

**DECLARATION OF RESTRICTIONS**

**FOR**

**WALDEN ON LAKE CONROE, SECTION ONE**

This Declaration of Restrictions is made on the date set forth below by **Walden on Lake Conroe Community Improvement Association, Inc.** a Texas non-profit corporation (herein “**Association**”). This Declaration of Restrictions **replaces, amends, and supersedes** the Restrictions, **Walden on Lake Conroe, Section One**, (herein “**Superseded Restrictions**”) recorded on May 12, 1972 in the Official Public Records of Real Property of Montgomery County, Texas, under Clerk’s File No. 287879 and Volume 772, Page 848 et seq.

**WITNESSETH**

WHEREAS, **Walden on Lake Conroe, Section One**, is a subdivision of real property located in Montgomery County, Texas, according to the map or plat recorded in Volume 10, Page 16 of the official Map Records of Montgomery County, Texas (herein “**Property**” or “**Subdivision**”); and

WHEREAS, it is the intent of the Association to place certain restrictions, covenants, conditions, stipulations and reservations upon and against such Property in order to establish a uniform plan for the development, improvement and sale of such Property, and to insure the preservation of such uniform plan for the benefit of both present and future owners of Lots in said Subdivision; and

WHEREAS, Article VII, Section 1 of the Superseded Restrictions does not allow for modification of the Superseded Restrictions until after the end of 40 years from the date the Superseded Restrictions were recorded and only then by a majority of the Owners; and

WHEREAS, Texas Property Code, Section 209.0041 (h) gives property owners the right to amend the Superseded Restrictions by a vote of the majority of the total votes allocated to the property owners in the Association. Specifically, Texas Property Code, Section 209.0041 (h) states, “a declaration may be amended only by a vote of 67 percent of the total votes allocated to property owners in the property owners' association . . . If the declaration contains a lower percentage, the percentage in the declaration controls.”; and

WHEREAS, Texas Property Code, Section 209.0041 (e) states, “[t]his section applies to a dedicatory instrument regardless of the date on which the dedicatory instrument was created.”;

WHEREAS, Texas Property Code, Section 209.0041 (f) states, “[t]his section supersedes any contrary requirement in a dedicatory instrument.”;

WHEREAS, Texas Property Code, Section 209.002 (3) states, “‘Declaration’ means an instrument filed in the real property records of a county that includes restrictive covenants governing a residential subdivision.”;

WHEREAS, Texas Property Code, Section 209.002 (4) states, “‘Dedicatory instrument’ means each governing instrument covering the establishment, maintenance, and operation of a residential subdivision . . . The term includes restrictions . . .”;

WHEREAS, the Superseded Restrictions have been amended by a vote of at least a majority of the total votes allocated to property owners in this Section of the Association thereby approving these Declaration of Restrictions as attested to by the President of the Association below;

**NOW, THEREFORE,** the Association declares that all real property within the subdivision including all Lots and Common Properties shall be held, sold, conveyed and made known subject to the following easements, restrictions, covenants, conditions, charges and liens

(sometimes referred to collectively as “**covenants, conditions and restrictions**”) all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Lots. These covenants, conditions and restrictions shall run with said Property, including the Lots, and shall be binding upon all parties having or acquiring any right, title or interest in any Lot, their heirs, successors and assigns and shall inure to the benefit of each Owner. **EXCEPT** the two tracts designated as ACREAGE on the Subdivision Plat which tracts are immediately south of Melville Drive and north of Blocks Two (2) and Six (6) are not a part of this Property and are not subject to this Declaration.

## **ARTICLE 1**

### **DEFINITIONS**

SECTION 1.1. “**Architectural Control Committee**” or “**ACC**” shall mean the Architectural Control Committee as provided for in Article 4.

SECTION 1.2. “**Association**” shall mean Walden on Lake Conroe Community Improvement Association, Inc., a Texas non-profit corporation, its successors and assigns, acting through its employees, property manager, General Manager, and Board of Trustees and officers.

SECTION 1.3. “**Board**” shall mean the Board of Trustees of the Association.

SECTION 1.4. “**Builder Owner**” shall be any person or entity who acquires a Lot or Lots for the purpose of engaging in the business of constructing Single-Family residential dwellings for the purpose of resale.

SECTION 1.5. “**Common Properties**” and/or “**Common Areas**” shall mean all properties, real or personal, owned, leased or used by the Association for the common use and enjoyment of the Members, including all amenities and improvements on such properties.

SECTION 1.6. “**Declaration**” shall be this Declaration of Restrictions which is also

known and commonly referred to as Deed Restrictions.

SECTION 1.7. “**Governing Documents**” shall be: (a) Articles of Incorporation or Certificates of Formation, as it may be amended, filed with the Secretary of State of Texas; (b) Bylaws, as it may be amended; and, (c) all documents, policies, rules, and regulations of the Association to include but not limited to Design Guidelines, Board Policies, and Home Building Requirements, which may be modified from time to time at the sole discretion of the Board for the betterment of the Association. This definition does not include the Declaration.

SECTION 1.8. “**Green Space**” shall mean a Lot that has been dedicated to or by the Association to be used solely as open space. A Lot designated as Green Space shall not be used as a park, playground, ballpark, soccer field, recreational field, or any other use.

SECTION 1.9. “**Lot**” shall mean the Lot, whether one or more, shown upon the Subdivision Plat which is restricted to use for Single-Family residential dwellings only.

SECTION 1.10. “**Member**” shall mean those persons who are the Owners of properties which are subject to a maintenance charge assessed by the Association and who are entitled to membership in the Association. The Association shall have only one class of voting membership.

SECTION 1.11. “**Natural Resources**” shall mean oil, gas and other minerals. “Other minerals” shall include coal, lignite, uranium, sulphur, iron ore, and every other “mineral”, now or hereafter recognized as such under the laws of the State of Texas.

SECTION 1.12. “**Occupant**” shall mean any person including the Owner or Renter residing in the residence on any Lot.

