

BY-LAWS
OF
ARIA ISLE AT EAST SHORE HOMEOWNERS ASSOCIATION, INC.

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**BY-LAWS
OF
ARIA ISLE AT EAST SHORE HOMEOWNERS ASSOCIATION, INC.**

**Article 1
Name, Principal Office, and Definitions**

1.1. Name.

The name of the corporation is Aria Isle at East Shore Homeowners Association, Inc. (the "**Association**").

1.2. Principal Office.

The Association's principal office shall be located in Montgomery County, Texas. The Association may have such other offices as the Board may determine or as the Association's affairs require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Charter for Aria Isle at East Shore recorded by The Woodlands Land Development Company, L.P., a Texas limited partnership (the "**Founder**"), in the Official Public Records of Real Property of Montgomery County, Texas, as it may be amended (the "**Charter**"). The term "**majority**," as used in these By-Laws, means those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

**Article 2
Membership: Meetings, Quorum, Voting, Proxies**

2.1. Membership.

The Association shall have two classes of membership, Owner Membership and Founder Membership, as more fully set forth in the Charter. Each Owner of a Lot automatically becomes a member of the Association ("**Member**") upon accepting title to a Lot. Provisions of the Charter pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

2.3. Association Meetings.

(a) General. Association meetings shall be of the Members unless the Board otherwise specifies or Texas law otherwise requires. The first Association meeting, whether an annual or special meeting, shall be held within one year after the Association's incorporation.

(b) Annual Meetings. The Board shall schedule regular annual meetings to occur within 90 days before or after the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) Special Meetings. The President may call special meetings. In addition, the President or the Secretary shall call a special meeting if so directed: (i) by Board resolution, (ii) upon the request of the Founder during the Development and Sale Period, or (iii) within 30 days of a written petition of Owner Members representing at least 10% of the total votes in the Association stating the purpose for which they request a meeting to be called.

2.4. Notice of Meetings.

(a) At least 10 but not more than 60 days before any meeting of the membership, the President, the Secretary, or the officers or other persons calling the meeting shall deliver or cause to be delivered to each Member a written notice stating the place, day, and hour of the meeting and the items on the agenda for such meeting, including the general nature of any proposed amendment to the Charter or By-Laws, any proposed budget changes, any proposal to remove a director, and any other matter required by *Tex. Business Organizations Code* §§ 22.253 and 22.303, as same may be amended or any successor Texas statute thereof. If proxies are permitted, the notice shall also state the procedures for appointing proxies. If the meeting is to be held solely by electronic communications or if participation in the meeting is permitted by electronic communications, as described in Section 2.5 below, the notice shall state the form of communications system to be used for the meeting and the means of accessing the communications system. No business shall be transacted at a special meeting except as stated in the notice. Such notice shall be delivered by such means as permitted under Section 9.5 except as otherwise specified in the Charter, these By-Laws, or by Texas law.

(b) The Board shall set a record date for determining who is entitled to receive notice of a meeting, which shall not be earlier than the 60th day before the meeting date, and shall prepare an alphabetical list of the names of all Persons entitled to vote, indicating (i) the address of each Person, and (ii) the number of votes each Person is entitled to cast at the meeting. Not later than the second business day after the date notice of the meeting is given, and continuing through the meeting, the list shall be made available at the Association's principal office or at a reasonable place in the municipality in which the meeting will be held, as identified in the notice of the meeting, for inspection and copying by Members entitled to vote at the meeting, or their agents, for the purpose of communication with other Members concerning the meeting. The Association shall also make the list available at the meeting for inspection at any time during the meeting or any adjournment of the meeting.

2.5. Electronic Participation in Meetings.

The Association may allow Members to participate in any Association meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including videoconferencing technology or the Internet, if the telephone or other equipment or system permits each person participating in the meeting to communicate with all other persons participating in the meeting. If voting is to take place at the meeting, the Association must implement measures to verify that every Member voting at the meeting by means of remote communication is sufficiently identified.

2.6. Waiver of Notice.

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Member may waive, in writing, notice of any Association meeting, either before or after such meeting. A Member's attendance at a meeting shall be deemed a waiver by such Member of notice of the time, date, and place thereof. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting.

