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SUNDANCE COVE

DEVELOPMENT AREA DECLARATION **[RESIDENTIAL]**

Harris County, Texas

DECLARANT: MERITAGE HOMES OF TEXAS, LLC, an Arizona limited liability company

Cross reference to Sundance Cove Amended and Restated Master Covenant [Residential], recorded as Document No. RP-2024-19192 in the Official Public Records of Harris County, Texas.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 DEFINITIONS	2
ARTICLE 2 USE RESTRICTIONS.....	3
2.1 Single-Family Use Restrictions	3
2.2 Rentals	4
2.3 Rubbish and Debris	4
2.4 Trash Containers.....	4
2.5 Unsightly Articles; Vehicles	5
2.6 Parking	5
2.7 Outside Burning.....	5
2.8 Hazardous Activities.....	5
2.9 Animals - Household Pets.....	6
2.10 Maintenance.....	6
2.11 Antennas	7
2.12 Location of Permitted Antennas.....	7
2.13 Signs.....	8
2.14 Flags.....	9
2.15 Tanks.....	10
2.16 Temporary Structures	10
2.17 Outside Storage Buildings	11
2.18 Mobile Homes, Travel Trailers and Recreational Vehicles	11
2.19 Party Walls.....	11
2.20 Water Quality Facilities, Drainage Facilities and Drainage Ponds.....	13
2.21 No Warranty of Enforceability.....	13
2.22 Owner's Obligation to Maintain Street Landscape.....	13
2.23 Compliance with Documents.....	14
2.24 Insurance Rates	15
2.25 Release	15
2.26 Basketball Goals	15
2.27 Temporary Structures	16
2.28 Playscapes and Sport Courts.....	16
2.29 Decorations and Lighting	16
2.30 Model Home	16
2.31 Noise	16
2.32 Drainage.....	16
2.33 Removal of Soil and Trees	17
2.34 Release and Indemnity.....	17

TABLE OF CONTENTS
(Continued)

	<u>Page</u>
ARTICLE 3 CONSTRUCTION RESTRICTIONS	17
3.1 Construction of Improvements.....	17
3.2 Utility Lines	18
3.3 Garages.....	18
3.4 Fences; Sidewalks.....	18
3.5 Driveways	18
3.6 Construction Activities	19
3.7 Roofing	19
3.8 HVAC Location.....	19
3.9 Swimming Pools	20
3.10 Compliance with Setbacks.....	20
3.11 Solar Energy Device.....	20
3.12 Rainwater Harvesting Systems.....	21
3.13 Xeriscaping	22
ARTICLE 4 DEVELOPMENT.....	24
4.1 Notice of Applicability	24
4.2 Withdrawal of Land	25
4.3 Assignment of Declarant's Rights	25
4.4 Disputes.....	26
ARTICLE 5 GENERAL PROVISIONS	26
5.1 Term.....	26
5.2 Amendment.....	26
5.3 Interpretation.....	28
5.4 Gender	28
5.5 Enforcement and Nonwaiver	28
5.6 Severability	28
5.7 Captions	28
5.8 Conflicts.....	29
5.9 Higher Authority	29
5.10 Acceptance by Owners.....	29

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DEVELOPMENT AREA DECLARATION
[RESIDENTIAL]

This Development Area Declaration for Sundance Cove [Residential] (this “**Development Area Declaration**”) is made by **MERITAGE HOMES OF TEXAS, LLC**, an Arizona limited liability company (the “**Declarant**”), and is as follows:

R E C I T A L S:

A. Declarant previously executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for Sundance Cove recorded as Document No. RP-2022-601351 in the Official Public Records of Harris County, Texas; as amended by that certain Declaration of Annexation for Sundance Cove, recorded as Document No. RP-2023-257006 in the Official Public Records of Harris County, Texas; as may be further amended or supplemented (collectively, the “**Prior Declaration**”).

B. The Prior Declaration encumbers that certain real property located in Harris County, Texas, as more particularly described on Exhibit “A” attached to the Covenant defined below (the “**Original Property**”).

C. Declarant then Recorded that certain Sundance Cove Amended and Restated Master Covenant [Residential], recorded as Document No. RP-2024-19192 in the Official Public Records of Harris County, Texas (the “**Covenant**”), which amends and restates the Prior Declaration in its entirety, as set forth therein.

D. Pursuant to the Covenant, Declarant served notice that the Original Property, which was heretofore subjected to the Prior Declaration, shall be subject to the Covenant at the time of Recordation, and will constitute a portion of the Development (as defined in the Covenant) and be governed by and fully subject to the Covenant, along with any applicable Development Area Declaration (as defined in the Covenant). In accordance therewith, the Original Property, which was heretofore subjected to the Prior Declaration, shall be subject to this Development Area Declaration at the time of Recordation, and will constitute a portion of the Development Area (as defined below) and be governed by and fully subject to this Development Area Declaration.

