings of the Board and of the Members; (ii) keep or cause to be kept the corporate seal of the Association and affix it on all papers requiring the seal; (iii) serve or cause to be served notice of meetings of the Board and of the Members as described in more detail above; (iv) keep or cause to be kept appropriate, current records showing the Members, their addresses and any other contact information; and (v) perform or cause to be performed such other duties as required by the Board.

**Treasurer:** The treasurer shall: (i) have the primary responsibility for the preparation of the budget; (ii) disburse such funds as directed by resolution of the Board; and (iii) keep proper books of account. The treasurer may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc.** While Class B Membership exists, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by an initial director, or his or her successor. After Class B Membership ceases, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or such other persons as may be designated by resolution of the Board.

## ARTICLE VI. COMMITTEES

The Board is hereby authorized to establish committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present in person or by proxy at a meeting at which a quorum is present. Each committee established by the Board shall operate in accordance with the terms of the resolution

of the Board designating the committee and in accordance with such rules as are adopted by the Board. All committees of the Association shall be vested with advisory powers only and are not authorized to act on behalf of the Association, except as noted in the Declaration. Any committee member may be removed by the Board.

#### ARTICLE VII. ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay the Association Assessments, which are more particularly set out in the Declaration and secured by a continuing lien upon the Lot against which the Assessment is made. No Owner may waive or otherwise escape liability for the Assessments by non-use of the Common Area or abandonment of his, her, or its Lot.

#### ARTICLE VIII. AMENDMENT

While Class B Membership exists, these Bylaws may be amended by a majority of the Board. After Class B Membership ceases, these Bylaws may be amended by the affirmative vote or written consent, or any combination thereof, of a majority of the Members Present. Notwithstanding the above, the percentage of votes or other approval necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

#### ARTICLE IX. MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall be January 1<sup>st</sup> to December 31<sup>st</sup> of each year.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) govern the conduct of the Association's proceedings except when they are inconsistent with Texas law, these Bylaws, or the Certificate of Formation.

Section 3. Conflicts. If there are conflicts between any provision of Texas law, the Declaration, the Certificate of Formation, and these Bylaws, then the provision(s) of Texas law, the Declaration, the Certificate of Formation, and these Bylaws (in that order) shall prevail.

Section 4. Owner Conflicts. An Owner may not participate in any Association meeting or activity if the Owner is involved in litigation with the Association as to a conflict of interpretation of the Declaration, the Certificate of Formation, rules and regulations promulgated by the Association, or these Bylaws and/or as to the amount of delinquent assessments.

Section 5. Business Judgment Rule. Any act or thing done by any director, officer or committee member taken in furtherance of the purposes of the Association, and accomplished in conformity with the procedures set forth in the Certificate of Formation, the Declaration, the



laws of the State of Texas and/or these Bylaws, shall be reviewed under the standard of the Business Judgment Rule as established by the common law of Texas, and such act or thing done shall not be a breach of duty on the part of the director, officer, or committee Member if they have been done within the exercise of their discretion and judgment.

The Business Judgment Rule means that a court shall not substitute its judgment for that of the director, officer or committee member. A court shall not re-examine the quality of the decisions made by the director, officer or committee member by determining the reasonableness of the decision as long as the decision is made in good faith in what the director, officer or committee member believes to be the best interest of the Association.

**Section 6. Books and Records.**

a. Inspection by Members and Mortgagees. Upon written demand stating the purpose of the demand, the Declaration, Bylaws, and Certificate of Formation (and any amendments and supplements to the foregoing), the rules and regulations of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board and Committees (collectively, the "Association Records") shall be made available for inspection and copying by any holder, insurer or guarantor of a first mortgage on a Lot, Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a proper purpose during normal business hours at the office of the Association or at such other place within the Property as the Board shall prescribe, by appointment. Nonetheless, information regarding delinquent Assessments shall not be made available for inspection and/or copying due to privacy concerns.

b. Rules for Inspection. The Board may establish reasonable rules with respect to:

(i) notice to be given to the custodian of Association Records;

(ii) privacy concerns that arise;

(iii) hours and days of the week when such an inspection may be made by appointment for a proper purpose; and

(iv) payment for the cost of copies of the Association Records.

c. Inspection by Directors. Each director shall have the absolute right at any reasonable time to inspect all of the Association Records and the physical property owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant Association Records at the expense of the Association.