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SECTION 1.13. “**Owner**” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Properties. In the event of the execution of a contract for sale covering any Lot, the “Owner” shall be the purchaser named in the contract.

This definition excludes those having an interest in the Lot merely as security for the performance of an obligation and those having only an interest in the mineral estate.

SECTION 1.14. “**Properties**” shall mean that certain real property and portions of same in this Subdivision and any additional properties made subject to these terms pursuant to the provisions set forth in this Declaration.

SECTION 1.15. “**Renter**” shall mean any person or persons who may occupy a residence under contract for the purpose of occupying the premises as a residence regardless of the term of contract. Renters shall be subject to “Single Family” definition.

SECTION 1.16. “**Section Association**” shall mean any non-profit corporation established in the same manner as the Walden on Lake Conroe Community Improvement Association, Inc. but for the benefit of the Subdivision.

SECTION 1.17. “**Section Association Maintenance Fund**” shall mean the maintenance fund established by the Section Association and for the benefit of the Subdivision.

SECTION 1.18. “**Single-Family**” shall be a husband and wife, two parents/partners, or an individual, with or without children or grandchildren (natural, adopted, or foster), Mother and/or Father, Mother-in-law and/or Father-in-law or the Legal Guardians of such children.

SECTION 1.19. “**Subdivision**” shall be the section of Walden on Lake Conroe as identified on the Subdivision Plat.

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SECTION 1.20. “**Subdivision Plat**” shall mean the map or plat of **Walden on Lake Conroe, Section One**, recorded in Volume 10, Page 16, of the Map Records of Montgomery County, Texas.

## ARTICLE 2

### RESERVATIONS, EXCEPTIONS AND DEDICATIONS

SECTION 2.1. Subdivision Plat Dedications. The Subdivision Plat dedicates for use as such, subject to the limitations set forth in it, the streets and easements shown on the Subdivision Plat and further establishes certain restrictions applicable to the Properties, including, without limitation, certain minimum setback lines. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat are incorporated in and made a part of this Declaration as if fully set forth in it, 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 the Association or an Owner conveying all or part of said Property, whether specifically referred to or not in the contract, deed, or conveyance.

SECTION 2.2. Utility Easements. The Association reserves the easements and rights-of-way as shown on the Subdivision Plat for the purpose of constructing, maintaining and repairing utilities including but not limited to a system for electrical use including lighting and power, telephones, water, gas, sewer, storm sewer, cable use including television and internet, and/or any other utility the Association, in its complete discretion, shall install, assign or cause to be installed in, across and/or under the Properties but only on those easements and rights-of-way established by plat or otherwise as of the date of this Declaration.

SECTION 2.3. No Liability for Utility Easement Use. Neither the Association nor any utility or contracting company using the utility easement or right-of-way referred to in this

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Declaration, shall be liable for any damages done by them or their assigns, their agents, employees or servants, to fences, grass, shrubbery, trees, flowers, or any other property, structure, or improvement of the Owner situated on the land covered by said utility easement or right-of-way.

SECTION 2.4. Easements Generally. It is expressly agreed and understood that the title conveyed by the Association or an Owner to any Lot or parcel of land within the Properties by contract, deed or other conveyance shall be subject to any easement affecting same for roadways

or drainage, electrical use including lighting and power, telephones, water, gas, sewer, storm sewer, cable use including television and internet purposes, or any other utility. The title conveyed by the Association or an Owner shall convey no interest in any pipes, lines, poles or conduits, or in any utility facility or appurtenances constructed by or under the Association or any easement owner, or their agents, through, along, or upon the premises in whole or in part affected to serve said land or any other portion of the Properties. The rights to maintain, repair, sell or lease such appurtenances to any municipality or other governmental agency or to any public service corporation is expressly reserved to the Association.

SECTION 2.5. Purchase of Other Lots. In its complete discretion, the Association shall have the right and authority to purchase or otherwise acquire any Lot by deed or at any foreclosure sale or by any other method of acquisition. The Association shall then have the right and authority to sell or trade/exchange any Lot it owns for another Lot in the Subdivision. The Association shall also have the right to convert any Lot it owns into Green Space.

SECTION 2.6. Conversion of Lot into Common Property. The Association shall have the right and authority to convert a Lot owned by the Association into Common Property. The conversion of such Lot into Common Property shall not be effective without the affirmative vote,

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in person or by proxy or by written consent of the Owners of not less than a majority of the Lots covered by this Declaration.

### **ARTICLE 3**

#### **USE RESTRICTIONS**

##### SECTION 3.1. Land Use.

(a) All Lots shall be known and described as Lots for Single-Family residential dwellings only (herein “**Residential Lots**”), and no structure shall be erected, altered, placed or permitted to remain on any Residential Lot other than one Single-Family dwelling (which may

also be referred to in this Declaration as a “**home**” or “**residence**”). Nothing herein is intended to prohibit the building of a Single-Family residential dwelling on two or more contiguous Lots so long as such construction is approved in writing by the ACC as required by Article 4 and the affected Lots are re-platted.

(b) As used herein, the term “**Residential Purposes**” shall be construed to prohibit the use of said Lots for duplex houses, garage apartments, and/or apartment houses. No Lot or residence shall be used for any of the following activities or purposes of any kind: trade, business, professional, commercial, manufacturing, or regular church or religious services. However, an Owner or Occupant residing at the residence may conduct business activities within the residence as long as: (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; (2) the business activity conforms to all zoning and deed restriction requirements; (3) the business activity does not involve regular visitation to the residence by clients, customers, suppliers or other business persons, excluding regular mail delivery and recognized delivery companies, such as FedEx and UPS; (4) the business activity does not involve door-to-door solicitation of residents of the

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Subdivision; (5) the business activity is consistent with the residential character of the properties; (6) the Board and the neighbors do not consider the business activity to constitute a nuisance or annoyance; (7) the business activity does not result in increased traffic such that ingress or egress of everyday vehicular traffic or of emergency vehicles is hindered; and (8) no marketing or advertising of such use is permitted including but not limited to the placement of signs on the Lot. The Board shall use the above referenced factors in order to determine whether a particular business activity violates this restriction.