E. Pursuant to the Covenant, additional real property (the “**Additional Property**”) may be made subject to this Development Area Declaration upon the Recording of one or more Notices of Addition of Land, pursuant to Section 9.3 of the Covenant, if required to add such Additional Property to the Property, and one or more Notices of Applicability pursuant to Section 9.5 of the Covenant. Once such Notices of Addition of Land, if applicable, and such Notices of Applicability have been Recorded, the portions of the Additional 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 Sundance Cove 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.

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

No portion of the Property is subject to the terms and provisions of this Development Area Declaration until a Notice of Applicability is Recorded SAVE AND EXCEPT the Original Property as defined in the Covenant. A Notice of Applicability may only be Recorded by the Declarant.

NOW, THEREFORE, it is hereby declared that: (i) the Original Property; (ii) 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; (iii) 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 (iv) that this Development Area Declaration will supplement and be in addition to the covenants, conditions, and restrictions of the Covenant.

ARTICLE 1 DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Development Area Declaration shall have the following meanings:

"Rainwater Harvesting System" means one or more rain barrels, tanks, or rainwater harvesting systems used to collect and store rainwater runoff from roofs or downspouts for later reuse.

"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.

Any other capitalized terms used but not defined in this Development Area Declaration shall have the meanings ascribed to such terms in the Covenant.

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:

2.1 Single-Family Use Restrictions. The Development Area shall be used solely for private single-family residential purposes. 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 the 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 residence so long as: (i) such activity complies with all Applicable Law; (ii) the business activity is conducted without the employment of persons other than the Occupants of the home constructed in the Lot; (iii) the business activity does not involve customers, contractors, clients, or the general public visiting the Lot to conduct activities related to the business; (iv) 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 residence; (v) the business activity does not involve door-to-door solicitation of residents within the Development Area; (vi) 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 residences in which no business activity is being conducted; (vii) 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 Area as may be determined in the sole discretion of the Board; and (viii) 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 residence nor the Lot will be considered open to the public. 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. Leasing of a residence in compliance with *Section 2.2* shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Homebuilder.

Notwithstanding any provision in this Development Area Declaration to the contrary, until the expiration or termination of the Development Period:

- (i) Declarant and/or its licensees may construct and maintain upon portions of the Common Area, the Special Common Area, any Lot, or any portion of the Property owned by the Declarant such facilities and may conduct such activities which, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of single-family residences or other Improvements constructed upon the Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and/or its licensees shall have an easement over and across the Common Area and the Special Common Area for access and use of such facilities at no charge; and
- (ii) Declarant and/or its licensees will have an access easement over and across the Common Area and the Special Common Area for the purpose of making, constructing and installing Improvements upon the Common Area and the Special Common Area.

2.2 Rentals. Nothing in this Development Area Declaration shall prevent the rental of any Lot and the Improvements thereon by the Owner thereof for residential purposes; provided that all rentals must be for terms of at least six (6) months. All leases shall be in writing. The Owner must provide to its lessee copies of the Documents and shall notify its lessee of any changes or additions thereto. Notice of any lease, the contact information (address, phone number and email) of the lessee thereunder, and the start date and term of such lease shall be remitted to the Association by the Owner on or before the expiration of ten (10) days after the effective date of the lease.

2.3 Rubbish and Debris. As determined by the Sundance Cove Reviewer, no rubbish or debris of any kind may be placed or permitted to accumulate on or within the Development Area, and no odors will be permitted to arise therefrom so as to render all or any portion of the Development Area unsanitary, unsightly, offensive, or detrimental to any other property or Occupants. Refuse, garbage, and trash must be kept at all times in covered containers, and such containers must be kept within enclosed structures or appropriately screened from view. Each Owner will contract with an independent disposal service to collect all garbage or other wastes, if such service is not provided by a governmental entity or the Association.

2.4 Trash Containers. Trash containers and recycling bins must be stored adjacent to or inside of the garage of the single-family residence constructed on the Lot. The Board shall

have the right to specify additional locations on each Owner's Lot in which trash containers or recycling bins must be stored.

2.5 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, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, all-terrain vehicles and garden maintenance equipment shall be kept at all times except when in actual use, in enclosed structures or screened from view 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. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall 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) which are inoperable or do not have a current license tag shall 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.

2.6 Parking. All Owners and Occupants 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. No vehicle may be parked in a manner that obstructs or otherwise blocks ingress and egress to any part of the Development Area by an emergency vehicle. The parking of vehicles in the yard of any Lot is not permitted.

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

2.8 Hazardous Activities. No activities may be conducted on or within the Development Area and no Improvements may be constructed on or within any portion of the Development Area which, in the opinion of the Board, are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks may be discharged upon any portion of the Development Area unless discharged in conjunction with an event approved in advance by the Board and no open fires may be lighted or permitted except within safe and well-designed fireplaces or in contained barbecue units while attended and in use for cooking purposes. No portion of the Development Area may be used for the takeoff, storage, or landing of aircraft (including, without limitation, helicopters) except for medical emergencies.

