



LT1-77-20070154269-1

**SCANNED**

**THE PRESERVE AT ALAMO RANCH  
SUBORDINATE DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

THE STATE OF TEXAS                   §  
  §           KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF BEXAR                   §

This Preserve at Alamo Ranch Subordinate Declaration of Covenants, Conditions and Restrictions (this "Declaration") is made and executed to be effective as of the date set forth below, by Hanna/Magee L.P. #1, a Texas limited partnership ("Declarant").

**RECITALS**

A. Declarant is the owner of certain real property in Bexar County, Texas, described on Exhibit A attached hereto and incorporated herein for all purposes (the "Property"). The Property is proposed for subdivision as Alamo Ranch Units 29, 30, 31, 32 and 33. As each Plat (defined below) of a portion of the Property is approved, such Plat will be recorded in Bexar County, Texas.

B. The purpose of this Declaration is to restrict the Property under a uniform plan for the improvement, development and sale of the Property for the benefit of all owners of the Property, and in order to protect the value and desirability of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property and other real property that may become subject to this Declaration.

C. The Property also is subject to the Master Declaration (defined below). This Declaration is in addition to and supplements, but does not replace or supersede, the Master Declaration. This Declaration is a "Subordinate Declaration" for all purposes of the Master Declaration and the "Association," as defined below, is a "Subordinate Association" for all purposes of the Master Declaration.

NOW, THEREFORE, it is hereby declared that (i) all of the Property shall be held, sold, conveyed, encumbered, leased, used, occupied and enjoyed subject to the following liens, easements, restrictions, covenants, and conditions, which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the Property or any part thereof and their respective heirs, executors, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner thereof; and (ii) each contract or deed which may hereafter be executed with regard to the Property of any portion thereof shall 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 or referred to in said contract or deed.



LT2-12969-227-44

1.11 Design Guidelines. "Design Guidelines" shall mean the restrictions set forth in Sections 3.1 through 3.16 below, together with any design guidelines to be adopted and modified by time to time by the ACC.

1.12 Developed Lot. "Developed Lot" shall mean any Lot that is shown on a recorded Plat and is served by public utilities and a paved, curbed and guttered Private Roadway, all of which have been accepted for use by the service provider (as to the utilities) or the Association (as to the Private Roadways).

1.13 Greenbelt. The term "Greenbelt" shall mean each area so designated by Declarant to be held as open space for the benefit of all Owners.

1.14 Homebuilders. "Homebuilders" shall mean all Persons acquiring Developed Lots for the purpose of constructing residential dwellings thereon, and their successors and assigns. The initial Homebuilders are Newmark and Weekley.

1.15 Improvement. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind located on the Property, including but not limited to buildings, outbuildings, storage sheds, patios, tennis courts, swimming pools, basketball goals, playscapes, garages, storage buildings, fences, trash enclosures, screening walls, retaining walls, stairs, decks, landscaping, poles, signs, exterior air conditioning units, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, internet, television, and other utilities.

1.16 Lot. "Lot" or "Lots" shall mean any parcel or parcels of land within the Property shown as a subdivided lot on a Plat on which a single-family residence may be built, together with all Improvements located thereon. The term "Lot" does not include Common Area, even where shown as a subdivided lot on a Plat.

1.17 Master Association. "Master Association" shall mean Alamo Ranch Property Owners' Association, Inc., a Texas non-profit corporation, and its successors and assigns.

1.18 Master Declarant. "Master Declarant" shall mean the Declarant from time to time under the Master Declaration. The initial Master Declarant is Pulte Homes of Texas, L.P., a Texas limited partnership.

1.19 Master Declaration. "Master Declaration" shall mean that certain Declaration of Covenants, Conditions and Restrictions for Alamo Ranch Property Owners' Association, recorded in Volume 12485, Page 8636 of the Official Public Records of Bexar County, Texas, as same may be amended and/or restated from time to time.

1.20 Member. "Member" or "Members" shall mean any Person holding membership rights in the Association.

1.21 Mortgage. "Mortgage" shall mean any mortgage or deed of trust covering all or any portion of the Property given to secure the payment of a debt.

1.33 Supplemental Declaration. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions which may be recorded hereafter in order (i) to add land to the Property, (ii) to subject any area of the Property to further covenants, conditions or restrictions or (iii) to withdraw land from the Property.

1.34 Weekley. "Weekley" shall mean Weekley Homes, L.P., a Delaware limited partnership, and its successors and permitted assigns.

## ARTICLE II ADDITIONS TO THE PROPERTY

2.1 Staged Subdivision. During the Control Period, but only with the approval of Master Declarant, Declarant, its successors and assigns, may bring within the scheme of this Declaration additional land. Declarant may exercise the above right of annexation without the consent or approval of any Owner except that the approval of each Homebuilder that owns Lots within the Property at the time of such proposed annexation of additional properties is required; further the approval of the owners of the added property is required. Additional land also may be annexed into the Property at any time with consent of two-thirds (2/3rds) of each class of Members. As additional land is annexed hereto, Declarant (or after the Control Period, the Association), with respect to such land, shall record Supplemental Declarations that may supplement or modify this Declaration with such additional or different covenants, restrictions and conditions which may be appropriate for those properties. An annexation shall be effective upon the recording of the Supplemental Declaration, and thereafter this Declaration and the liens, easements, covenants, conditions, restrictions and obligations set forth herein shall apply to the annexed lands and the rights, privileges, duties and liabilities of the Persons subject to this Declaration shall be the same with respect to the annexed lands as with respect to the lands originally covered by this Declaration (except as expressly provided otherwise in an applicable Supplemental Declaration). In the event of a conflict between this Declaration and a Supplemental Declaration, the Supplemental Declaration shall control. A Supplemental Declaration must state that land is being annexed, and must contain at least the following provisions:

- (A) A reference to this Declaration, which reference shall state the document number under which this Declaration is recorded in the Bexar County Official Records;
- (B) A statement that the provisions of this Declaration shall apply to the annexed land, except as expressly provided otherwise therein;
- (C) A legal description of the annexed land; and
- (D) If Declarant is not the owner of the land being annexed, the signatures of both such owner and Declarant.