(c) No building of any kind or character shall ever be moved or placed onto any Lot within said Subdivision; it being the intention that only new construction shall be erected on the Lot.

SECTION 3.2. Recreational Items.

(a) No above-ground pools shall be erected, constructed or installed on any property.

(b) Forts, swing sets, trampolines, play structures, and other recreational items shall be restricted in height, size and location as approved by the ACC, shall be screened from public view, and shall not be permitted in any easement.

SECTION 3.3. Roof, Window A/C, Disposal, and Landscaping.

(a) Roof. No external roofing material other than asphalt, tile, metal (except corrugated and flat panel metal) or composition roof shall be constructed or used on any building in any part of the Properties. Any additional material will be considered in the Building Guidelines.

(b) Window A/C. No window air conditioners shall be permitted to be used, erected, placed, or maintained on or in any building in any part of the Properties. Air conditioners placed through a wall are permitted only if they are approved in writing by the ACC and blend harmoniously with the exterior architecture.

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(c) Disposal. Each kitchen in each residence situated on any Lot shall be equipped with a working garbage disposal unit.

(d) Landscaping. Before any landscaping shall be done in the front of any newly constructed dwelling, the landscape layout and plans shall have been first approved by the ACC. Such landscaping is to be done in the parkway area and on the front of the Lot at the time the dwelling is being completed and before occupancy. Corner lots shall also be landscaped on the side yard area. Landscaping shall be maintained by the property Owner at all times.

SECTION 3.4. Building Location. No building shall be located on any Lot nearer to the

front lot line or nearer to the side street line than the minimum building setback lines shown on the Subdivision Plat. For the purpose of this covenant, the front of each Lot shall coincide with and be the property line having the smallest or shortest dimension abutting a street. The rear property/building line shall be as it exists on the original plat on waterfront properties.

SECTION 3.5. Annoyance or Nuisance.

(a) No noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to any person or entity shall be carried on upon any Lot.

(b) The display or shooting of firearms, fireworks, or firecrackers is expressly forbidden. The sale or use of fireworks of any kind whatsoever is strictly prohibited on any property within the Subdivision.

(c) Except in the following limited circumstances, hunting of any kind and by any method is prohibited. The Board is authorized to control and manage the wildlife population in the Subdivision. In addition, the Board shall have the authority to help control and manage other infestations.

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SECTION 3.6. Temporary Structures.

(a) No structure of a temporary character, whether mobile home, trailer, basement, tent, shack, garage, barn or other outbuilding shall be maintained or used on any Lot at any time as a residence or for any other purpose, whether such purpose is temporary or permanent.

(b) The Association reserves unto itself, or unto any other person or entity it may allow, the exclusive right to erect, place and maintain such facilities in or upon any portions of the Properties as may be necessary or convenient while constructing other improvements upon the Properties or Common Properties. Such facilities which may be allowed include, but are not

necessarily limited to sales and construction offices, storage areas, model units, signs, and portable toilet facilities.

(c) No garage, servants' quarters or other accessory structure shall be erected, placed or maintained on any Lot until such time as construction of the main residential dwelling has commenced.

(d) Any structure on which construction has commenced must be completed within the time determined by the Board as reasonable.

#### SECTION 3.7. Boats and Vehicles.

(a) The following prohibition found in this section specifically includes any vehicle which is:

1. disabled, or otherwise inoperable; or
2. not currently licensed or registered, if required by law to be such.

(b) No boats, personal watercrafts, or any other watercrafts, boat trailers, utility trailers, travel trailers, or any other trailers, campers, recreational vehicles, mobile homes, residential campers, semi-truck tractors, tow trucks, all-terrain vehicles including 3 or 4-wheelers, go-carts,

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motorcycles, off-road motor bikes, bicycles, golf carts, or commercial vehicles shall be brought upon, parked, or stored in public view on any Lot, driveway, street right-of-way or adjacent property. No vehicle may be repaired on any street or Lot unless such vehicle is concealed inside a garage or another ACC approved structure during the repair. However, this prohibition is not to be construed to prohibit a temporary placement or parking of such vehicles and items listed in this section for short periods of time as may be determined by the Board in its absolute discretion, in preparation for taking the same to some other location for use or storage. Further, this prohibition is not to be construed as prohibiting the parking of vehicles and equipment as necessary for the construction or remodeling of improvements upon any Lot.

(c) Parking any vehicle including personal operable vehicles such as automobiles, trucks, and motorcycles of any kind, or parking any of the vehicles and other items listed in this section on lawns, pipeline easements, open space areas or dirt, grassy or gravel areas, Green Space, or on Common Properties not designated for parking shall be strictly prohibited. Further, there shall be no parking of any vehicle on any street right-of-way in such a way as to inhibit ingress and egress in the street, such as parking one vehicle directly across from another vehicle on the street.

(d) Driving any vehicle, including personal operable vehicles such as automobiles, trucks, and motorcycles of any kind, golf carts or driving any of the vehicles and other items listed in this section, on sidewalks, pipeline easements, Green Space, Common Properties not designated for driving, and across any Lot shall be strictly prohibited.

(e) Any storage in excess of 3 consecutive days of such vehicles listed in (a) and (b) above and other items must be screened from public view either within the garage, behind a fence, or a structure which has been submitted to and approved by the ACC. If the vehicle is not screened, it must be removed from the Properties for at least 4 days.

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(f) No motor bikes, motorcycles, motor scooters, golf carts or other vehicles of that type shall be permitted in the Subdivision if they are a nuisance by reason of noise or manner of use as determined in sole judgment of the Board.