2.9 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" shall 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 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 such Owner's or Occupant's Lot more than three (3) cats and dogs, in the aggregate. 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 the Owner's or Occupant's residence, 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 operation 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 area. All pet waste will be removed and appropriately disposed of by the owner of the pet. All pets not confined to a residence must wear collars with appropriate identification tags and all outdoor cats are required to have a bell on their collar. All pets must be registered, licensed and inoculated as required by Applicable Law. If the Board determines, in its sole discretion, that a 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.

2.10 Maintenance. The Owners of each Lot shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep their Lot and all Improvements thereon in good condition and repair and in a well-maintained, safe, clean and attractive condition at all times. The Board, in its sole discretion, shall determine whether a violation of the maintenance obligations set forth in this Section has occurred. Such maintenance includes, but is not limited to the following, which shall be performed in a timely manner, as determined by the Board, in its sole discretion:

- (i) Prompt removal of all litter, trash, refuse, and wastes.
- (ii) Lawn mowing and edging.
- (iii) Tree and shrub pruning.
- (iv) Watering of lawn and landscaping.
- (v) Keeping exterior lighting and mechanical facilities in working order.

- (vi) Keeping lawn and garden areas alive, free of weeds, and attractive.
- (vii) Keeping planting beds free of turf grass.
- (viii) Keeping sidewalks and driveways in good repair.
- (ix) Complying with Applicable Law.
- (x) Repainting of Improvements.
- (xi) Repair of exterior damage, and wear and tear to Improvements.

2.11 Antennas. Except as expressly provided below, no exterior radio or television antennas or aerial or satellite dish or disc shall be erected, maintained or placed on a Lot without the prior written approval of the Sundance Cove 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 or radio broadcast signals;

(collectively, (i) through (iii) are referred to herein as the "**Permitted Antennas**") will be permitted subject to reasonable requirements as to location and screening as may be set forth in rules adopted by the Sundance Cove Reviewer, consistent with Applicable Law, in order to minimize obtrusiveness as viewed from streets and adjacent property. Declarant and/or the Association will 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.

2.12 Location of Permitted Antennas. A Permitted Antenna may be installed solely on the Owner's Lot and shall not encroach upon any street, Common Area, Special Common Area, or any other portion of the Development Area. A Permitted Antenna shall 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 Sundance Cove Reviewer are as follows:

(A) Attached to the back of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the roof fascia, soffit, or bargeboard and screened from view of adjacent Lots and the street; then

(B) Attached to the side of the principal single-family residence constructed on the Lot, with no part of the Permitted Antenna any higher than the roof fascia, soffit, or bargeboard and screened from view of adjacent Lots and the street.

The Sundance Cove 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 Sundance Cove Reviewer from time to time. Please contact the Sundance Cove Reviewer for the current rules regarding installation and placement.

2.13 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 Sundance Cove Reviewer, except for:

- (i) signs which are expressly permitted pursuant to the Design Guidelines or Rules and regulations;
- (ii) signs which are part of Declarant's or Homebuilder's overall marketing, sale, or construction plans or activities for the Development Area;
- (iii) a maximum of two (2) school 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 advertisement;
- (iv) one (1) temporary "For Sale" sign placed on the Lot. The sign must be professionally made and shall be limited to 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. The overall height of the sign from the finished grade of the Lot at the spot where the sign is located may not exceed four feet (4'). The sign must be removed within two (2) business days following the sale of the Lot;

- (v) candidate or measure signs may be erected provided the sign: (a) is erected no earlier than the ninetieth (90th) day before the date of the election to which the sign relates; (b) is removed no later than the tenth (10th) day after the date of the election to which the sign relates; and (c) is ground-mounted. Only one sign may be erected for each candidate or measure. In addition, signs which include any of the components or characteristics described in Section 259.002(d) of the Texas Election Code are prohibited;
- (vi) permits as may be required by legal proceedings;
- (vii) permits as may be required by any governmental entity; and
- (viii) one "no soliciting" or "security warning" sign near or on the front door of the residence, provided that the sign may not exceed twenty-five (25) square inches.

For Lease and For Rent signs are expressly prohibited.

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

2.14.1 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 armed forces, or one (1) flag with official insignia of a college or university ("Permitted Flag") and is permitted to install a flagpole no more than five feet (5') in length affixed to the front of a residence near the principal entry or affixed to the rear of a residence ("Permitted Flagpole"). Only two (2) Permitted Flagpoles are allowed per residence. A Permitted Flag or Permitted Flagpole need not be approved in advance by the Sundance Cove Reviewer. Approval by the Sundance Cove 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 Sundance Cove 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) 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.

2.14.2 Installation and Display. Unless otherwise approved in advance and in writing by the Sundance Cove 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 either a Permitted Flagpole or a Freestanding 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 all 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 thereof and harmonious with the residence;
- (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 shall not be aimed towards or directly affect any neighboring Lot; 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.

2.15 Tanks. The Sundance Cove Reviewer must approve any tank used or proposed in connection with a residence, 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 Sundance Cove Reviewer. All permitted tanks must be screened from view in accordance with a screening plan approved in advance by the Sundance Cove Reviewer. This provision will not apply to a tank used to operate a standard residential gas grill.