2.7. Voting.

(a) **Voting Rights.** Members shall have such voting rights as are set forth in the Charter, which provisions are specifically incorporated by this reference. Members entitled to vote shall be entitled personally to cast the votes attributable to their respective Lots on any issue.

(b) **Voting Procedures.** Not later than the tenth (10th) day or earlier than the sixtieth (60th) day before the date of any election or vote, the Association shall give written notice of the election or vote to each Owner entitled to vote.

A membership vote on any matter shall be conducted by written ballot signed by the Member entitled to vote, which ballot may be cast in person at a meeting, by mail or electronic transmission (including facsimile transmission, electronic mail, or posting on an Internet website), or by any combination of those methods; provided, any ballot submitted by electronically must be submitted in a manner that permits confirmation of the identity of the Member casting the vote and allows the Member to receive a receipt evidencing the transmission and receipt of the ballot. A ballot cast at a meeting shall revoke and supersede any ballot casting the same vote submitted by other means. A ballot cast prior to a meeting may not be counted if the motion was amended at the meeting so as to deviate from the exact language on the ballot previously cast.

A ballot to be submitted by mail or electronic transmission (an "**Absentee Ballot**") shall:

- (i) describe each proposed action and providing an opportunity to vote for or against each proposed action; and
- (ii) include the following language or such other language as may be authorized in lieu of the following language by future amendment of *Tex. Prop. Code, Chapter 209*, as it may be amended or any successor Texas statute thereof:

"By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

Any solicitation of votes to be cast by Absentee Ballot shall include instructions for delivery of the completed ballot, including the delivery location. If the Absentee Ballot is posted on an Internet website, a notice of posting shall be sent to each Member entitled to vote on the matter with instructions for obtaining access to the website and casting such ballot.

The person who tabulates votes on any matter shall not disclose to any other person how any particular Member's votes were cast. No person who is a candidate for election or is the subject of any other Association vote, nor any person related to such person within the third degree of consanguinity or affinity, as determined under *Texas Government Code Chapter 573*, as it may be amended or any successor Texas statute thereof, may tabulate ballots cast in any election or vote hereunder. No person other than a person designated to tabulate the votes shall be given access to the ballots cast except as part of a recount process authorized by law.

Within 15 days after the date of any election, any Owner may demand a recount of the votes in accordance with *Tex. Prop. Code §209.0057*, as it may be amended or any successor Texas statute thereof.

2.8. Proxies.

Owner Members may vote in person or by proxy, subject to the limitations of Texas law and subject to any specific provision to the contrary in the Charter or these By-Laws.

Every proxy shall be in writing, shall identify the Lot for which it is given, shall be signed by the Owner Member or the Owner Member's duly authorized attorney-in-fact, and shall be dated and filed with the Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provided otherwise, a proxy shall be presumed to cover all votes which the Owner Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

A proxy is effective only for the specific meeting for which it was originally given, as such meeting lawfully may be adjourned and reconvened, and automatically expires 90 days after the date of the meeting for which it was originally given. Every proxy is revocable at any time prior to such proxy being voted at the pleasure of the Owner Member who executes the proxy by giving written notice of revocation to the Association's Secretary. A proxy shall automatically be revoked: (a) if the Member who executed the proxy attends the meeting and votes in person; (b) upon conveyance of any Lot for which it was given; (c) 11 months from the date of the proxy or such shorter period as specified in the proxy; or (d) upon the death or judicially-declared incompetence of the Member who signed it.

2.9. Quorum.

Except as these By-Laws or the Charter otherwise provide, the presence of Owner Members representing 40% of the total votes in the Association shall constitute a quorum at an initial Association meeting ("**Initial Meeting**") and the vote of Owner Members representing a majority of the total eligible votes cast shall constitute the action of the Members. The Owner Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owner Members to leave less than a quorum. If the required quorum is not present or represented at the Initial Meeting, a subsequent meeting of the Owner Members ("**Second Meeting**") shall be called and noticed as set forth in Section 2.4. The presence at the Second Meeting of Owner Members entitled to cast, or of proxies entitled to cast, 30% of the total votes in the Association shall constitute a quorum. If the required quorum is not present or represented at the Second Meeting, subsequent meetings shall be automatically called and held every 15 minutes (written notice mailed to the Owner Members of such subsequent meeting(s) after the Second Meeting shall not be required), and the required quorum at each subsequent meeting(s) shall be one-half of the required quorum at the preceding meeting.