2.2 Merger or Consolidation. Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the property,

elevation proposed for a particular Lot if a substantially similar plan or elevation exists on a Lot in close proximity to the Lot on which the plan or elevation is proposed. No Improvement shall be placed or installed as to be visible from a Private Roadway or from the first floor of another residence without prior approval of the location and the Plans and Specifications of the ACC.

3.2 Minimum Square Footage; Number of Stories. The primary residence erected on a Lot shall contain not less than one thousand five hundred square feet (1,500') of enclosed, air-conditioned and heated living space, exclusive of porches and patios (open or covered), decks, balconies and garages. No residence shall contain more than two (2) stories or be greater than thirty-five feet (35') in height.

3.3 Masonry and Siding. All Improvements shall be constructed of materials of recognized standard construction quality. The following portions of the exterior wall area of all single-family residences constructed on a Lot shall not be less than one hundred percent (100%) brick, rock, stucco, stone, masonry veneer, or other masonry material specifically approved by the ACC (collectively, "Masonry"): (i) the entire first floor of the front of each residence (exclusive of porches situated on the front of the residence), (ii) the entire first floor of each side of each residence (exclusive of chimneys and/or boxed windows on such sides), and (iii) at least a two foot (2') return on each side of the second floor from the front of each residence. In addition, the front of each residence shall be at least seventy-five percent (75%) Masonry (the areas described in the two preceding sentences, herein, the "Masonry Areas"). The foregoing notwithstanding, the following are specifically excluded from the Masonry Areas: windows, doors, chimney chases, openings, gables and other areas which are not permitted to have brick by applicable city codes and/or building ordinances. All siding material shall be horizontal lap siding manufactured out of fibre-cement (*i.e.*, Hardi-Plank).

3.4 Garages. All residences shall contain enclosed garages. No residence may have a garage capable of containing more than two passenger vehicles unless the Lot upon which such residence is situated has a width at the front building setback line of at least sixty-five feet (65').

3.5 Roofing. Roofing materials used on residential structures must be (i) at least twenty (20) year dimensional fiberglass shingles, (ii) of "weatherwood" coloring, and (iii) of materials approved in writing by the ACC. Each primary residence shall have a roof constructed with a minimum "6/12" pitch, consisting of a minimum of six feet (6') in height for each twelve feet (12') width of the roof. The foregoing notwithstanding, any patio or porch roof covering must have a minimum of "4/12" pitch, consisting of a minimum of four feet (4') in height for each twelve feet (12') width of the patio or porch roof. Any patio or porch covers must be built out of wood framing painted to match the primary residence with "weatherwood" colored shingles that also match the primary residence. The roof pitch of any patio cover must be harmonious with the house roofline. Aluminum or vinyl patio covers are not allowed.

3.6 Fences. The back yards of all Lots shall be fenced unless otherwise approved by the ACC; provided, however, that the ACC, in its discretion, may prohibit the construction of any proposed fence, specify the materials of which any proposed fence must be constructed (which shall be limited to brick, stone, wood, or decorative metal), or require that any proposed fence be partially screened by vegetation. No portion of any fence shall exceed six feet (6') in height. No fences, walls or hedges shall be located nearer than thirty feet (30') from the front Lot

3.13 Foundation Exposure. No foundation on any Improvement (i) may be exposed more than twenty-four inches (24") above final grade along the front of the Improvement, (ii) may be exposed more than twenty-four inches (24") above final grade along any side of the Improvement that faces a Private Roadway, or (iii) may be exposed more than thirty-six inches (36") above final grade along any other side of an Improvement. The rear of an Improvement is not restricted as to foundation exposure. If a foundation would not otherwise comply with the first sentence of this Section 3.13, the foundation shall be built to include a finished wall matching the exterior wall of the primary dwelling structure, which will extend to within twenty-four inches (24") (if at a point described in (i) or (ii) above), or thirty-six inches (36") (if at a point described in (iii) above) above final grade. Any structure with a pier and beam foundation shall have all mechanical, electrical and plumbing lines or fixtures located thereunder screened as required by the ACC. The ACC shall determine the adequacy of any proposed screening.

3.14 Slopes and Retaining Walls. All slopes adjacent to Private Roadways must be limited to three to one slopes. If such a limitation is not possible, the Owner of the Lot must build a retaining wall of dry stack limestone or natural or native boulders, in locations and in accordance with specifications approved by the ACC.

3.15 Greenbelt Lots. Lots which are adjacent to Greenbelt or open space areas shall comply with all of the following: all fences on the boundary of the Lot that adjoins the Greenbelt or open space areas shall be six feet (6') high and built of wrought iron or decorative metal as specified by the ACC ("Greenbelt Fences"). Before beginning construction on a Lot adjacent to Greenbelt or open space areas, the Homebuilder shall construct the Greenbelt Fences for all Lots then owned by the Homebuilder as of the date such construction begins. Thereafter as each Lot adjacent to Greenbelt or open spaces areas is acquired by a Homebuilder, the Homebuilder shall construct the Greenbelt Fence for such Lot within sixty (60) days after the Homebuilder acquires the applicable Lot.