2.16 Temporary Structures. No tent, shack, or other temporary building, Improvement, or structure shall be placed upon the Development Area without the prior

written approval of the Sundance Cove Reviewer; provided, however, that temporary structures necessary for storage of tools and equipment, and for office space for Declarant, Homebuilders, architects, and foremen during actual construction may be maintained with the prior approval of the Declarant (unless placed by Declarant), approval to include the nature, size, duration, and location of such structure.

2.17 Outside Storage Buildings. Outside storage buildings located in a fenced rear yard of a Lot are allowed with the prior written approval of the Sundance Cove 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, is no more than eight feet (8'); (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; and (v) the storage building is constructed within all applicable building setbacks. No storage building may be used for habitation.

2.18 Mobile Homes, Travel Trailers and Recreational Vehicles. No mobile homes, travel trailers or recreational vehicles shall be parked or placed on any street right-of-way, Lot, or used as a residence, either temporary or permanent, at any time. However, such vehicles may be parked temporarily for a period not to exceed seventy-two (72) consecutive hours during each two (2) month period. Notwithstanding the foregoing, sales trailers, construction trailers or other temporary structures expressly approved by the Sundance Cove Reviewer or allowed pursuant to Section 9.2 of the Covenant will be permitted.

2.19 Party Walls. 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", and, to the extent not inconsistent with the provisions of this Section, is subject to the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions, and are subject to the following:

2.19.1 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.

2.19.2 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 Sundance Cove Reviewer in accordance with Article 6 of the Covenant.

2.19.3 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 solely 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 or her 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 Harris 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.

2.19.4 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 Sundance Cove Reviewer.

2.19.5 Dispute Resolution. In the event of any dispute arising concerning a Party Wall, or under the provisions of this Section (the "**Dispute**"), the parties shall 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 shall appoint a mediator. If the Dispute is not resolved by mediation, the Dispute shall 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 shall appoint an arbitrator. The decision of the arbitrator shall be binding upon the parties and shall 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).

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

2.21 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 shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

2.22 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. 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.

2.23 **Compliance with Documents.** Each Owner, their family, Occupants of a Lot, tenants, and the guests, invitees, and licensees of the preceding shall comply strictly with the provisions of the Documents as they may be amended from time to time. Failure to comply with any of the Documents shall constitute a violation of the Documents and may result in a fine against the Owner in accordance with Section 5.14 of the Covenant, and shall give rise to a cause of action to recover sums due for damages or injunctive relief, or both, maintainable by Declarant, the Board on behalf of the Association, the Sundance Cove Reviewer, or by an aggrieved Owner. The result of every act or omission that violates any provision of the Documents is a nuisance, and any remedy allowed by law against a nuisance, either public or private, is applicable against the violation. Without limiting any rights or powers of the Association, the Board may (but shall not be obligated to) remedy or attempt to remedy any violation of any of the provisions of the Documents, and the Owner whose violation has been so remedied shall 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) shall 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 shall 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.

2.24 Insurance Rates. Nothing shall be done or kept on the Development Area which 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.

2.25 Release. EACH OWNER HEREBY RELEASES AND HOLDS HARMLESS THE ASSOCIATION, DECLARANT, THE SUNDANCE COVE 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.

2.26 Basketball Goals. Permanent basketball goals are permitted in the driveway on a Lot. Permanent basketball goals are not permitted in any street right-of-way. The basketball goal backboard must be perpendicular to the street and mounted on a metal pole permanently installed in the ground. Portable basketball goals are permitted but must be stored inside the garage when not in use. Portable basketball goals are not permitted in any street right-of-way. Basketball goals must be properly maintained and painted, with the net in good repair. All basketball goals must be approved by the Sundance Cove Reviewer prior to being placed on any Lot.

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

2.28 Playscapes and Sport Courts. Playscapes and sport courts are permissible at the sole discretion of the Sundance Cove Reviewer. If allowed, these facilities must be properly sited and screened 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 Decorations and Lighting. No decorative appurtenances such as sculptures, birdbaths and birdhouses, fountains, or other decorative embellishments shall be placed on the residence 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 Sundance Cove Reviewer. Customary seasonal decorations for holidays are permitted without approval by the Sundance Cove Reviewer but shall be removed within thirty (30) days of 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 Lots 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 Sundance Cove Reviewer.

2.30 Model Home. The Declarant may construct, or the Sundance Cove Reviewer may approve, a model home constructed on a Lot with exterior finishes, fencing and other components that do not conform to the requirements imposed on other single-family residences within the Development Area. Declarant's construction, or approval by the Sundance Cove Reviewer, of a model home which differs from the requirements imposed on other single-family residences within the Development Area shall in no event constitute a waiver of the terms and provisions of the Documents.

2.31 Noise. No noise or other nuisance shall be permitted to exist or operate upon any portion of the Development Area so as to be offensive or detrimental to any other portion of the Development Area or to its Owners, Occupants, or residents. This *Section 2.31* shall not be construed to include noise caused by construction activities by Declarant or a Homebuilder.