2.10. Conduct of Meetings.

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Association's books.

2.11. Action Without a Meeting.

In accordance with the Certificate of Formation, any action that is required or that may be taken at a meeting of the Members may be taken without a meeting if:

- (a) the Association mails or delivers to every Person entitled to vote on the action:
 - (i) an Absentee Ballot meeting the requirements of Section 2.8(b), or
 - (ii) notice of the posting of such a ballot on an Internet website, with instructions for obtaining access to such website and casting the ballot; and
- (b) the number of votes cast equals or exceeds the quorum required for a meeting to consider such action; and
- (c) the number of votes cast in favor of the proposed action equals or exceeds the number of votes required to approve such action if the vote were conducted at a meeting.

Voting instructions or solicitations for any vote conducted in a manner other than at a meeting must indicate the deadline for casting the ballot in order to be counted. The period for submitting ballots to the Association shall not be more than 60 days. Each ballot cast must be signed and dated by the Owner Member. A signed ballot may not be revoked once submitted to the Association, except as provided in Section 2.8(b). The Board shall notify the Members of the results of the vote within 30 days after the expiration of the voting period.

Article 3

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Qualifications.

The Board shall govern the Association's affairs. Each director shall have one vote.

Each director shall be at least 21 years old and no less than a majority of the directors shall be an Owner of a Lot or a member of the record Owner's family who occupies the Owner's Lot; provided, those directors whom the Founder appoints need not be Owners or occupants of a Lot. Notwithstanding the foregoing, in the case of any Person who is eligible to serve on the Board who is not an individual, any officer, director, partner, or trust officer of such Person shall be eligible to serve as a director; provided, no more than one such representative of any Person, nor more than one occupant of a particular Lot, may serve on the Board at any one time, except in the case of directors the Founder appoints.

3.2. Number of Directors.

The Board shall consist of three directors.

3.3. Selection of Directors; Term of Office.

(a) *Initial Board.* The initial Board shall consist of the three directors identified in the Certificate of Formation, who shall serve until their successors are appointed or elected as provided in this section.

(b) *Directors During the Founder Control Period.* Except as otherwise provided in this section, the Founder Member may appoint, remove, and replace Board members until termination of the Founder Control Period. During such period, the Owner Members shall be entitled to elect a minority of the total number of directors (directors elected by the Owner Members are referred to as "**Owner Directors**") as follows: within 120 days after the earlier of: (A) the time that 75% of the maximum number of Lots anticipated by the Founder for development and sale as a part of Aria Isle at East Shore are owned by Persons other than the Founder, Affiliates of the Founder, or Builders, (B) the 10th anniversary of the date the Charter was recorded in the Real Property Records of Montgomery County, Texas, or (C) whenever the Founder earlier determines, the President shall call for an election by which the Owner Members, as a group, shall be entitled to elect one of the three directors, who shall be elected at large. The remaining directors shall be appointees of the Founder. The Owner Director shall be elected for a term of two years or until the happening of the event described in Section 3.3(c)(i), whichever is shorter. If such director's term expires prior to the happening of the event described in Section 3.3(c)(i) below, successors shall be elected for a like term.

(c) Directors After the Founder Control Period.

(i) Upon termination of the Founder Control Period, the President shall call for an election by which the Owner Members shall be entitled to elect three directors. The two directors receiving the greatest number of votes in the election shall be elected to serve until the second annual meeting following their election. The other director shall be elected to serve until the first annual meeting following his or her election. All three directors shall be Owner Directors.

(ii) Upon expiration of the term of office of each Owner Director, the Members shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Notwithstanding anything to the contrary, no person may serve as an elected Owner Director more than two consecutive terms (regardless of length) and thereafter may not be nominated for or elected as an Owner Director until at least two years after their second elected term has expired; provided, however, an Owner Director who has served two consecutive elected terms may be nominated and elected for subsequent elected terms if no other eligible person is nominated for such Owner Director's position.