3.16 Sidewalks. All sidewalks required by the City of San Antonio, Bexar County or any other governmental entity having jurisdiction shall be of concrete with a "broom finish" (e.g., no pea gravel or similar material) and constructed in accordance with applicable City of San Antonio and/or Bexar County ordinances and regulations, on each Lot, and the Plans and Specifications for each Lot shall include plans and specifications for such sidewalk, and the same shall be constructed and completed prior to occupation of the residential building. Any questions as to whether a proposed sidewalk has a "broom finish" appearance shall be determined by the ACC in the ACC's discretion. No other sidewalks shall be placed on any Lot without the approval of the ACC.

3.17 Driveways. All driveways shall be surfaced with concrete. No asphalt driveways shall be permitted.

### General Restrictions

3.18 Antennae. No exterior radio or television antenna or aerial or satellite dish receiver, or other device designed to receive telecommunication signals, including, but not limited to, radio, television, or microwave signals which are intended for cable television, network television reception, or entertainment purposes shall be erected or maintained, except by

or operate upon any portion of the Property so as to be offensive or detrimental to any other portion of the Property or to its occupants.

3.24 Repair of Building. All Improvements upon any of the Property shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof.

3.25 Fence Maintenance. Except as specified in Section 5.8, fence maintenance shall be the responsibility of the Owner on whose Lot the fence is located. Each Owner shall repair any damage to a fence within thirty (30) days of written notification by the Association. No Owner shall maintain a fence in such a manner as to allow (i) any portion of a fence to lean so that the fence's axis is more than five (5) degrees out of a perpendicular alignment with its base, or (ii) missing, loose, or damaged stone or wood rails in the fence, or (iii) symbols, writings, or other graffiti on the fence.

3.26 Maintenance of Lawns and Planting. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on such Owner's Lot (including any Greenbelt platted as a part of such Owner's Lot and any Greenbelt located between such Owner's Lot and a Private Roadway) cultivated, pruned, mowed, and free of trash and other unsightly material, shall install landscape irrigation systems where appropriate for the types of vegetation located on such Lot, and shall maintain all such landscape irrigation systems in good working order.

3.27 Alteration or Removal of Improvements. Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement, shall be performed only with the prior written approval of the ACC.

3.28 Underground Utility Lines. No utility lines including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other Improvements as approved in writing by the ACC; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other Improvements which have been previously approved in writing by the ACC; and further provided that this provision shall not apply to utilities installed along the perimeters of the Property. The installation method, including, but not limited to, location, type of installation equipment, trenching method and other aspects of installation, for both temporary and permanent utilities shall be subject to review and approval by the ACC.

3.29 Drainage. No objects, including but not limited to buildings, fences or landscaping, shall be allowed in a drainage easement except as approved by the Architectural Control Committee.

3.30 Hazardous Activities. No activities shall be conducted on the Property and no Improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms or fireworks

no kennels or breeding operation will be allowed. No animal shall be allowed to run at large and all animals shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all time. Such enclosed area shall be constructed in accordance with plans approved by the ACC, shall be of reasonable design and construction to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property.

3.36 Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration 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 of any dispute regarding such matters, a temporary waiver of the applicable provision may be granted by the ACC, provided that such waiver shall be only for the reasonable period of such construction.

3.37 Compliance with Provisions of the Restrictions. Each Owner shall comply strictly with the provisions of the Restrictions as the same may be amended from time to time. Failure to comply with the Restrictions shall constitute a violation of this Declaration, and shall give rise to a cause of action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or by an aggrieved Owner.

3.38 Unfinished Structures. No structure shall remain unfinished for more than one (1) year after the same has been commenced. Construction of residential improvements shall begin no later than two (2) years after ownership of the Lot has been legally conveyed by Declarant.

3.39 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

3.40 Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the Private Roadway property lines and a line connecting them at points twenty-five feet (25') from the intersection of the Private Roadway property lines extended. The same sight line limitations shall apply on any Lot within ten feet (10') from the intersection of a Private Roadway property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

governed by the provisions and vested with the powers prescribed by law or set forth in the Certificate and Bylaws or in this Declaration. Neither the Certificate nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. Nothing in this Declaration shall prevent the creation, by Supplemental Declaration(s), of Subassociations to own, develop, assess, regulate, operate, maintain or manage the Property subject to such Supplemental Declarations.

5.2 Membership. Every Person who is a record Owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of the Association as well as a member of the Master Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from any ownership of any Lot. Ownership of such Lot shall be the sole qualification for Membership. Any Mortgagee who acquires title to any Lot through judicial or nonjudicial foreclosure shall become a Member of the Association upon so acquiring title. Every Member shall have the right at all reasonable times during business hours to inspect the books and records of the Association.

5.3 Voting Rights. The Association shall have two (2) classes of voting Memberships:

- (A) Class A. Class A Members shall be all Owners except Declarant. Each Class A Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds such interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine as provided by the Bylaws, but in no event shall more than one (1) Class A vote be cast with respect to any Lot.
- (B) Class B. The Class B Member(s) shall be Declarant, and its successors and assigns, and shall be entitled to the sum of (i) one (1) vote for each Lot owned by Declarant plus (ii) three (3) votes for each Class A vote. The Class B membership shall cease upon expiration of the Control Period (subject to reversion back to Class B membership upon the annexation of additional land).

5.4 Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts that may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association and the Board, acting on behalf of the Association, shall have the power and authority at all times as follows:

- (A) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, the Rules and Bylaws, but not in conflict with this Declaration, as it deems proper covering any and all aspects of its functions.

- (I) Conveyances. To grant and convey to any Person the real property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Association property for the purpose of construction, erecting, operating or maintaining the following:
- (1) Parks, parkways or other recreational facilities or structures;
  - (2) Roads, streets, walks, driveways, trails and paths;
  - (3) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
  - (4) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and/or
  - (5) Any similar public, quasi-public or private improvements or facilities;

Provided, however, that the Association shall not convey fee simple title in and to, or mortgage all or any portion of any Common Areas without complying fully with the requirements of Section 8.7 below.