2.32 Drainage. There shall be no interference with the established drainage patterns or detention areas over any of the Development Area, including the Lots, except by Declarant, unless adequate provision is made for proper drainage, and such provision is approved in advance by the Sundance Cove Reviewer. Specifically, and not by way of limitation, no

Improvement, including landscaping, may be installed which impedes the proper drainage of water between Lots.

2.33 Removal of Soil and Trees. The digging and removal of soil from any Lot by any party other than Declarant is expressly prohibited except as necessary in conjunction with the landscaping or construction of Improvements upon a Lot in accordance with plans and specifications approved by the Sundance Cove Reviewer in accordance with Article 6 of the Covenant. Unless otherwise approved in writing by the Sundance Cove Reviewer, no tree shall be removed from a Lot except by Declarant unless otherwise approved in advance and in writing by the Sundance Cove Reviewer.

2.34 Release and Indemnity. EACH OWNER, OCCUPANT, AND THE OWNER'S AND OCCUPANT'S FAMILY MEMBERS, GUESTS, TENANTS, INVITEES, AGENTS, AND CONTRACTORS (EACH, A "USER" HEREIN) HEREBY RELEASE AND HOLD HARMLESS THE ASSOCIATION, DECLARANT, THE SUNDANCE COVE 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 USER'S USE OF ANY COMMON AREA PROPERTY, SPECIAL COMMON AREA PROPERTY, COMMUNITY AMENITIES, OR COMMUNITY FACILITIES. EVERY USER IDENTIFIED ABOVE SHALL INDEMNIFY AND HOLD HARMLESS THE ASSOCIATION, DECLARANT, THE SUNDANCE COVE REVIEWER AND THEIR AFFILIATES, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES AND AGENTS FROM ANY COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION FOR PERSONAL INJURY OR PROPERTY DAMAGE INCURRED OR THAT MAY ARISE BY REASON OF THE USE OF OR ENTRY UPON ANY COMMON AREA PROPERTY, SPECIAL COMMON AREA PROPERTY, COMMUNITY AMENITIES, OR COMMUNITY FACILITIES (INCLUDING ANY COST, FEES, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING OUT OF THE ASSOCIATION'S OR DECLARANT'S NEGLIGENCE IN CONNECTION THEREWITH), EXCEPT FOR SUCH COST, LOSS, DAMAGE, EXPENSE, LIABILITY, CLAIM OR CAUSE OF ACTION ARISING BY REASON OF THE ASSOCIATION OR DECLARANT'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT. "GROSS NEGLIGENCE" AS USED HEREIN DOES NOT INCLUDE SIMPLE NEGLIGENCE, CONTRIBUTORY NEGLIGENCE, OR SIMILAR NEGLIGENCE SHORT OF ACTUAL GROSS NEGLIGENCE. USE OF ANY COMMON AREA PROPERTY, SPECIAL COMMON AREA PROPERTY, COMMUNITY AMENITIES, OR COMMUNITY FACILITIES IS CONDITIONED UPON ACCEPTANCE OF THE FOREGOING RELEASE AND INDEMNITY OBLIGATIONS.

ARTICLE 3 CONSTRUCTION RESTRICTIONS

3.1 Construction of Improvements. Unless prosecuted by the Declarant, no Improvements of any kind shall hereafter be placed, maintained, erected or constructed upon any portion of the Development Area unless placed, maintained, erected or constructed in

accordance with Applicable Law, and approved in advance and in writing by the Sundance Cove Reviewer in accordance with the Covenant. Pursuant to Section 6.4 of the Covenant, the Sundance Cove Reviewer may adopt Design Guidelines applicable to the Development Area. All Improvements must strictly comply with the requirements of the Design Guidelines, unless a variance is obtained pursuant to the Covenant. The Design Guidelines, if adopted, may be supplemented, modified, amended, or restated by the Sundance Cove Reviewer as authorized by the Covenant.

3.2 Utility Lines. Unless otherwise approved by the Sundance Cove 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 buildings or structures unless the same shall be contained in conduits or cables constructed, placed or maintained underground, concealed in or under buildings or other structures.

3.3 Garages. All garages shall be approved in advance of construction by the Sundance Cove Reviewer. All garages shall be maintained for the parking of automobiles and may not be used for storage or other purposes which preclude its use for the parking of automobiles. No garage may be permanently enclosed or otherwise used for habitation.

3.4 Fences; Sidewalks. No fence may be constructed on the Development Area without the prior written consent of the Sundance Cove Reviewer. All fences must strictly comply with the Design Guidelines, unless a variance is obtained pursuant to the Covenant. Further, all fences and walls shall comply with all Applicable Law. Unless otherwise approved by the Sundance Cove Reviewer, no fence, wall or hedge will be erected or maintained on any Lot nearer to the street than the front elevation of the residence constructed on the Lot, except for fences erected in conjunction with the model homes or sales offices. The Sundance Cove Reviewer will have the sole discretion to determine the front elevation of the residence for the purpose of this *Section 3.4*. No chain-link, cloth or agricultural fences may be installed or maintained on a Lot, except by Declarant. 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 by Declarant, as determined by the Sundance Cove Reviewer. Any broken pickets, fallen or leaning panels must be repaired or replaced. 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.