The diagram below illustrates the concept of transition of control of the Board during and after the Founder Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS		
Initial Board	75% of Lots Conveyed	Termination of the Founder Control Period
Founder	Founder	Owner Director
Founder	Founder	Owner Director
Founder	Owner Director	Owner Director

3.4. Nomination and Election Procedures.

(a) Nomination of Candidates. At least 90 days prior to any election of directors by the Owner Members, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve a term which expires immediately following the election for which the Nominating Committee was appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Owner Members at such election. In the Board's discretion, nominations may also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Owner Members and to solicit votes from the Owner Members.

(b) Solicitation of Candidates. Prior to disseminating ballots for the election of Owner Directors, the Board shall provide notice to all Owners soliciting candidates interested in running for a director position as required by and in accordance with *Tex. Prop. Code §209.00593*, as it may be amended or any successor Texas statute thereof.

(c) Election Procedures. At each election, voting shall be by ballot, which may be cast in any manner authorized by the Board consistent with Section 2.8. Each Owner Member may cast the vote assigned to his or her Lot for each position to be filled from any of the candidates. Notwithstanding this, if the number of candidates equals the number of positions to be filled and there are no nominations from the floor, any Owner Member may move to accept the slate of candidates nominated by the Nominating Committee, and, if approved, no balloting shall be required. Under no circumstances shall cumulative voting be permitted in any election of directors.

In the event of a tie vote, the Owner Members shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the existing Directors shall resolve the tie. Such election to resolve the tie shall be held by mail, with ballots to be sent by first class mail to each Owner Member entitled to vote on such slate within 10 days after the meeting at which the original election was held.

3.5. Removal of Directors and Vacancies.

Any Owner Director may be removed, with or without cause, by the vote of Owner Members representing a majority of the total votes in the Association. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Owner Members, the Owner Members, by the vote of Owner Members representing a majority of the total votes in the Association, shall elect a successor for the remainder of the term of such removed director.

At any meeting at which a quorum is present, a majority of the directors may remove any Owner Director who has three consecutive unexcused absences from Board meetings. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Owner Members shall elect a successor for the remainder of the term.

Any director whom the Board appoints shall be selected from among eligible Owners or residents of Lots within the Association.

This section shall not apply to directors the Founder appoints. The Founder may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Founder.

B. Meetings.

3.6. Organizational Meetings.

The Board shall hold an organizational meeting within 10 days following each annual Association meeting at such time and place as the Board shall fix.

3.7. Regular Meetings.

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

3.8. Special Meetings.

The President, Vice President, or any two directors may call a special meeting of the Board.

3.9. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting. Notice of any meeting which is conducted or which may be attended by conference telephone or other remote communications system in accordance with Section 3.10 shall specify the form of communications system to be used for the meeting and the means of accessing the communications system. The Board shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other

electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the day of the meeting. Notices sent by personal delivery, telephone, or electronic communication shall be delivered at least 72 hours before the time set for the meeting. No notice shall be required for regular meetings conducted in accordance with a published schedule, provided notice of the schedule was delivered to each director in accordance with this subsection (a).

(b) Notice of all Board meetings, setting forth the date, hour, place, and general subject of the meeting, including a general description of any matter to be brought up for deliberation in executive session, shall be given as follows:

(i) by mail to each Owner, not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(ii) at least 72 hours before the start of the meeting, sending the notice by e-mail to each Owner who has registered an e-mail address with the Association and either:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or on other property within the Subdivision, with the permission of the owner of such property; or

(B) posting on any Internet website maintained by the Association or other Internet media.

(c) If the Board recesses a Board meeting until the following regular business day, the Board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent the requirements of this Article III, Part B. If a Board meeting is continued to the following regular business day, and on that following day the Board continues the meeting to another day, the Board shall give notice of the continuation in at least one manner prescribed by subsection (b)(ii)(A) or (B) within two hours after adjournment of the meeting being continued.

(d) Except as otherwise specifically provided in subsection (e), the Board may meet by any means of communication, including electronic and telephonic communication pursuant to Section 3.10(b) without prior notice to the Owners, or the Board may take action by unanimous written consent pursuant to Section 3.14, without prior notice to the Owners, to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate Board action. Any action taken without notice to Owners under subsection (b) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next Board meeting.