(g) A commercial vehicle includes, but is not limited to all commercial trucks, commercial vans, commercial four-wheel drive vehicles (exclusive of station wagons, passenger cars and non-commercial trucks), boat trailers, and any motor vehicle designed, used or maintained for transporting or delivering property or material used in trade or commerce, or any vehicle used in providing service from a commercial establishment.

(h) Any commercial or non-commercial vehicle with a company logo, identification sign, ad wrap, or other advertising permanently or temporarily on the vehicle can only be parked on or

within the vehicle's owner's/driver's driveway, garage, fence, or structure approved by the ACC. If said vehicle has more than 20% of its surface area covered either permanently or temporarily by a company logo, identification sign or other advertising ("wrapped vehicle") the wrapped vehicle must be hidden from view when seen from the street, Golf Course and Lake Conroe. The wrapped vehicle must be hidden from view by parking it in a garage or in another structure or behind a fence; said garage, other structure, and fence must be approved in writing by the ACC.

SECTION 3.8. Signs. No signs, billboards, posters, or advertising devices of any character shall be erected, permitted or maintained on any Lot, whether improved or unimproved, without the express prior written consent of the Association. However, a Builder Owner or Owner may place on each Lot owned by such Builder Owner or Owner, during the construction and/or sales period of improvements, one sign of not more than five square feet of

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sign space. The Association shall have the right to remove any sign not complying with the above restriction, and, in so doing, shall not be liable and are expressly relieved from any liability for trespass or other tort in connection with or arising from such removal. The right is reserved by the Association to construct and maintain such signs, billboards or advertising devices in connection with the general sale of property or necessary for efficient operation of the Association and for safety of its Members and guests.

SECTION 3.9. Natural Resources & Water Operations.

(a) No oil drilling or development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure

designed or used in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot. No other recovery of natural resources of any kind shall be permitted.

(b) Irrigation water wells may be permitted on a Lot with written approval from the ACC. Any irrigation water well must be screened from public view and in compliance with all applicable regulations and permitting agencies.

SECTION 3.10. Storage and Disposal of Garbage and Refuse.

(a) No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste materials shall not be kept except in sanitary containers constructed of metal, plastic or masonry materials with sanitary covers or lids. Equipment for the storage or disposal of such waste materials shall be kept in clean and sanitary condition.

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(b) Residential trash must be kept inside trash containers which shall be placed and removed from a Lot at the location and at the times specified by the Board. Containers may not be stored in public view on no-trash pick-up days.

(c) No Lot shall be used for the open storage of any materials whatsoever, where storage is visible from the street. No portable or mobile moving or storage units (also known as “PODS”) are allowed on any Lot except for loading and unloading such unit over a 72 hour period. However, new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

SECTION 3.11. Underground Electric Distribution System.

(a) The type of electric service supplied to Owners will be as specified by the electrical utility supplier. Only underground service (except for temporary overhead service for

construction purposes) will be furnished by the electric service provider in the Subdivision. Such service will be from the underground electric system to be installed by the electric service provider. Owners agree that only underground electric service as specified by the electrical utility supplier will be available for Lots. The locked rotor current of any motor connected to this service will be limited in accordance with the standard services practices of the electric service provider. No above surface electric service wires will be installed outside of any structure.

(b) It is also understood and agreed that individual underground electric service drops will extend through and under Lots in order to serve the residence on the Lot at locations

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satisfactory to the electric service provider. The electric service provider may install, maintain, repair, replace and remove said underground service drops, and open the ground for any such purpose or purposes; no payment will be due or made by any utility company for such use or activity.

(c) The utility easement areas dedicated and shown on the recorded Subdivision Plat may be cleared and kept clear by any utility of all trees, bushes, and other growth, including overhanging branches from trees or protrusions from structures located upon adjacent property, without payment to Owners by such utility for such clearance, cutting or trimming.

#### SECTION 3.12. Lot Maintenance.

(a) The Owners or Occupants of all improved Lots and of homes shall at all times keep all vegetation, landscaping, trees and grass cut in a sanitary, healthful and attractive manner and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements or incident to construction of improvements as permitted or permit the accumulation of garbage, trash, debris, or rubbish of any kind. No Owner or Occupant shall burn garbage, trash, debris or rubbish on any Lot or Common Property at any time.

(b) The drying of clothes in full public view is prohibited. The Owners or Occupants of any Lots where the rear yard or portion of the Lot is visible to full public view shall construct and maintain a suitable enclosure as approved by the ACC to screen the following from public view: drying of clothes; yard equipment; wood piles; or, storage piles which are incident to the normal residential requirements of a typical family.

(c) In the event of default on the part of the Owner or Occupant, as the case may be, of any Lot in observing the above requirements in this Section and such default continues after 10

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days written notice, the Association may, at its option, without liability to the Owner or Occupant in trespass or otherwise enter upon said Lot and cut such weeds and grass; trim trees or remove dead trees; and remove such garbage, trash and rubbish or do any other thing necessary to secure compliance with this Section so as to place said Lot in a neat, attractive, healthful and sanitary condition. The Association may charge the Owner or Occupant of such Lot for the cost of such work. The Owner or Occupant, as the case may be, agrees by the purchase or occupancy of the Lot to pay such statement immediately upon receipt. If the charge remains unpaid after 30 days, the Association may add the charges to the assessment account of the delinquent Owner and may collect it as it would a delinquent assessment. The charges shall be secured by the Association's lien.

(d) The Owners or Occupants of all homes shall at all times keep the home in such a manner that all exterior walls, roof, doors, windows, and all things on the home's exterior are of a sanitary, healthful and an attractive condition.

(e) All driveways will be maintained and kept in an attractive condition.

(f) No live tree having a diameter of greater than six (6) inches measured at 4.5 ft. (137 cm) above ground level shall be removed from any lot without the express written authorization of the ACC. Measurement at this height is referred to as diameter at breast height or DBH.

(g) All dead trees, tree limbs or tree debris must be removed from any unimproved lots.

SECTION 3.13. Septic Tanks. No septic tank may be installed on any Lot which is served by a central sanitary sewer system.