3.5 Driveways. 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 Sundance Cove 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.

3.6 Construction Activities. The Documents will not be construed or applied so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant or a Homebuilder) upon or within the Development Area. Specifically, no such construction activities will be deemed to constitute a nuisance or a violation of the Documents 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. In the event that construction upon any Lot does not conform to usual practices in the area as determined by the Sundance Cove Reviewer in its sole and reasonable judgment, the Sundance Cove Reviewer will have the authority to seek an injunction to stop such construction. In addition, 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 Development, then the Sundance Cove 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.

3.7 Roofing. The roofs of all buildings shall be approved by the Sundance Cove Reviewer. Roofs of buildings may be constructed with "Energy Efficient Roofing" with the advance written approval of the Sundance Cove Reviewer. For the purpose of this Section, "**Energy Efficient Roofing**" means shingles that are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities. The Sundance Cove Reviewer will not prohibit an Owner from installing Energy Efficient Roofing provided that the Energy Efficient Roofing shingles: (i) resemble the shingles used or otherwise authorized for use within the Development Area; (ii) are more durable than, and are of equal or superior quality to, the shingles used or otherwise authorized for use within the community; and (iii) 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 in the Documents. In conjunction with any such approval process, the Owner should submit information which will enable the Sundance Cove 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 Sundance Cove Reviewer.

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

3.9 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 Sundance Cove Reviewer. Nothing in this *Section 3.9* 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 Sundance Cove Reviewer, above-ground or temporary swimming pools are not permitted on a Lot.

3.10 Compliance with Setbacks. No residence or any other permanent structure or Improvement may be constructed on any Lot nearer to a street than the minimum building setback lines shown on the Plat or as required by Applicable Law, and no building or structure shall be located on any utility easements. The Sundance Cove Reviewer may require additional setbacks in conjunction with the review and approval of proposed Improvements in accordance with Article 6 of the Covenant.

3.11 Solar Energy Device. Solar Energy Devices may be installed with the advance written approval of the Sundance Cove Reviewer, in accordance with the procedures and requirements set forth below:

3.11.1 Application. To obtain approval of a Solar Energy Device, the Owner shall provide the Sundance Cove 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 unless the Owner's tenant provides written confirmation at the time of submission that the Owner consents to the Solar Application. The Solar Application shall be submitted in accordance with the provisions of Article 6 of the Covenant.

3.11.2 Approval Process. The Sundance Cove Reviewer will review the Solar Application in accordance with the terms and provisions of Article 6 of the Covenant. The Sundance Cove Reviewer will approve a Solar Energy Device if the Solar Application complies with *Section 3.11.3* below **UNLESS** the Sundance Cove Reviewer makes a written determination that placement of the Solar Energy Device, despite compliance with *Section 3.11.3*, will create 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 Sundance Cove 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 Common Area or Special Common Area or property owned or maintained by 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.

3.11.3 Approval Conditions. Unless otherwise approved in advance and in writing by the Sundance Cove 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 residence 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 will be located on the roof of the residence, the Sundance Cove 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%) above the energy production of the Solar Energy Device if installed in the location designated by the Sundance Cove Reviewer. If the Owner desires to contest the alternate location proposed by the Sundance Cove Reviewer, the Owner should submit information to the Sundance Cove Reviewer which demonstrates that the Owner's proposed location meets the foregoing criteria. If the Solar Energy Device will be 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 residence 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; and (C) the frame, support brackets, or visible piping or wiring associated with the Solar Energy Device must be silver, bronze or black.

3.12 Rainwater Harvesting Systems. Rain barrels or rainwater harvesting systems (a "Rainwater Harvesting System") may be installed with the advance written approval of the Sundance Cove Reviewer.

3.12.1 Application. To obtain the Sundance Cove Reviewer approval of a Rainwater Harvesting System, the Owner shall provide the Sundance Cove 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 "Rain System Application"). A Rain System 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 Rain System Application..

3.12.2 Approval Process. The decision of the Sundance Cove Reviewer will be made in accordance with Article 6 of the Covenant. Any proposal to install a Rainwater Harvesting System on Common Area or Special Common Area 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.

3.12.3 Approval Conditions. Unless otherwise approved in advance and in writing by the Sundance Cove Reviewer, each Rain System Application and each Rainwater Harvesting System to be installed in accordance therewith must comply with the following:

- (i) The Rainwater Harvesting System must be consistent with the color scheme of the residence constructed on the Owner's Lot, as reasonably determined by the Sundance Cove 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 residence 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 Sundance Cove Reviewer. See *Section 3.12.4* for additional guidance.