(e) The Board may not, without prior notice to the Owners under subsection (b), consider or vote on fines; damage assessments; initiation of foreclosure actions; initiation of enforcement actions (other than temporary restraining orders or violations involving a threat to health or safety); increases in assessments; levying of special assessments; appeals from a denial of architectural control approval; lending or borrowing money; the adoption or amendment of a dedicatory instrument; the approval of an annual budget or the approval of an amendment to the annual budget by more than 10%; the sale or purchase of real property; the filling of a

vacancy of the Board; the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements; or the election of an officer. In addition, the Board may not consider or vote on suspension of a right of a particular Owner before the Owner has an opportunity to attend a Board meeting to present the Owner's position, including any defense, on the issue.

(f) Subsections (b) through (e) of this section shall not apply to a Board meeting during the Development and Sale Period unless the meeting is conducted for the purpose of:

- (i) adopting or amending the Governing Documents;
 - (ii) increasing the amount of the Regular Assessment or adopting or increasing a Special Assessment;
 - (iii) electing non-developer directors or establishing or modifying the process for their election;
- or
- (iv) changing the voting rights of Members.

Nothing in this subsection (f) shall authorize the Board to take action on any matter listed in clauses (i) through (iv) in contravention of the approval that would otherwise be required under the Governing Documents or Texas law.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting.

3.10. Telephonic Participation in Meetings.

(a) Except as otherwise authorized in this Section 3.10, all Board meetings shall be held within Montgomery County or an adjacent county.

(b) Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting may hear and be heard by every other Board member. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

(c) A meeting of the Board, or of any committee designated by the Board, may be held by means of a remote electronic communications system, including videoconferencing technology or the Internet, but only if: (i) each person entitled to participate in the meeting consents to the meeting being held by means of that system; and (ii) the system provides access to the meeting in a manner or using a method by which each person participating in the meeting can communicate concurrently with each other participant.

3.11. Quorum of Board.

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute

the Board's decision, unless Texas law, these By-Laws, or the Charter specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than 5 nor more than 30 days from the date of the original meeting without further notice other than an announcement at the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

3.12. Conduct of Meetings.

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

3.13. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to all Members, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak. The Board shall make agendas for its meetings reasonably available for examination by all Members or their representatives prior to the meeting.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and attendance at such meeting restricted to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting, to discuss matters of a sensitive nature, such as proposed, pending, or threatened litigation, or other matters specified by law. Following an executive session, any decision made must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of any Owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

3.14. Action Without a Formal Meeting.

Subject to Section 3.9, any action to be taken or which may be taken at a Board meeting may be taken without a meeting if the directors sign a written consent, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.15. Powers.

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Association's behalf all acts and things except those which the Governing Documents or Texas law require to be done and exercised exclusively by the membership.

3.16. Duties.

The Board's duties shall include, without limitation:

- (a) preparing and adopting, in accordance with the Charter, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying against and collecting assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility in a manner consistent with the Subdivision-Wide Standard;
- (d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) opening bank accounts on the Association's behalf and designating the signatories required;
- (f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents provided, if the Association proposes to contract for services that will cost more than \$50,000.00, it shall solicit bids or proposals for such services using a bid process established by the Board as required by *Texas Prop. Code §209.0052(c)*;
- (h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Charter;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping a detailed accounting of the Association's receipts and expenditures;
- (l) making available upon request to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Article 7; and
- (m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Texas law, the Certificate of Formation, or these By-Laws.

3.17. Conflicts of Interest.

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Association or any Association contractor during his or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Founder may be employed by or otherwise transact business with the Founder or any Founder Affiliate, and the Founder may transact business with the Association or its contractors.

Article 4 Officers

4.1. Officers.

The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the Association, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 5 Committees

5.1. General.

In addition to such committees as the Founder or Board may appoint pursuant to the Charter, the Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Members of any committee serve at the pleasure of the Board and have no authority to take action on behalf of the Association or the Board. Committees serve to inform and make recommendations to the Board. Each committee shall operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.9, 3.10, and 3.11 of those By-Laws. Notwithstanding the foregoing, at all DRC meetings, the quorum requirement shall be the presence of DRC members constituting at least 40% of all DRC members. Except as otherwise provided by Board resolution or the Governing Documents, a committee may meet by unanimous written consent of its members in lieu of a meeting.

5.2. Covenants Committee.

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at three Owners. Acting in accordance with the provisions of the Charter, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article 9 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.