SECTION 3.14. Pets. No horses, cows, hogs, poultry, or livestock of any kind (other than house pets of reasonable kind and number) may be kept on any Lot. Should such pets become a nuisance in the opinion of the Board in its complete discretion, they must be removed

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from the Lot and the Subdivision. No pets are to run at large including dogs and cats which must be on a leash or under the Owner's/Occupant's control at all times. No Lot shall be used for the commercial breeding of any animals or the intentional feeding of any ground dwelling wild animal, including but not limited to deer.

SECTION 3.15. Drainage of Streets. Natural drainage of streets or roadway ditches will not be impaired by any person or persons. Driveway culverts will be of sufficient size to afford proper drainage of ditches without backing water up into the ditch or diverting flow. The materials, size, and dimension of the culverts shall be determined in the absolute discretion of the Association. The Association may remove any culvert that obstructs the flow of water through the street ditches. The breaking of curbs for drive installations will be accomplished in a good and workmanlike manner and such break will be re-cemented without hindrance to drainage. Curb breaks shall be sawed vertically and joints reinforced. Such work is subject to the inspection and approval of the ACC.

SECTION 3.16. Drainage of Properties. The Association shall have no responsibility or liability for any damages under any circumstances arising out of drainage and/or drainage problems including but not limited to flooding of the streets, Common Areas, Lots, and homes within the Subdivision. Drainage shall be the sole responsibility of the Owners and the Municipal

Utility District or other governmental body. The Association is not in the business of drainage for any purpose.

SECTION 3.17. Rental Leases. The Board may require that all leases for any Property must (a) be in writing and (b) provide that such leases specifically are subject to the provisions of this Declaration, and all other Governing Documents of the Association. Said lease shall provide that any failure of the Renter to comply with the terms of these Governing Documents shall be a

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default under such lease. Each Owner is required to provide a copy of the lease or a lease memorandum to the Association. It is expressly forbidden to rent, loan or lease an Owner's Lot or home to more than one Single-Family.

SECTION 3.18. Noise Regulation. No Owner shall make, cause, allow or permit a sound nuisance. The Board may make such rules as are reasonably necessary to prevent noise from becoming a nuisance including but not limited to setting maximum decibel levels, setting directional requirements of sound emitting devices, and setting times of the day for operation of sound emitting devices.

SECTION 3.19. Infringement. An Owner shall do no act nor any work which will impair the structural soundness or integrity of another Lot or of improvements or easements on another Lot nor do any act or allow any condition to exist which will adversely affect other Lots, improvements, or easements.

SECTION 3.20. Liability. Unless caused by its own gross negligence or intentional act, the Association shall not be responsible for any loss, damage or injury, occurring in or around the Common Areas, Green Space, Lake Conroe or any area with a utility or other easement to any person including but not limited to Owners, Occupants, their guests, family, invitees, Renters, or agents.

SECTION 3.21. Clarification. The Governing Documents, excluding this Declaration,

as modified or revised at the complete discretion of the Board, may be used to clarify this Declaration and may be enforced at the sole discretion of the Association. This power is limited only by the Legend Modification Restrictions.

SECTION 3.22. Re-built or Tear-down Homes. A Lot owner may not re-build or tear-down any home which has been damaged by fire, flood, tornado, or any other natural or man-

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made cause without first submitting plans for such work to and getting the written approval from the ACC. For burned homes, a maximum time allowance for demolition is nine (9) months from the date of the fire. The property shall be barricaded to prevent access from the date of the fire, through demolition and until all debris is removed. For burned or tear-down homes, a maximum time allowance for reconstruction is nine (9) months from the date reconstruction is started. Prior to demolition, an assessment will be made by a certified inspector. Once material is removed, a follow up framing inspection will be conducted to assure no further removal is necessary. Additional inspections, including energy and final inspections must also be completed. Certifications by a licensed electrician for the electrical system, licensed plumber for the plumbing system and licensed HVAC technician for the mechanical system will be required if any portion of the existing systems are to be kept, noting that each system is in good working order.

SECTION 3.23. Green Energy Devices. The Association encourages water conservation and the use of green energy devices in the subdivision. Green energy is mechanical or electrical power created by collecting and transferring solar, wind, and water generated energy. Water conservation devices include but are not limited to water wells, rain barrels and rainwater harvesting systems. An Owner must apply for and obtain written approval from the ACC prior to installing or using any water conservation and green energy devices.

SECTION 3.24. Additional Use Restrictions. The Subdivision shall be subject to

additional “use restrictions” provided in the attached and incorporated **Exhibit “A,”** as if copied verbatim in this Declaration.

SECTION 3.25. Building Requirements Not Retroactive. The building requirements contained in Section 3.4 above and the attached Exhibit A of this Declaration of Restrictions

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shall not apply to existing structures and improvements (including, without limitation, buildings, roofs, decks, fences, dwellings, garages, driveways, sidewalks, swimming pools, gazebos or any other structures or improvements) so long as such structures or improvements were not in violation of the Superseded Restrictions or so long as there is a Variance on file with the County. Nevertheless, any such structure or improvement shall be subject to the provisions of Section 3.4 and Exhibit A of this Declaration of Restrictions if any remodeling, additions to, modifications, painting of, or repairs occur after the effective date of this Declaration of Restrictions.

SECTION 3.26. Right of Entry. In addition to the self-help remedy found in Section 3.12(c), Lot Maintenance, the Association or its agents shall have the right but not the obligation to enter upon any Lot or property, if a potential deed restriction violation can be seen from the street, water, or golf course for the purpose of ensuring compliance with this Declaration and/or the Governing Documents and to post notices on the Lot or property of non-compliance; no advance notice to Owner or Occupant of this examination or posting is required. This right of entry excludes the right to enter any fenced areas or the house, if one exists. These rights of entry and/or self-help can be exercised by the Association or its agents without the Association or its agents incurring liability to the Owner or to the Occupant in trespass or otherwise.