3.12.4 Guidelines. If the Rainwater Harvesting System will be installed on or within the side yard of a Lot, or would otherwise be visible from a street, Common Area, Special Common Area, or another Owner's Lot, the Sundance Cove Reviewer may regulate the size, type, shielding of, and materials used in the construction of the Rainwater Harvesting System. Accordingly, when submitting a Rain System Application, the 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 Rain 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, Common Area, Special Common Area, or another Owner's Lot, any additional regulations imposed by the Sundance Cove 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 Sundance Cove Reviewer.

3.13 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 Sundance Cove Reviewer. All Owners implementing Xeriscaping shall comply with the following:

3.13.1 Application. Approval by the Sundance Cove Reviewer is required prior to installing Xeriscaping. To obtain the approval of the Sundance Cove Reviewer for Xeriscaping, the Owner shall provide the Sundance Cove 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 Sundance Cove Reviewer is not responsible for: (i) errors or omissions in the Xeriscaping Application submitted to the Sundance Cove 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.

3.13.2 Approval Conditions. Unless otherwise approved in advance and in writing by the Sundance Cove 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 Sundance Cove Reviewer. For purposes of this *Section 3.13.2(i)*, “aesthetically compatible” shall mean overall and long-term aesthetic compatibility within the community. For example, an Owner’s Lot plan may be denied if the Sundance Cove 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 Owners shall install gravel, rocks or cacti that in the aggregate encompass over thirty percent (30%) of such Owner’s front yard or fifty percent (50%) of such Owner’s back yard without advanced written approval of the Sundance Cove Reviewer.

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

3.13.3 Process. The decision of the Sundance Cove Reviewer will be made within a reasonable time, or within the time period otherwise required by the principal deed restrictions which 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 3.13* when considering any such request.

3.13.4 Approval. Each Owner is advised that if the Xeriscaping Application is approved by the Sundance Cove 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 Sundance Cove 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 Sundance Cove Reviewer to resubmit a Xeriscaping Application or remove and relocate Xeriscaping in accordance with the approved Xeriscaping Application shall be at the Owner's sole cost and expense.

ARTICLE 4 DEVELOPMENT

4.1 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:

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

(ii) 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

(iii) A legal description of the added land.

This *Section 4.1* shall not be construed to exclude the Original Property from the provisions, terms and conditions of this Development Area Declaration.

NOTICE TO TITLE COMPANY

SAVE AND EXCEPT THE ORIGINAL PROPERTY AS DEFINED IN THE COVENANT, NO PORTION OF THE PROPERTY IS SUBJECT TO THE TERMS AND PROVISIONS OF THIS DEVELOPMENT AREA DECLARATION AND THIS DEVELOPMENT AREA DECLARATION DOES NOT APPLY TO ANY PORTION OF THE PROPERTY UNLESS A NOTICE OF APPLICABILITY DESCRIBING SUCH PROPERTY AND REFERENCING THIS DEVELOPMENT AREA DECLARATION HAS BEEN RECORDED.

4.2 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:

- (i) A reference to this Development Area Declaration, which will include the recordation information thereof;
- (ii) A statement that the provisions of this Development Area Declaration will no longer apply to the withdrawn land; and
- (iii) A legal description of the withdrawn land.

4.3 Assignment of Declarant's Rights. Notwithstanding any provision in this Development Area Declaration to the contrary, Declarant may, by written 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.

4.4 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 GENERAL PROVISIONS

5.1 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, 2074, 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 in a resolution adopted 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 shall 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, 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 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 descendants, as of the date this Development Area Declaration is Recorded, of King Charles III, King of England.

5.2 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 and unilaterally; 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 entitled to be cast by Members of the Association. The foregoing sentence shall 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 5.2*, 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.

Specifically, and not by way of limitation, Declarant may unilaterally amend this Development Area Declaration: (a) to bring any provision into compliance with any Applicable Law; (b) to enable any reputable title insurance company to issue title insurance coverage on any Lot; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (d) to comply with any requirements promulgated by a local, state or governmental agency, including, for example, the Department of Housing and Urban Development. No amendment may affect Declarant's rights under this Development Area Declaration without Declarant's written and acknowledged consent, which must be part of the Recorded amendment instrument.