Article 6 Standards of Conduct; Liability and Indemnification

6.1. Standards for Directors and Officers.

Board determinations of the meaning, scope, and application of Governing Document provisions shall, in the absence of an adjudication by a court of competent jurisdiction to the contrary, be final and binding as to all persons or property benefitted or bound by the provisions of the Governing Documents. The Board shall exercise its power in accordance with any applicable procedures established in the Governing Documents.

In performing their duties, directors and officers shall act as fiduciaries and shall be insulated from liability as provided for directors of corporations under Texas law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Texas law.

6.2. Liability.

(a) A director or officer shall not be personally liable to the Association, any Member, or any other Person for any action taken or not taken as a director or officer if he or she has acted in accordance with Section 6.1.

(b) Pursuant to the business judgment rule, a director also shall not be personally liable for any action taken or not taken as a director if the director:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which the director reasonably believes are necessary for the Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Lot or relationship to the Founder or a Founder Affiliate); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

(c) The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf.

6.3. Indemnification.

Subject to the limitations of Texas law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Texas law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association; or

(ii) intentional misconduct or knowing violation of the law; or

- (iii) an unlawful distribution to members, directors or officers; or
- (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.4. Advancement of Expenses.

In accordance with the procedures and subject to the conditions and limitations set forth in Texas law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

6.5. Board and Officer Training.

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable Texas corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The cost of such seminar shall be a Common Expense.

The Board also may provide, or provide for, Owner and resident education designed to foster a better understanding of Aria Isle at East Shore's governance and operations, and leadership training classes designed to educate Owners of the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

Article 7 Management and Accounting

7.1. Compensation of Directors and Officers.

The Association shall not compensate directors and officers for acting as such unless Owner Members representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

7.2. Right of Founder Member to Disapprove Actions.

So long as there is a Founder Membership, the Founder shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Founder's sole judgment, would tend to impair rights of the Founder or Builders under the Charter or these By-Laws, interfere with development or construction of any portion of East Shore, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this section have been met.

(a) Notice. The Association shall give the Founder written notice of all meetings of the membership, the Board, and committees and any actions which any of them propose to take by written consent in lieu of a meeting. The Association shall give such notice by certified mail, return receipt requested, or by personal delivery at the address the Founder has registered with the Association. Such notice shall comply as to Board meetings with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) Opportunity to be Heard. At any such meeting, the Association shall give the Founder the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

The Founder, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Founder, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was approved or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the approved action.

The Founder may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Founder shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

7.3. Management Certificate and Managing Agent.

The Association shall record a management certificate as required by *Tex. Prop. Code §209.004* and amend the same within 30 days of any change in the information required to be set forth therein. In addition, within seven days after recording an initial or amended management certificate, the Association shall electronically file a copy of the same with the Texas Real Estate Commission.

The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.16. The Board may employ the Founder or any Founder Affiliate as managing agent or manager.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Founder Control Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Founder Control Period upon not more than 90 days' written notice.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Association.

7.4. Accounts and Reports.

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

- (i) accounting and controls should conform to generally accepted accounting principles; and
- (ii) the Association's cash accounts shall not be commingled with any other accounts, and during the Founder Control Period, operating accounts shall not be commingled with reserve accounts;

(b) Commencing at the end of the Association's first full fiscal year, the following financial reports shall be prepared for the Association within 90 days after the end of each fiscal year:

- (i) an income statement reflecting all income and expense activity for the preceding fiscal year;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding fiscal year;
- (iii) a balance sheet as of the last day of the preceding fiscal year;
- (iv) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution); and
- (v) a statement of changes in financial position for the fiscal year.

Such annual report may be prepared on an audited, reviewed, or compiled basis, as the Board determines. A copy of the annual financial report shall be made available at no charge to any Member requesting a copy within 180 days after the close of the fiscal year.

(c) The Board shall report in writing to the Members any indemnification of or advancement of legal expenses to any officer, director, or committee member in accordance with *Tex. Business Organizations Code* §8.152, as it may be amended or any successor Texas statute thereof.

7.5. Borrowing.

The Association shall have the power to borrow money for any legal purpose and to pledge its property, including assessment revenues, as collateral for the debt.

7.6. Right to Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, any Neighborhood Association, amenity providers, and other owners or residents of associations within and outside of Aria Isle at East Shore.