Nothing above contained, however, shall be construed to permit use or occupancy of any Improvement or other facility in a way that would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

- (J) Manager. To retain and pay for the services of a Person (the "Manager") to manage and operate the Association, including its property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The Members hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated.
- (K) Association Property Services. To pay for water, sewer, garbage removal, landscaping, gardening and all other utilities, services and maintenance for all Association property; to maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes and other areas of the Property, as appropriate; and to own and operate any and all types of facilities for both active and passive recreation.
- (L) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the

- (C) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any property owned by or leased to the Association, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.
- (D) Upon the approval of two-thirds (2/3) of the Class A Owners and full compliance with the provisions of Section 8.7 below, to execute mortgages, both construction and permanent, for construction of facilities, including improvements on property owned by or leased to the Association.
- (E) To take out and maintain current a policy of liability insurance coverage to cover accidental bodily injury and/or death caused by the use and enjoyment of the Common Areas. Such insurance shall be in such amounts as the Board shall deem appropriate.

5.8 Fencing. The Association shall be responsible for all maintenance of Greenbelt Fences, including the obligation to rebuild and/or repair same when required.

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

## ARTICLE VI ACC

6.1 Approval of Plans and Specifications. No Improvement shall be commenced, erected, constructed, placed or maintained upon any Lot, nor shall any exterior addition to or

Specifications until such time as the ACC has received all information requested. The ACC shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by the Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the ACC. The ACC shall not be responsible for reviewing any proposed Improvement nor shall its approval of any Plans or Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

6.10 Plan Review. Upon receipt by the ACC of all of the information required by this Article VI, it shall have thirty (30) days in which to review said plans. The proposed Improvements will be approved if, in the sole opinion of the ACC, (i) the Improvements will be of an architectural style and material that are compatible with the other structures in the Property; (ii) the Improvements comply with all provisions of this Declaration and the applicable Plat and do not encroach upon any easement or building set back line; (iii) the Improvements will not result in the reduction in property value, use or enjoyment of any of the Property; (iv) the individual or company intended to perform the work is acceptable to the ACC; and (v) the Improvements will be substantially completed, including all cleanup, within three (3) months of the date of commencement (12 months for the construction of a complete house). In the event that the ACC fails to issue its written response within thirty (30) days of its receipt of the last of the materials or documents required to complete the Owner's submission, the ACC's approval shall be deemed to have been granted without further action.

6.11 Variance. The ACC may grant variances from compliance with any of the provisions of this Declaration, any Supplemental Declaration or the Design Guidelines, when, in the opinion of the ACC, in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property, and such variance is justified due to unusual or aesthetic considerations or unusual circumstances. All variances must be evidenced by a written instrument, in recordable form, and must be signed by at least two (2) of the Voting Members. The granting of such variance shall not operate to waive or amend any of the terms and provisions of these covenants and restrictions applicable to the Lots for any purpose except as to the particular property and in the particular instance covered by the variance, and such variance shall not be considered to establish a precedent or future waiver, modification or amendment of the terms and provisions hereof.

6.12 No Waiver of Future Approvals. The approval or consent of the ACC to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the ACC shall not be deemed to constitute a Waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different Person.

6.13 Work In Progress. The ACC, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications.

6.14 Address. Plans and Specifications shall be submitted to the ACC at 1011 N. Lamar Blvd., Austin, Texas 78703, or such other address as may be designated by Declarant, its successors and assigns, from time to time.

must be used solely for purposes authorized by this Declaration, as it may from time to time be amended. Nothing contained herein shall limit, preclude or impair the establishment of other maintenance funds by a Subassociation pursuant to any Supplemental Declaration.

7.3 Regular Annual Assessments. Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions, including but not limited to, the cost of all maintenance, the cost of providing street lighting, the cost of enforcing the Restrictions, and a reasonable provision for contingencies and appropriate replacement reserves less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of Assessments set by the Board, shall be final and binding so long as it is made in good faith. If the sums collected prove inadequate for any reason, including nonpayment of any individual Assessment, the Association may at any time, and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

7.4 Special Assessments. In addition to the regular annual Assessments provided for above, the Board may levy special Assessments whenever in the Board's opinion such special Assessments are necessary to enable the Board to carry out the mandatory functions of the Association under the Restrictions. The amount of any special Assessments shall be at the reasonable discretion of the Board.

7.5 Initial Assessments. In addition to the regular annual and special Assessments provided for above in Section 7.3 and 7.4, a one-time initial Assessment, in an amount set by the Board from time to time, shall be due and payable to the Association immediately upon the conveyance of any Lot to a new Owner. Such initial Assessment shall be assessed and levied to provide for reasonable costs incurred by the Association and/or any Manager for the resulting change in Membership in the Association upon the conveyance of the Lot and the preparation for the new owner of information and materials relating to Membership in the Association and to the Property.

7.6 Owner's Personal Obligation for Payment of Assessments. The regular, special and initial Assessments provided for herein shall be the personal and individual debt of the Owner of the Lot covered by such Assessments. No Owner may exempt himself from liability for such Assessments. In the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at the highest rate allowed by law for interest on delinquent Assessments from the due date thereof until paid (or if there is no such highest rate then at the rate of eighteen percent (18%) per annum) together with all costs and expenses of collection, including reasonable attorney's fees.

7.7 Exemptions. Notwithstanding any provision herein to the contrary, all Common Areas shall be exempt from the payment of any Assessment, whether regular, special or initial.