Subject to any express limitation on amendments set forth in this Development Area Declaration, the broad scope of amendment authority set forth in this Section 5.2 is expressly intended to allow for the addition, removal, or modification of terms, restrictions, conditions, covenants, rights, benefits, reservations, and obligations, including, without limitation, use and occupancy restrictions, leasing restrictions, setbacks, voting rights, lien rights, design criteria, maintenance obligations, and disclosures. EACH OWNER OF A LOT OR OTHER REAL PROPERTY INTEREST IN THE DEVELOPMENT (INCLUDING EACH SUBSEQUENT PURCHASER), BY THE ACCEPTANCE OF A DEED OF CONVEYANCE, ACCEPTS THE SAME SUBJECT TO THE AMENDMENT AUTHORITY SET FORTH IN THIS SECTION 5.2, AND ACKNOWLEDGES, AGREES, AND IS PUT ON NOTICE THAT: (I) AN AMENDMENT TO THIS DEVELOPMENT AREA DECLARATION DULY APPROVED AND RECORDED IN ACCORDANCE HEREWITHE SHALL BE VALID AND BINDING ON THE OWNER AND THE OWNER'S LOT; AND (II) THE BROAD SCOPE OF AMENDMENT AUTHORITY MAY RESULT IN AN AMENDMENT TO THIS DEVELOPMENT AREA DECLARATION THAT: (A) ADDS, REMOVES, OR MODIFIES ANY TERM, RESTRICTION, CONDITION, COVENANT, RIGHT, BENEFIT, RESERVATION, OR OBLIGATION OF EVERY CHARACTER HEREBY GRANTED, CREATED, RESERVED OR DECLARED, INCLUDING WITHOUT LIMITATION, USE AND OCCUPANCY RESTRICTIONS, LEASING RESTRICTIONS, SETBACKS, VOTING RIGHTS, LIEN RIGHTS, DESIGN CRITERIA, MAINTENANCE OBLIGATIONS, DISPUTE RESOLUTION PROCEDURES, AND DISCLOSURES; AND/OR (B) MAY RESULT IN CHANGES OR MODIFICATIONS TO USE AND OCCUPANCY RESTRICTIONS, LEASING RESTRICTIONS, SETBACKS, VOTING RIGHTS, LIEN RIGHTS, DESIGN CRITERIA, MAINTENANCE OBLIGATIONS, OR DISPUTE RESOLUTION PROCEDURES THAT ARE EITHER MORE OR LESS RESTRICTIVE THAN THE RIGHTS, RESTRICTIONS AND OBLIGATIONS APPLICABLE TO THE LOT ON THE DATE THE OWNER ACQUIRED THE LOT. THE FOREGOING LIST IS INTENDED TO BE ILLUSTRATIVE BUT IN NO WAY IMPOSES LIMITATIONS ON THE BROAD SCOPE OF AMENDMENT AUTHORITY SET FORTH IN THIS SECTION 5.2.

5.3 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.

5.4 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.

5.5 Enforcement and Nonwaiver. Except as otherwise provided herein, any Owner of 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. Failure to enforce any right, provision, covenant, or condition set forth in the Documents will not constitute a waiver of the right to enforce such right, provision, covenants or condition in the future. Failure of Declarant or the Association to enforce the terms and provisions of the Documents shall in no event give rise to any claim or liability against Declarant, the Association, or any of their partners, directors, officers, or agents. EACH OWNER, BY ACCEPTING TITLE TO ALL OR ANY PORTION OF THE DEVELOPMENT AREA, HEREBY RELEASES AND SHALL HOLD HARMLESS EACH OF DECLARANT, THE ASSOCIATION, AND THEIR PARTNERS, DIRECTORS, OFFICERS, OR AGENTS FROM AND AGAINST ANY DAMAGES, CLAIMS, OR LIABILITY ASSOCIATED WITH THE FAILURE OF DECLARANT OR THE ASSOCIATION TO ENFORCE THE TERMS AND PROVISIONS OF THE DOCUMENTS.

5.6 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.

5.7 Captions. All captions and titles used in this Development Area Declaration are intended solely for convenience of reference and will not enlarge, limit, or otherwise affect that which is set forth in any of the paragraphs, sections, or articles hereof.

5.8 Conflicts. If there is any conflict between the provisions of the Covenant, this Development Area Declaration, or any Rules adopted pursuant to the terms of such documents, the provisions of the Covenant, then the Development Area Declaration, then the Rules, in that order, will govern.

5.9 Higher Authority. The terms and provisions of this Development Area Declaration are subordinate to Applicable Law. Generally, the terms and provisions of this Development Area Declaration are enforceable to the extent they do not violate or conflict with Applicable Law.

5.10 Acceptance by Owners. Each Owner of a Lot, Condominium Unit, 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.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective the 18th day of January, 2024.

DECLARANT:

**MERITAGE HOMES OF TEXAS, LLC,
an Arizona limited liability company**

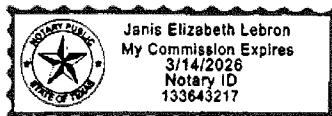
By: David Jordan
Printed Name: David Jordan
Title: Senior VP of Land

THE STATE OF TEXAS
COUNTY OF Harris

This instrument was acknowledged before me this 18th day of January, 2024, by David Jordan, as Senior VP of Land of MERITAGE HOMES OF TEXAS, LLC, an Arizona limited liability company, on behalf of said limited liability company.

(SEAL)

~~Notary Public Signature~~



RP-2024-19824
Pages 34
01/19/2024 10:33 AM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
TENESHIA HUDSPETH
COUNTY CLERK
Fees \$153.00

RECORDERS MEMORANDUM
This instrument was received and recorded electronically
and any blackouts, additions or changes were present
at the time the instrument was filed and recorded.

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.
THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in
File Number Sequence on the date and at the time stamped
hereon by me; and was duly RECORDED in the Official
Public Records of Real Property of Harris County, Texas.



Tenesha Hudspeth
COUNTY CLERK
HARRIS COUNTY, TEXAS