7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

Article 8 Enforcement Procedures

The Association shall have the power, as provided in the Charter, to impose sanctions for any violation of the Governing Documents. If notice and an opportunity for a hearing is expressly required by the Charter, the Board shall comply with the following procedures prior to imposition of sanctions:

8.1. Notice and Response.

The Board or its delegate shall serve the alleged violator and/or the Owner with written notice, by certified mail, return receipt requested,

- (a) describing the alleged violation or property damage which is the basis of the proposed sanction or amount due to the Association, as applicable;
- (b) describing the proposed sanction to be imposed; and
- (c) informing the alleged violator and/or Owner that:
 - (i) he or she has 30 days after receipt of the notice to present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 6;
 - (ii) he or she may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 *et seq.*), if serving on active military duty;
 - (iii) attorneys fees and costs may be charged if the delinquency or violation continues after a certain date; and
 - (iv) if the violation is of a curable nature and does not pose a threat to public health or safety, he or she may avoid the proposed sanction by curing the violation within a reasonable cure period stated in the notice.

Notwithstanding the above, the Association shall have no obligation to provide notice or a cure period if the alleged violator has been given notice of a similar violation within the preceding six months. If the hearing

is to be held before a Covenants Committee, the notice shall also state that the alleged violator has the right to appeal the decision of the Covenants Committee to the Board.

The alleged violator shall respond to the notice of the alleged violation in writing within such 30-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board of such cure in writing within such 30-day period the Board may not assess a fine for such violations and may, but shall not be obligated to, waive or suspend the imposition of others sanctions. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. If a timely request for a hearing is not made, the sanction stated in the notice may be imposed without further action. Notwithstanding any suspension of proceedings hereunder, subject to Texas law, if the same or similar violation is reported within 12 months after the date of the notice of the original violation, the Association may pursue any and all sanctions described in the original notice without further notice to the alleged violator.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

8.2. Hearing.

If a hearing is requested within the allotted 30-day period, the hearing shall be held before the Covenants Committee, or if one has not been appointed, then before the Board in executive session within 30 days after receipt of the alleged violator's request. Either the Board or the alleged violator may request a postponement of up to 10 days, and such postponement shall be granted. Additional postponements may be granted upon agreement of both the Association and the alleged violator. The Board shall notify the alleged violator at least 10 days prior to the hearing of the time, date, and place of the hearing and provide the Owner with a packet containing all documents, photographs, and communications relating to the matter the Association intends to introduce at the hearing. If the Association does not provide such packet at least 10 days prior to the hearing, the Owner is entitled to an automatic 15-day postponement of the hearing. At the hearing, a member of the Board or the Association's designated representative shall first present the Association's case against the Owner. The alleged violator shall be afforded a reasonable opportunity to be heard and both the Association and the Owner shall be entitled to make an audio recording of the hearing. If the alleged violator fails to appear, a hearing may be held in his or her absence. The Board may adopt rules for the conduct of such hearings that may include, without limitation, rules that govern the presentation of evidence and witnesses and the ability of an alleged violator to question adverse witnesses. The minutes of the meetings of the Board or Covenants Committee, as applicable, shall contain a written statement of the results of the hearing (i.e., the Board's or Committee's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three days after the hearing.

8.3. Appeal.

Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board in accordance with *Tex. Prop. Code* §209.007, as it may be amended or any successor Texas statute thereof.

Article 9 Miscellaneous

9.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Texas law or the Governing Documents.

9.3. Conflicts.

If the Governing Documents violate any applicable provision of Texas law, such provision of Texas law shall control. If there are conflicts among the provisions of the Certificate of Formation, the Charter, and these By-Laws, the provisions of the Charter, the Certificate of Formation, and the By-Laws (in that order) shall prevail.

9.4. Books and Records.

(a) Document Retention. The Board shall be responsible for compliance with the following document retention policy relating to the Association's books and records:

- (i) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;
 - (ii) financial books and records shall be retained for seven years;
 - (iii) account records of current owners shall be retained for five years;
 - (iv) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;
 - (v) minutes of meetings of the owners and the board shall be retained for seven years;
- and
- (vi) tax returns and audit records shall be retained for seven years.

(b) Turnover of Books and Records. Within 90 days after termination of the Founder Control Period, the Founder shall deliver to the Association all property, books and records of the Association in the Founder's possession.