7.8 Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article but unpaid, shall together with interest as provided in Section 7.6 hereof and the cost

Association as Common Area. Declarant and the Association anticipate multiple conveyances of Common Area, and the Association's obligations set forth herein with respect to Common Area shall refer only to the Common Area owned by the Association at the particular point in time. Each conveyance shall be, at Declarant's election, by special warranty deed or easement with special warranty of title, subject in either instance to all matters set forth in this Declaration, all liens securing the payment of taxes for the current and all subsequent years, and all easements, liens, rights of way, prescriptive rights, encroachments, overlapping of improvements, discrepancies, conflicts, leases, reservations, mineral severances, restrictions, covenants, conditions, regulations, and other rights, claims, title exceptions and other matters of any kind or nature affecting all or any of the real property interests conveyed as Common Area, whether of record in the real property records of Bexar County, Texas or apparent on the Common Area. Each such conveyance shall be made solely for the benefit of the Owners and all right, title and interest in the Common Area so conveyed shall be held by the Association solely for the use and benefit of the Owners. Any such conveyance shall be made by Declarant and accepted by the Association, "AS IS", "WHERE IS", AND "WITH ALL FAULTS" AND WITHOUT REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL. WITHOUT LIMITING THE FOREGOING, DECLARANT SHALL NOT MAKE AND SPECIFICALLY SHALL NEGATE AND DISCLAIM ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE COMMON AREA, INCLUDING, WITHOUT LIMITATION, THE ACREAGE, WATER, SOIL OR GEOLOGY OF THE COMMON AREA OR ANY SURROUNDING AREAS, (B) THE VALUE OF THE COMMON AREA, (C) THE SUITABILITY OF THE COMMON AREA FOR ANY AND ALL ACTIVITIES AND USES WHICH MAY BE CONDUCTED THEREON, (D) THE COMPLIANCE OF OR BY COMMON AREA OR THE OPERATION THEREOF WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, INCLUDING WITHOUT LIMITATION ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, (E) THE DISPOSAL OR EXISTENCE, IN OR ON THE COMMON AREA, OF ANY ASBESTOS, PCB EMISSIONS, HYDROCARBONS, RADON GAS, OR HAZARDOUS OR TOXIC MATERIALS, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OF ANY IMPROVEMENTS WITHIN THE COMMON AREA OR MATERIALS, IF ANY, INCORPORATED INTO THE COMMON AREA, (G) THE STATE OF REPAIR OR LACK OF REPAIR OF THE COMMON AREA OR ANY IMPROVEMENTS THEREIN OR THERETO, OR (H) ANY OTHER MATTER WITH RESPECT TO THE COMMON AREA. IF THE ASSOCIATION OR ANY OWNER REQUESTS ANY INFORMATION WITH RESPECT TO THE COMMON AREA, THE ASSOCIATION OR OWNER SHALL ACKNOWLEDGE THAT SUCH INFORMATION SHALL NOT HAVE BEEN INDEPENDENTLY INVESTIGATED OR VERIFIED BY DECLARANT. DECLARANT SHALL MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE ACCURACY OR COMPLETENESS OF ANY SUCH INFORMATION, AND DECLARANT SHALL NOT BE LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, REPORTS, SURVEYS OR OTHER

with the requirements of the Texas Property Code, as amended from time to time.

**8.3 No Warranty.** NEITHER THE ASSOCIATION NOR DECLARANT MAKES ANY WARRANTY OR REPRESENTATION TO THE OWNERS THAT THE GATES TO THE PROPERTY PROVIDE ANY SECURITY WHATSOEVER, AND EACH OWNER IS SOLELY RESPONSIBLE FOR PROVIDING SECURITY FOR THEIR HOME AND PROPERTY.

**8.4 Public Easement.** An express easement is hereby reserved across the Private Roadways for the use of the surface for all governmental functions, vehicular and non-vehicular, including fire and police protection, solid and other waste material pickup and any other purpose any governmental authority deems necessary; however, no governmental entity or its agents or employees shall be responsible or liable for any damage to the surface of Private Roadways because of governmental vehicles traversing over same. Additionally, an express easement is hereby reserved on, over and across each Lot within ten feet (10') of each Private Roadway for installing, replacing, repairing, maintaining, removing and reinstalling traffic and directional signs, which easement shall be for the benefit of Declarant and the Association.

**8.5 Subdivision Fencing Easement.** Declarant hereby reserves for itself and the Association, an easement over and across each Lot and the Common Area for the installation, maintenance, repair or replacement of certain subdivision fencing which serves the Property. Declarant will have the right, from time to time, to record a written notice in the Official Public Records of Bexar County, Texas, which identifies the subdivision fencing to which the easement reserved hereunder applies. Declarant may designate all or any portion of the subdivision fencing as improvements to be maintained by the Association by written notice recorded in the Official Public Records of Bexar County, Texas. The exercise of the easements reserved hereunder will not extend to permitting entry into any residence, nor will it unreasonably interfere with the use of any Lot or residence or Improvement constructed thereon.

**8.6 Reserved Easements.** The Master Declaration, and all dedications, limitations, restrictions and reservations shown on a Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights, made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the Property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other Person, to grant, dedicate, reserve or otherwise create, at anytime or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, cable television, electricity, telephone and drainage), in favor of any Person, along and on either or both sides of any Lot line, which said easement shall have a maximum width of five feet (5') on each side of such Lot line.

**8.7 Installation and Maintenance.** There is hereby created an easement upon, across, over and under all of the easement areas affecting the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not

- (B) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless: (1) an instrument of agreement to such dedication or transfer, signed by at least two-thirds (2/3) of each class of Members entitled to vote is recorded; and (2) written notice of proposed action under this provision is sent to every Owner and Mortgagee not less than ten (10) days and not more than sixty (60) days in advance of such action.
- (C) The right of the Association to borrow money for the purpose of improving the Common Areas and, in furtherance thereof, to mortgage the Common Areas, all in accordance with the Certificate and Bylaws; No such mortgage shall be effective unless: (1) an instrument of agreement to such mortgage, signed by at least two-thirds (2/3) of each class of Members entitled to vote is recorded; and (2) written notice of proposed action under this provision is sent to every Owner and Mortgagee not less than ten (10) days and not more than sixty (60) days in advance of such action.
- (D) The right of the Association to make reasonable rules and regulations regarding the use of the Common Areas and any facilities thereon; and
- (E) The right of the Association to contract for services with third parties on such terms as the Association may determine.

## ARTICLE IX MISCELLANEOUS

9.1 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall run until May 1, 2030, unless amended as herein provided. After May 1, 2030, this Declaration, including all such covenants, conditions, and restrictions shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-fourths (3/4) of the Lots within the property then subject to this Declaration.

9.2 Nonliability of Board and ACC Members. Neither the ACC, nor any member thereof, nor the Board nor any member thereof, nor shall be liable to the Association or to any Owner or to any other Person for any loss, damage or injury arising out of their being in any way connected with the performance of the ACC's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the ACC or its member or the Board or its member, as the case may be. Neither the ACC nor the members thereof shall be liable to any Owner due to the construction of any Improvement within the Property.

9.3 Amendment.

- (A) By Declarant. During the Control Period, this Declaration may be amended by Declarant acting alone. No amendment by Declarant shall be

and duties under this Declaration to any other Person and may permit the participation, in whole or in part, by any Person in any of its privileges, exemptions, rights and duties hereunder.

9.9 Approval of Master Declarant. In each instance where Master Declarant's approval is required pursuant to any provision of this Declaration, at such time as Pulte Homes of Texas, L.P. ceases to be the Master Declarant, in lieu of obtaining the Master Declarant's approval, the approval of the Board of Directors of the Master Association shall be obtained.

9.10 Enforcement and Nonwaiver.

- (A) Right of Enforcement. Except as otherwise provided herein, any Owner at his or her own expense, Declarant, and/or the Board shall have the right to enforce all of the provisions of the Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.
- (B) Nonwaiver. The failure to enforce any provision of the Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.
- (C) Liens. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or Improvement constructed thereon in order to enforce any right or effect compliance with this Declaration.

9.11 Construction.

- (A) Restrictions Severable. The provisions of the Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.
- (B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

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

9.13 Ratification and Approval. Master Declarant is executing this Agreement for the sole purpose of evidencing its consent to this Declaration as a Subordinate Declaration pursuant to the terms of the Master Declaration. Newmark Homes, L.P., a Texas limited partnership, and Weekley Homes, L.P., a Texas limited partnership, are executing this Agreement to ratify this Declaration and confirm that this Declaration applies to all portions of the Property currently owned by Newmark Homes, L.P. or Weekley Homes, L.P., as applicable.

**BYLAWS  
OF  
ALAMO RANCH HOA, INC.**

**ARTICLE 1  
NAME, DEFINITIONS AND PURPOSES**

1.1 **Name.** The name of the corporation is **ALAMO RANCH HOA, INC.** (hereinafter, the "Association").

1.2 **Definitions.** The Association is formed to exercise all the powers and privileges of the "Association" under The Preserve at Alamo Ranch Subordinate Declaration of Covenants, Conditions and Restrictions, recorded July 3, 2007, in Volume 12969, Page 227, Official Records of Bexar County, Texas (said Declaration, as amended from time to time, the "Declaration"). All capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Declaration.

1.3 **Purposes.** Subject to the provisions of Sections 2.002, 2.003, 2.010 and 22.051 of the Texas Business Organizations Code (the "TBOC"), the Association is organized exclusively to act as an agent for each and every Owner in exercising all of the powers and privileges, and performing all of the duties and obligations, of the Association under the Declaration, as set forth in the Declaration and the Association's Certificate of Formation (the "Certificate of Formation"). No part of its activities shall be carrying on propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office.

**ARTICLE 2  
OFFICES**

2.1 **Principal Office.** The principal office of the Association shall be located in Bexar County, Texas. From time to time, the Board may change the registered office and/or the registered agent of the Association in accordance with the provisions of Section 5.202 of the TBOC.

2.2 **Additional Offices.** The Association may also have offices at such other places both within and without the State of Texas as the Board may from time to time determine or the business of the Association may require.

**ARTICLE 3  
MEMBERS**

3.1 **General.** The Association shall have Members. Each Owner of a Lot, automatically and concurrently with acquiring the Lot, becomes a mandatory Member of the

any business may be transacted that might have been transacted if the meeting had been held in accordance with the original notice thereof.

3.7 **Record Date for Determining Members Entitled to Notice and Vote.** Subject to the TBOC, the Certificate of Formation and these Bylaws, for the purpose of determining Members entitled to receive notice of or to vote at any meeting of Members, or any adjournment thereof, or in order to make a determination of Members entitled to exercise any rights regarding any other lawful action, the Board may fix in advance a date as the record date for any such determination of Members, which date shall fall not more than sixty (60) days prior to the date of the meeting or action that requires the determination of the Members. In the case of setting a record date for determining the Members entitled to written consent to action without a meeting of the Members, the record date may not be earlier than the date the board adopts the resolution providing for the record date. When a determination of Members entitled to notice of or to vote at any meeting of Members has been made as provided in this Paragraph 3.7, such determination shall be effective for any adjournment of the meeting unless the Board fixes a new date for determining the right to notice or the right to vote. The Board must fix a new date for determining the right to notice or the right to vote if the meeting is adjourned to a date more than ninety (90) days after the record date for determining Members entitled to notice of the original meeting.

3.8 **Voting Members' List for Meeting.** After setting a record date for the notice of a meeting, the Association shall prepare an alphabetical list of the names of all its voting Members. This list must identify (a) the Members who are entitled to notice and the Members who are not entitled to notice of the meeting, (b) the address of each voting Member, and (c) the number of votes each voting Member is entitled to cast at the meeting.

3.9 **Inspection of Voting Member's List.** Not later than the second business day after the date notice is given of a meeting for which a list was prepared, as provided by Paragraph 3.8, and continuing through the meeting, the list of voting Members must be available at the Association's principal office or at a reasonable place in the municipality where the meeting will be held, as identified in the notice of meeting, for inspection by Members entitled to vote at the meeting for the purpose of communication with other Members concerning the meeting. A voting Member or voting Member's agent or attorney is entitled on written demand to inspect and, at the Member's expense and subject to Section 22.351 of the TBOC, to copy the list at a reasonable time during the period the list is available for inspection.

3.10 **List of Voting Members Available at Meeting.** The Association shall make the list of voting Members available at the meeting, and any voting Member or voting Member's agent or attorney is entitled to inspect the list at any time during the meeting or any adjournment of the meeting.

the Association must implement reasonable measures to verify that every person voting at the meeting by means of remote communications is sufficiently identified and keep a record of any vote or other action taken. If a meeting is held solely or in part by using a conference telephone or other communications system authorized by Section 6.002 of the TBOC or by the Bylaws, the notice of the meeting must identify the forms of communications systems to be used for the meeting and the means of accessing the communications system.

3.15 **Participation Constitutes Presence.** A Member participating in any meeting is considered present at such meeting, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the ground that the meeting has not been lawfully called or convened.

#### **ARTICLE 4 BOARD OF DIRECTORS**

4.1 **General Powers.** The affairs of the Association shall be managed by, and the control and disposition of its properties and funds shall be vested in, the Board, which may exercise all powers of the Association and do all such lawful acts and things as are not by law or by the Certificate of Formation or by these Bylaws directed or required to be done by the Members.

4.2 **Number and Qualifications.** The number of Directors which shall constitute the whole Board shall be three (3). Directors need not be residents of the State of Texas or Members of the Association.

4.3 **Increase or Decrease in Directors.** Unless the Certificate of Formation provides otherwise, the number of Directors may be increased or decreased from time to time by amendment to these Bylaws, but no decrease shall have the effect of shortening the term of any incumbent Director. The number of Directors may not be decreased to fewer than three (3).

4.4 **Election and Vacancies.** At the first annual meeting of the Members, the Members shall elect one Director for a term of three (3) years, one Director for a term of two (2) years and one Director for a term of one (1) year. At each annual meeting of the Members thereafter, upon the expiration of the initial term of office of each respective member of the Board, the Members shall elect a successor Director for a term of three (3) years. Unless removed in accordance with the provisions of Paragraph 4.5 of these Bylaws, each Director shall hold office for the term for which he or she is elected, and until his or her successor shall have been elected, approved, or designated and qualified. Notwithstanding the foregoing, (a) any vacancy occurring in the Board shall be filled by the affirmative vote of a majority of the remaining Directors though less than a quorum of the Board, and any Director thus elected shall be elected for the unexpired term of his or her predecessor in office, and (b) any directorship to

4.11 **Voting.** A Director may vote in person or by proxy executed in writing by the Director. No proxy shall be valid after three (3) months after the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable, or unless otherwise made irrevocable by law.

4.12 **Quorum of Directors; Majority Vote.** At all meetings of the Board, the presence in person (but not by proxy) of a majority of the number of Directors set by these Bylaws shall constitute a quorum for the transaction of business, and the act of the majority of the Directors present in person or by proxy at any meeting at which a quorum is present shall be the act of the Board, unless the act of a greater number is required by the Certificate of Formation or these Bylaws. If a quorum is not present at any meeting of Directors, the Directors present in person may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

4.13 **Committees.** The Board, by resolution adopted by a majority of the Directors in office, may from time to time designate one or more committees, including a Management Committee, which, to the extent provided in such resolution, shall have and exercise the authority of the Board in the management of the Association. Each such committee shall consist of two (2) or more persons, a majority of whom are Directors; the remainder need not be Directors. Any non-Director who becomes a member of any such committee shall have the same responsibility with respect to such committee as a Director who is a member thereof. A majority of all the members of any such committee may determine its action and fix the time and place of its meetings, unless the Board shall otherwise provide. The Board shall have the power at any time to change the number and members of any such committee, to fill vacancies and to discharge any such committee. Other committees not having and exercising the authority of the Board in the management of the Association may be designated and appointed by a resolution adopted by a majority of the Directors at a meeting at which a quorum is present, or by the President thereunto authorized by a like resolution of the Board. Membership on such committees may, but need not be, limited to Directors.

4.14 **Director Action by Written Consent.** Any action required to be taken at a meeting of Directors, or any action which may be taken at a meeting of the Directors or any committee, may be taken without a meeting if a written consent, stating the action to be taken, is signed by the number of Directors or committee members necessary to take that action at a meeting at which all of the Directors or committee members are present and voting. Any such consent must state the date of each Director's or committee member's signature. Any such written consent signed by less than all of the Directors or committee members shall be executed, dated, and filed with the Association in the manner required by Section 22.220 of the TBOC, and prompt notice of any action so taken must be given to each Director or committee member who did not consent in writing to the action.

(d) employ such employees as they deem necessary, and to prescribe their duties;

(e) as more fully provided in the Declaration, to:

(1) fix the amount of the Assessments against each Lot in advance of each annual assessment period and any other assessments provided by the Declaration; and

(2) foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date, bring an action at law against the Owner personally obligated to pay the same, or enforce by any other legal means the payment of Assessments;

(f) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid and to levy a reasonable charge for the issuance of these certificates (it being understood that if a certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of such payment); and

(g) perform such other duties, and exercise such other and further powers as provided in the Declaration.