**Section 7. Notices.** Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if sent by United States mail, first class, postage pre-paid:

- a. if to a Member at the address that the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or
- b. if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent (if any) or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

**If Member does not reside on his or her Lot, then he or she shall notify the Association in writing of his or her address at which to send notices within seven (7) days of purchase of the Lot or within seven (7) days of moving from the Lot. A Member's failure to do so will result in all notices being sent to the address of the Lot, and the Member will be deemed to have received all notices that were mailed to the address of the Lot.**

Section 8. Indemnity. To the fullest extent permitted by applicable law, Association shall and does hereby agree to indemnify, protect, hold harmless and defend its officers, directors, and committee members, hereinafter referred to as "Indemnitees" from and against all claims, demands, damages, injuries, losses, liens, causes of action, suits, judgments, penalties, liabilities, debts, costs and expenses, including court costs and attorneys' fees (collectively, "Liabilities"), of any nature, kind or description, whether arising out of contract, tort, strict liability, misrepresentation, violation of applicable law and/or any cause whatsoever (including without limitation, claims for injuries to or death of any person, or damages to or loss of any property) of any person or entity directly or indirectly arising out of, caused by, in connection with, or resulting from any act or omission of any of the Indemnitees; provided, however, that the Association shall not indemnify the Indemnitees for any Liabilities arising as a result of the gross negligence or willful misconduct of Indemnitees. **THE OBLIGATIONS OF THE ASSOCIATION UNDER THIS SECTION SHALL APPLY TO LIABILITIES EVEN IF SUCH LIABILITIES ARE CAUSED IN WHOLE OR IN PART BY THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY OF ANY INDEMNITEE AND WHETHER OR NOT SUCH SOLE OR CONCURRENT NEGLIGENCE, FAULT OR STRICT LIABILITY WAS ACTIVE OR PASSIVE.**

The Indemnitees shall promptly advise the Association in writing of any action, administrative or legal proceeding or investigation as to which indemnification may apply, and Association, at Association's expense, shall assume on behalf of Indemnitees and conduct with due diligence and in good faith the defense thereof with competent trial counsel provided, however, that Indemnitees shall have the right, at their own option, to be represented therein by advisory counsel of their own selection and at their own expense.

In the event of the failure by Association to fully perform its obligations in accordance with this Section, Indemnitees, at their option, and without relieving Association of its obligations hereunder, may so perform, but all costs and expenses so incurred by Indemnitees in that event shall be reimbursed by the Association to Indemnitees, together with interest, on the same from the date any such expense was paid by Indemnitees until reimbursed by the Association, at the highest lawful rate of interest allowed under applicable usury laws of the State of Texas (or if no maximum rate is applicable, at the rate of 18% per annum). The

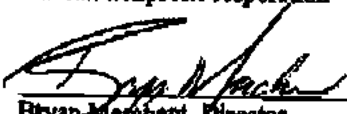
indemnification shall not be limited to damages, compensation or benefits payable under insurance policies. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Section, such legal limitations are made a part of indemnification obligations and shall operate to amend the indemnification obligations to the minimum extent necessary to bring the provisions into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

Section 9. Dissolution/Winding Up Termination. The Association may be wound-up/dissolved pursuant to the Texas Business Organizations Code, or any successor statute. If the Association is wound-up or dissolved, the assets shall be dedicated to a public body or conveyed to a non-profit corporation with purposes similar to those of the Association.

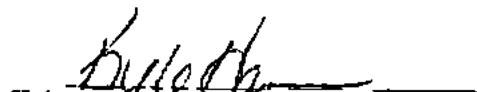
***[SIGNATURE PAGES TO FOLLOW]***

IN WITNESS WHEREOF, the Association has adopted these Bylaws effective the 3<sup>rd</sup> day  
of September, 2019.

BIG SKY ESTATES HOMEOWNERS ASSOCIATION, INC.,  
a Texas nonprofit corporation

  
Bryan Merchant, Director

  
Lucas Lansman, Director

  
Kyle Hanna, Director