#### **ARTICLE 4**

#### **ARCHITECTURAL CONTROL COMMITTEE**

##### SECTION 4.1. Approval of Building Plans.

(a) No structure or exterior elevation shall be erected, placed, or altered on any Lot until the construction plans, specifications and a plot plan showing the location of the structure or

showing the exterior elevation change, have been approved in writing by the ACC as to harmony of exterior design and color with existing structures, as to location with respect to topography

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and finished ground elevation, and as to compliance with all Governing Documents including but not limited to minimum construction standards as per Section 4.4. The construction plans, specifications and a plot plan, together with such information as may be deemed pertinent and/or necessary by the ACC shall be submitted to the ACC or its designated representative prior to commencement of construction. The ACC may require the submission of such plans, specifications, and plot plans, together with such other documents as it deems appropriate, in such form and detail as it may elect, at its entire discretion.

(b) "Harmony" shall be defined as a pleasing combination of at least two things. The phrase "in harmony" is synonymous with "in agreement," "in accord," or "in congruence," and also generally means "not in discord," or "not clashing." The Board shall have complete discretion to determine whether any modifications which are made pursuant to this section are in harmony.

SECTION 4.2. Committee Membership. The ACC shall be appointed by the Board with terms set as the Board deems necessary.

SECTION 4.3. Replacement or Removal. In the event of death, removal or resignation of any member of said ACC, the Board may appoint a successor member. The Board shall have complete discretion to remove any member of the ACC with or without cause. Until a successor member shall have been so appointed, the remaining member or members shall have full authority to approve or disapprove plans specifications and plot plans submitted. If at any time there are no members of the ACC, then the Board may act as such.

SECTION 4.4. Minimum Construction Standards. The Board may from time to time

promulgate minimum acceptable construction standards; provided, however, that such standards will serve only as a minimum guideline.

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SECTION 4.5. ACC Guidelines, Policies, Rules and Regulations.

(a) The Board may adopt architectural control guidelines, policies, requirements, rules and regulations including but not limited to Design Guidelines, Board Policies, Home Building Requirements, in order to regulate the use, maintenance, repair, replacement, modification and appearance of the Subdivision; provided that same are not in direct conflict with the terms and provisions of this Declaration. Any such guidelines, policies, requirements, rules and regulations shall have the same force and effect as this Declaration and may be modified from time to time at the sole discretion of the Board for the betterment of the Association.

(b) Legend Modification Restrictions.

Except under the circumstances mentioned below, the following policies, agreements, and letter may not be amended, supplemented or altered in any way: Front Elevation Repetition Policy; New Residence Plans Classification with Respect to Harmony with Other Structures Policy; Compliance Agreement; and Letter Agreement between a builder and ACC referencing “New Home Construction.” However, these same policies, agreements, and letter may be amended, supplemented or altered as follows:

- (1) During the period from December 14, 2013 until June 13, 2021, only by a majority vote of the Owners at an annual meeting of the Association in which a quorum is present by proxy or in person, or by agreement of the Association and Legend Classic Homes, Ltd/Legend Home Corporation (“**Legend**”); and then
- (2) At any time thereafter by the Association pursuant to the terms of the Governing Documents and this Declaration or as allowed by law.

SECTION 4.6. No Waiver of Future Approvals. The members of the ACC reviewing

applications under this Article will change from time to time. Opinions on aesthetic matters, as

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well as interpretation and application of the Governing Documents may vary accordingly. Further, it may not always be possible to identify objectionable features until work is completed. In such cases, the ACC may elect not to require changes to objectionable features. However, the ACC may refuse to approve similar proposals in the future. Approval of application or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

SECTION 4.7. Variances. Only the Board may authorize variances. All variances require the unanimous approval of the members of the Board who are present at the meeting, excluding any Trustee who may need to abstain from such vote under the Association's Conflicts Policy. Variances from compliance with this Declaration or any of the Governing Documents will be considered when the Board determines in its absolute discretion that circumstances such as topography, natural obstructions, hardship, aesthetic, environmental, or other matters justify a variance. No variance shall be effective unless in writing and filed in the Official Public Records of Real Property of Montgomery County, Texas. No variance shall prevent the Board from denying a variance in same or similar or even other circumstances.

SECTION 4.8. Limitation of Liability.

(a) This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Subdivision. Review and disapproval or approval of any application pursuant to this Article may be based purely on aesthetic considerations. The ACC is not responsible for the structural integrity or soundness of approved construction or modifications, for materials used, for compliance with building codes and other governmental requirements, or for ensuring that structures are fit for their intended purpose, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or

otherwise acceptable to other Owners. Neither the ACC nor the Board shall have any liability for approving plans that are inconsistent with the Governing Documents provided that such persons acted in good faith in approving such plans.

(b) The Association, its officers, its trustees, its employees and agents, the ACC, and any of their individual members, shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of actions, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents; (d) view preservations including views of Lake Conroe; or (e) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Association shall defend and indemnify the Board, the ACC, and the members of each to the extent allowed by law or as set forth under the By-Laws.

## **ARTICLE 5**

### **WALDEN ON LAKE CONROE**

#### **COMMUNITY IMPROVEMENT ASSOCIATION, INC.**

SECTION 5.1. Membership. Every person or entity who is an Owner of any of the Properties which are subject to maintenance charge assessments by the Association shall be a member of the Walden on Lake Conroe Community Improvement Association, Inc. The foregoing does not include persons or entities that hold an interest merely as security for the performance of an obligation or those having only an interest in the mineral estate. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of the land which is subject to assessment by the Association. Ownership of such land shall be the sole qualification for membership.

SECTION 5.2. Voting Rights. Members shall be all Owners. Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest in any Lot, all such persons shall be members. However, the vote for such Lot shall be exercised as they among themselves determine but in no event shall more than one vote be cast with respect to any Lot.

SECTION 5.3. Nonprofit Corporation. The Association is a Texas nonprofit corporation and all duties, obligations, benefits, liens, and rights in favor of the Association shall vest in said corporation.