(c) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Governing Documents, the membership register, books of account, the minutes

of meetings of the Members, the Board, and committees, and any other records as required by Texas law. The Board shall provide for such inspection to take place within 10 business days after receipt of a written request for access at the Association's office or at such other place within East Shore as the Board shall designate. The Association shall not be required to make available for inspection or copying any records that identify:

- (i) a particular Owner's violation history, personal financial information, history of payments or delinquencies in paying amounts due to the Association, or contact information other than address; or
- (ii) information related to an Association employee, including personnel files;

unless the Owner or employee whose records would be disclosed has given his or her prior written approval to release such information or a court orders such records to be released or made available to the requesting Owner or his or her representative.

(d) Rules for Inspection. An Owner or the Owner's authorized representative must submit to the Association a written request for access to inspect or copies of books and records under subsection (b), identifying the specific books and records or information desired. Such request shall be mailed by certified mail to the Association's mailing address or that of its authorized representative as reflected on the most current management certificate filed under *Tex. Prop. Code §209.004*, as it may be amended or any successor Texas statute thereof. The request must contain an election either to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records and:

(i) if an inspection is requested, then on or before the 10th business day after the date the Association receives the request, the Association shall send written notice to the Owner of dates during normal business hours that the Owner or its authorized representative may inspect the requested books and records, to the extent those books and records are in the possession, custody, or control of the Association; or

(ii) if copies of identified books and records are requested, then the Association shall produce the requested books and records, to the extent required under subsection (c) and in the possession, custody, or control of the Association, on or before the 10th business day after the date the Association receives the request, except as otherwise provided by *Tex. Prop. Code §209.005*, as it may be amended or any successor Texas statute thereof.

The Board shall establish a records production and copying policy that prescribes the charges to be paid by the Owner for compilation, production, and reproduction of information requested by such Owner or its authorized representative under this Section, which charges may include all reasonable costs of materials, labor, and overhead, but may not exceed costs that would be applicable for an item under 1 T.A.C. Section 70.3, as it may be amended or any successor Texas statute thereof ("**Authorized Charges**"). No charge shall be made pursuant to such policy until the policy has been recorded as required by *Tex. Prop. Code §209.005*, as it may be amended or any successor Texas statute thereof, and *§202.006*, as it may be amended or any successor Texas statute thereof. The Association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the Authorized Charges vary from the estimate, the Association shall submit a final invoice to the Owner on or before the 30th business day after the date the information is delivered reflecting the variance and any balance or refund due. Any balance due which is not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Owner may be added to the Owner's account as an assessment. Any amount paid in excess of

Authorized Charges shall be refunded to the Owner not later than the 30th business day after the date the invoice is sent to the Owner.

(e) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

9.5. Notices.

(a) Form of Notice and Method of Delivery. Except as otherwise provided in the Charter or these By-Laws or by Texas law, all notices, demands, bills, statements, or other communications under the Charter or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or electronic mail with written confirmation of transmission. It is the responsibility of each Member to give notice to the Association of any change in the Member's address, facsimile number, or email address. Where the Governing Documents or applicable law require notice to an Owner or Member, notice given to any co-Owner of a Lot shall be deemed notice to all co-Owners of such Lot.

(b) Delivery Address. Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member, at the address, telephone facsimile number, or e-mail address which the Member has designated in writing and filed with the Secretary or, if no such address or number has been designated, at the address of the Lot of such Member;

(ii) if to the Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association shall designate by notice in writing to the Members pursuant to this section; or

(iii) if to the Founder, at the Founder's principal address as it appears on the Secretary of State's records, or at such other address as the Founder shall designate by notice in writing to the Association pursuant to this section.

(c) Effective Date. Notice sent in accordance with Sections 9.5(a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.6. Amendment.

(a) By Founder. Prior to termination of the Founder Control Period, the Founder may unilaterally amend these By-Laws. Thereafter, the Founder may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Lots. So long as there is a Founder Membership, the Founder Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any Member's right.

(b) By Owner Members Generally. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Owner Members representing 67% of the total votes in the Association, and the consent of the Founder if Founder Membership exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon recordation in the Real Property Records of Montgomery County, Texas, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its adoption, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Membership without the written consent of the Founder, the Founder Member, or the assignee of such right or privilege.