## **ARTICLE 5 NOTICES**

5.1 **Notice to Directors or Members.** Subject to the TBOC, the Certificate of Formation and these Bylaws, any notice to Directors or Members shall be in writing and shall be either delivered (by personal delivery or by facsimile or other electronic transmission or overnight delivery service) or mailed to the Directors or Members at their respective addresses, fax numbers or electronic mail addresses appearing on the books of the Association. If mailed or sent by overnight delivery service, notice to such addresses shall be deemed to be given when deposited in the United States mail, with postage paid in an envelope addressed to the person at the person's address as it appears on the Association's membership records, or on the day such notice is actually delivered to such address. If transmitted by facsimile or electronic message, notice is deemed delivered when the facsimile or electronic message is successfully transmitted. Subject to the TBOC, the Certificate of Formation and these Bylaws, notice of any meeting must state the date and time of the meeting and, (a) unless the meeting is to be held solely by conference telephone or other communications system authorized by Section 6.002 of the TBOC, the location of the meeting, or (b) if the meeting is to be held solely or in part by using a conference telephone or other remote communications system authorized by Section 6.002 of the TBOC, the form of communications system to be used for the meeting and the means of accessing the communications system.

6.4 **Term of Office and Removal.** Unless otherwise specified by the Board, the term of office for all officers shall be for one (1) year, commencing with the date of the annual Directors' meeting; provided that no such term of office shall exceed three (3) years and provided further that the officers of the Association shall hold office until their successors are elected or appointed and qualify, or until their death or until their resignation or removal from office. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights. Any vacancy occurring in any office of the Association by death, resignation, removal or otherwise shall be filled by the Board.

6.5 **Chairman of the Board.** The Chairman of the Board, if one is elected, shall preside at all meetings of the Board and shall have such other powers and duties as may from time to time be prescribed by the Board, upon written directions given him pursuant to resolutions duly adopted by the Board.

6.6 **President.** The President shall be the Chief Executive Officer of the Association, shall have general and active management of the business of the Association and shall see that all orders and resolutions of the Board are carried into effect. The President shall preside at all meetings of the Members and, in the absence of the Chairman of the Board, at all meetings of the Board.

6.7 **Vice President.** The Vice Presidents in the order of their seniority, unless otherwise determined by the Board, shall, in the absence or disability of the President, perform the duties and have the authority and exercise the powers of the President. They shall perform such other duties and have such other authority and powers as the Board may from time to time prescribe or as the President may from time to time delegate.

6.8 **Secretary.** The Secretary shall attend all meetings of the Board of which, ex officio, he or she shall be the Secretary, and all meetings of Members, and record all of the proceedings of the meetings of the Board and of the Members in a minute book to be kept for that purpose and shall perform like duties for the standing committees when required. The Secretary shall give, or cause to be given, notice of all meetings of the Members, special meetings of the Board, and (if notice is required) regular meetings of the Board, and shall perform such other duties as may be prescribed by the Board or the President under whose supervision the Secretary shall be. The Secretary shall keep in safe custody the seal of the Association (if any) and, when authorized by the Board, shall affix the same (or state that the Association has none) to any instrument requiring it and, when so affixed (or so stated), it shall be attested by his or her signature or by the signature of an Assistant Secretary or of the Treasurer, if any.

Section 22.352 of the TBOC. The Association's financial information shall be made available for public inspection in accordance with Section 22.353 of the TBOC.

7.6. **Conveyance of Land.** The Association may convey land by deed, with or without the seal of the Association, signed by an officer or attorney-in-fact of the Association when authorized by appropriate resolution of the Board or Members.

## **ARTICLE 8 AMENDMENTS**

8.1 **Amendment to Bylaws.** The Board may amend or repeal the Association's Bylaws, or adopt new Bylaws, unless the TBOC reserves the power exclusively to the Members in whole or in part.

## **ARTICLE 9 INDEMNIFICATION**

9.1 **Power to Indemnify and to Purchase Indemnity Insurance.** To the maximum extent permitted by Chapter 8, Subchapter C of the TBOC, the Association shall indemnify any person who is or was a Director or officer of the Association against any and all judgments, penalties (including excise and similar taxes), fines, settlements and reasonable expenses actually incurred by such person in connection with a proceeding (as defined in Section 8.001(8) of the TBOC) because of that person's service or status as a Director or officer. Further, the Association shall pay or reimburse reasonable expenses incurred by a present governing Director or officer who was, is or is threatened to be made a party in a proceeding, in advance of the final disposition of the proceeding, to the maximum extent permitted by Section 8.104 of the TBOC; provided, however, that payment or reimbursement of expenses pursuant to the procedures set out in Section 8.104 of the TBOC may be conditioned upon a showing, satisfactory to the Board in its sole discretion, of the financial ability of the officer or Director in question to make the repayment referred to in such Section. Further, the Association may indemnify, and may reimburse or advance expenses to or purchase and maintain insurance or any other arrangement on behalf of, any person who is or was a Director, officer, employee or agent of the Association, or who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, employee, agent or similar functionary of another association, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, in connection with any liability asserted against such person because of such service or status, to such further extent, consistent with Chapter 8, Subchapter C of the TBOC and other applicable law, as the Board may from time to time determine. The provisions of this Paragraph 9.1 shall not be deemed exclusive of any other rights to which any such person may be entitled under any bylaw, agreement, insurance policy, or otherwise. No amendment, modification or repeal of this Paragraph 9.1 shall in any manner terminate, reduce or impair the right of any person to be indemnified by the Association in accordance with the provisions of this Paragraph