SECTION 5.4. Inspection of Records. The members of the Association shall have the right to inspect the books and records of the Association at reasonable times during the normal business hours, under such reasonable conditions as may be set by the Board in their absolute discretion.

SECTION 5.5. Fines. The Association may levy a reasonable monetary fine against an Owner for a violation of this Declaration and/or the Governing Documents. Such fines shall constitute a lien upon the Owner's Lot and shall be collected in the same manner as the maintenance charge. The Board shall determine a fine policy.

SECTION 5.6. Entitlement to Amenities' Use. Every Owner, whether one or more persons or entities, shall be allowed to use all of the amenities provided by the Association including but not limited to yacht club, tennis courts, fitness center, boat ramps, swimming pools, parks, and any discounts provided to Members to any of the facilities operated by the Association. However, if an Owner is more than a Single-Family or a single entity, only one family or one entity may use the Walden amenities. In this instance, the Owners or entities must

designate a representative for such use. The use of the Association's amenities is subject to being suspended if:

(a) an Owner is delinquent in the payment of any assessment, fine, or any other charge set forth in this Declaration, for so long as the delinquency remains unpaid; or

(b) an Owner has an outstanding violation of the Declaration or the Governing Documents of which Owner has been sent written notice both to cure and to request Board hearing, for so long as the violation continues.

SECTION 5.7. Section Association. All of the provisions in this Article 5 shall be applicable to membership into the Section Association, if any, for the Subdivision.

## **ARTICLE 6**

### **MAINTENANCE CHARGE**

#### SECTION 6.1. Maintenance Charge.

(a) Each Lot in the Subdivision is subjected to an annual maintenance charge and assessment, for the purpose of creating a fund to be designated and known as the “**maintenance fund**”, which maintenance charge and assessment will be paid to the Association by the Owner of each Lot within the Subdivision.

(b) The maintenance charge is payable annually in advance.

(c) Every Builder Owner, person or entity who is an owner of more than one Lot, shall pay the full assessed rate on the first Lot owned and 20% of the assessed rate on all additional Lots owned (provided that there is no dwelling erected on the additional Lots). Once a dwelling is erected on any additional Lot, the Builder Owner, person or entity shall pay the full assessed rate on such Lot, whether or not such dwelling is occupied.

(d) The rate at which each Lot will be assessed will be determined annually, and may be adjusted from year to year by the Board in its complete discretion as the needs of the Subdivision may in the judgment of the Board require; provided that such assessment will be uniform.

SECTION 6.2. Creation of the Lien.

(a) Each Owner of any Lot, by acceptance of a deed to the Lot, whether or not it shall be expressed in the deed or other evidence of the conveyance, is deemed to covenant and agrees to pay the Association the maintenance charge and assessment, and agrees to pay any other sums and charges to the extent they are specifically provided for elsewhere in this Declaration.

(b) All of the following shall be a charge on the Lot and shall be secured by a continuing lien (sometimes known as the vendor's or purchase money lien) for the benefit of the Association upon the Lot against which the following assessments or charges are made: annual assessments, special assessments, maintenance charges, maintenance funds, costs of collection, late fees, fines, enforcement costs, all other charges to the extent they are specifically provided for elsewhere in this Declaration, and reasonable attorneys' fees and expenses, together with interest on each assessment or charge as the interest rate may be set by this Declaration or if not set, the maximum interest rate allowed by law.

(c) To secure the payment of the maintenance fund established and to be levied on Lots and all other assessments and charges specified in this Declaration, there shall be reserved in each deed, whether specifically stated in the deed or not, by which the Association or Builder Owner shall convey such Lots, the lien for benefit of the Association, said lien to be enforceable through appropriate proceedings in equity and/or at law by the Association.

SECTION 6.3. Purpose of Maintenance Fund.

(a) The Association shall use the proceeds of said maintenance fund for the use and benefit of the residents of this Subdivision as well as all other sections of Walden on Lake

Conroe; provided, however, that each section of Walden on Lake Conroe, to be entitled to the benefit of this maintenance fund, must be impressed with and subjected to the annual maintenance charge and assessment on a uniform per Lot basis (subject to the rates applicable to the Association and Builder Owner), equivalent to the maintenance charge and assessment imposed, and further made subject to the jurisdiction of the Association.

(b) The uses and benefits to be provided by said Association shall include by way of clarification and not limitation and at its sole option, any and all of the following: designing, constructing, maintaining and operating the yacht club, swimming pools, tennis courts, fitness centers, parks, parkways, boat ramps (both temporary and permanent), administrative offices, storage facilities, rights-of-way, easements, esplanades and other public areas and Association owned or leased buildings and improvements, payment of all legal and other expenses incurred in connection with the enforcement of all recorded charges and assessments, covenants, restrictions, and conditions affecting the Properties to which the maintenance fund applies, payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment, employing law enforcement personnel and watchmen, and doing any other thing necessary or desirable in the opinion of the Association to keep the Properties in the Subdivision neat, in good order, safe, and healthy, or which is considered of general benefit to the Owners or Occupants of the Properties, or which is necessary in the absolute discretion of the Board for the proper governance and operation of the

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Association. It is understood that the judgment of the Association in the expenditure of said funds shall be final and conclusive so long as such judgment is exercised in good faith.

SECTION 6.4. Electric Energy Charge. A monthly charge will be made upon each monthly bill to the Owner of each Lot to cover the cost of electric energy to operate the street lighting system to be installed in and upon the Subdivision as outlined in the electrical service

provider Rate Schedule RLU. Rate Schedule RLU is subject to change without notice and such monthly charge will be adjusted accordingly.

SECTION 6.5. Effect of Nonpayment of Assessments.

(a) Any assessments or charges which are not paid when due shall be delinquent.

(b) If an assessment or charge is not paid within 30 days after the due date, interest at the rate of 18% per annum from the delinquency date until paid shall accrue against and be applied to all of the following: annual assessments, special assessments, maintenance charges, maintenance funds, costs of collection, late fees, fines, enforcement costs, all other charges to the extent they are specifically provided for elsewhere in this Declaration, and reasonable attorneys' fees and expenses, together with interest on each assessment or charge as the interest rate may be set by this Declaration or if not set, the maximum interest rate allowed by law.

(c) The Association may bring an action in equity and/or at law against the Owner personally obligated to pay any assessment and charges, and/or judicially foreclose the Association's lien retained against the Lot and property.

(d) All annual assessments not paid in full within 45 days after the due date shall be subject to a late charge to be determined in the discretion of the Board, which late charge shall be added to the amount of the delinquent assessment. Such late charge may be imposed on each year's delinquent assessments.

SECTION 6.6. Subordination of Lien. The Association's lien shall be deemed subordinate to a first lien of any bona fide third-party lender including a bank and mortgage company which may lend money (originally or any renewal or refinancing of same) in good faith for the purchase of or improvement of any Lot. However, the Association's lien shall not be subordinate to any liens created for any other purpose including but not limited to home equity loans, reverse mortgage loans, and home improvement loans.

SECTION 6.7. Term. The above maintenance charge and assessment will remain effective for the full term, as extended if applicable, of this Declaration.

SECTION 6.8. Release and Personal Obligation. It is specifically agreed that where any Lot is sold to persons or entities by deed with lien and note or other security instrument, and said purchaser defaults in the contract or note payments such that said Lot is repossessed or foreclosed, then the Association will release its right to collect the past due maintenance charges, assessments and penalties on such Lots from the subsequent purchaser. However, nothing in this Declaration shall relieve the purchaser in default from whom the Lot was repossessed or foreclosed from his obligation to pay such delinquent charges, assessments and penalties to the Association. Each such assessment or charge, together with such interest, costs of collection, late fees, fines, enforcement costs, and reasonable attorneys' fees and expenses shall be and remain the personal obligation of the Owner of the particular Lot at the time the assessment or charge fell due notwithstanding any subsequent transfer of title of such property.

SECTION 6.9. Section Association Maintenance Fund. All of the provisions in this Article 6 shall be applicable to any maintenance charge assessed by the Section Association, if any. The purpose of any such Section Maintenance Fund shall include the maintenance of any amenities and unrestricted reserves located within the Subdivision.

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## **ARTICLE 7**

### **GENERAL PROVISIONS**

SECTION 7.1. Term. These covenants in this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of forty (40) years from the date this Declaration is first recorded after which time said covenants shall automatically be extended for successive periods of ten (10) years each, unless six (6) months prior to the end of either the initial forty (40) year term or any successive ten (10) year term, an

instrument signed and acknowledged by the Owners of a majority of the Lots covered by this Declaration has been recorded agreeing to terminate said covenants in whole.

SECTION 7.2. Amendment. This Declaration may be amended at any time by the affirmative vote, in person or by proxy or by written consent of Owners of not less than a majority of the Lots covered by this Declaration. Any such amendment shall become effective when the amendment as certified and acknowledged by an officer of the Association as having been properly amended under this section is filed for record in the Official Public Records of Real Property of Montgomery County, Texas. No action to challenge the validity of an amendment may be brought more than 2 years after its recordation.

SECTION 7.3. Enforcement. Upon any violation or attempt to violate any of this Declaration, it shall be lawful for the Association or any Lot Owner to prosecute any proceedings at law or in equity against the person or entity violating or attempting to violate this Declaration.

SECTION 7.4. Severability. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any of the other provisions which shall remain in full force and effect.

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SECTION 7.5. Word Use. Whenever in this Declaration the masculine gender is used, the feminine gender should also be read. Whenever in this Declaration the singular form is used, the plural form should also be read. The intent of the drafter is that where it makes more sense to insert the feminine gender of a word or the plural form of a word, then the reader should so read it as such so as to make sense out of the sentence.

SECTION 7.6. Conflicts. If there are conflicts between any of the Governing Documents and Texas law, Texas law shall control. If there are conflicts between or among any of the Governing Documents, the Articles of Incorporation or Certificate of Formation shall control over the By-Laws which then shall control over policies, rules, and regulations. If there

are conflicts between or among any of the Governing Documents and this Declaration, this Declaration shall control. If there is a conflict within this Declaration, the specific controls over the general. If there are conflicts between this Declaration and Exhibit "A," this Declaration shall control.

SECTION 7.7. No Waiver. Failure by the Association or an Owner to enforce this Declaration or the Governing Documents shall not constitute and is not a waiver.

**CERTIFICATION**

I, the undersigned, am the duly elected and acting President of WALDEN ON LAKE CONROE COMMUNITY IMPROVEMENT ASSOCIATION, INC., a non-profit corporation, and I do hereby certify:

That the within and foregoing DECLARATION OF RESTRICTIONS FOR WALDEN ON LAKE CONROE, SECTION ONE, was properly adopted as of the day of

\_\_\_\_\_, 20 , by a vote of at least a majority of the total votes allocated to property

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owners in Walden on Lake Conroe, Section One, and that the same, in addition to the any amendments thereto, do now constitute the Declaration of Restrictions of said corporation.

IN WITNESS WHEREOF, I have executed this Declaration of Restrictions to be effective as of the day of , 20 .

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)  
President, Walden on Lake Conroe  
Community Improvement Association, Inc.

THE STATE OF TEXAS § COUNTY  
OF MONTGOMERY §

This instrument was **acknowledged** before me, on the

day of

\_\_\_\_\_, 20 , by , President of the Board of Directors of Walden on Lake  
Conroe Community Improvement Association, Inc., a Texas Non- Profit Corporation.

**AFTER RECORDING. RETURN TO:**

DAUGHTRY & JORDAN, P.C.

Attention: Charles M. Jordan 17044 El Camino Real Houston, Texas 77058

281-480-6888

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS