

**THE DOMINION
HOMEOWNERS ASSOCIATION, INC.**

BUILDER AGREEMENT

Builder: _____

Owner: _____

Property: _____

Complainace Deposit: \$ _____

THE DOMINION HOMEOWNERS ASSOCIATION

BUILDER AGREEMENT

This Builder Agreement (this "**Agreement**") is made as of the Effective Date below between The Dominion Homeowner's Association, Inc., a Texas non-profit corporation (the "**Association**") and Builder, who has been engaged by the Owner to construct certain improvements on the Property. The Property is located within The Dominion Planned Unit Development of San Antonio, Bexar County, Texas (the "**Development**").

NOW THEREFORE, the Builder and the Association hereby agree as follows:

1. **Information.** Builder has provided certain information to the Association, which information is attached heretofore as Exhibit "A". Builder hereby certifies that such information is true and correct. Builder agrees to provide additional information to the Association regarding Builder as may be requested by the Association.

2. **Restrictions and Guidelines.** The Builder hereby acknowledges and agrees that the Property is subject to the terms and provisions of that certain Declaration of Covenants, Conditions, Easements and Restrictions for The Dominion Planned Unit Development, recorded in Volume 2956, Page 0061, Bexar County, Texas, and any amendments thereto, or supplements or protective covenants filed in accordance therewith (collectively, the "**Restrictions**"). The Builder, while performing any activity in the Development or on the Property, is required to comply with the Restrictions. Builder acknowledges that violation of the terms and provisions of the Restrictions by the Builder or its sub-contractors may result in fines and penalties charged against the Builder or the Owner, or may result in the Builder or sub-contractor being denied access to the Development. No construction may commence on any proposed improvements until the ACC has issued a construction permit.

3. **Form Survey Must Be Submitted Prior to Pour**

4. **Construction Rules.** The Builder acknowledges and agrees that the Builder and its sub-contractors must comply with the construction rules attached hereto as Exhibit "B" (the "**Construction Rules**"). The Builder, while performing any activity in the Development or on the Property, is required to comply with the Construction Rules. Builder acknowledges that violation of the Construction Rules by the Builder or its sub-contractors may result in fines and penalties charged against the Builder or the Owner, or may result in the Builder or sub-contractor being denied access to the Development.

5. **Compliance Deposit.** The Compliance Deposit is paid to the Association as security against violation of the Restrictions, the Construction Rules, or any damage caused to the Association's

common areas, streets, or other property in the Development. The ACC or the Association may increase the Compliance Deposit in the event the ACC or the Association determine that the amount is insufficient to secure compliance with the Restrictions or the Construction Rules, or to protect the Development from damage caused or occasioned by construction of the proposed improvements. The determination to increase the Compliance Deposit may be based on prior violations by the Builder of the Restrictions, any other rules promulgated by the Association or the ACC, the experience or lack of experience of the Builder within the Development, or the nature of the construction methods associated with the proposed improvements.

In the event the ACC or the Association determines that the Builder has violated the Restrictions, the Construction Rules, or has otherwise caused damage to the Association's common areas, streets, or other property in the Development, the ACC from time to time, and without prejudice to any other remedy, may use the Compliance Deposit to discharge any fines or penalties imposed by the Association or the ACC as a result of such violation, or repair any damage caused to the Association's common areas, streets, or other property in the Development. If the balance of the Compliance Deposit reaches \$500 or less as a result of such application, the Builder, upon request of the Association, shall immediately deposit the amount necessary to restore the original balance of the Compliance Deposit. Upon completion of the proposed improvements and a final ACC inspection, the Compliance Deposit or any balance remaining will be refunded upon request of the Builder. No interest shall be payable upon the Compliance Deposit.

The ACC will grant the final approval of the completed landscaping project before the Builder's Compliance Deposit is approved and may at that time require additional, more dense, or larger plant material in order to achieve the final desired aesthetic appearance. In all instances, the Restrictions, the Construction Rules for each neighborhood will be followed.

Landscape Standards: Aesthetic appearance of the landscape includes, but is not limited to:

- Plant material of reasonable number, size and density depending on species and location in the landscape, to ensure a finished and ample appearance. If the builder has a model home (ACC approved landscaping), all subsequent landscaping must meet or exceed those standards.
 - Ground cover: Minimum of 1 gallon, planted minimum of 15" on center.
 - Foundation planting: Foundation planting is required around the house. Minimum of 5 gallon, planted 3' apart to screen foundation.
 - Trees: Number of trees planted will vary with lot size, natural surroundings, and function (shade, accent, screen etc.). A medium size tree of 1"-2" caliper is recommended.
 - Screening: Plant material must be of sufficient quantity and size (15 gallon minimum) so as to completely screen the structure(s) at the time of planting.
 - Decorative beds: Containing a variety of species (minimum of 3) and sizes of plants, to achieve a full natural look and harmonize with the natural surroundings and structures(s).
- Proper plant material placement on the lot, taking structure placement into consideration, i.e., Structures located on corner lots are required to have full landscaping on the sides(s) of the home visible from the street. Foundation cover alone, is not adequate.

The use of drought tolerant species of all plant material is **required**. The use of deer resistant species is **highly recommended**. Live Oak and Spanish (Red) Oak trees should be avoided because of Oak Wilt disease.

6. **Insurance.** The Builder will obtain and maintain, at its sole cost and expense, general liability insurance in an amount not less than \$1,000,000.00, with an insurance company licensed to do business in Texas with a rating of at least "A-" (Excellent) by AM Best. The Association shall be added as an additional insured on such policy. The Builder will be required to procure workers compensation insurance to the extent required by applicable law. A copy of such policies or duly executed certificates of insurance shall be provided to the Association prior to the Builder commencing any work on the Property.

7. **Notices.** All notices, demands, or other communications of any type (herein collectively referred to as "**Notices**") given by the Association to the Builder or by the Builder to the Association, whether required by this Agreement or in any way related to the transactions contracted for herein, shall be void and of no effect unless given in accordance with the provisions of this Section 6. All Notices shall be in writing and delivered, either by commercial delivery service to the office of the person to whom the Notice is directed (provided that such delivery is confirmed by the commercial delivery service), or by United States Mail, postage prepaid, as a registered or certified item, return receipt requested. Notices delivered by commercial delivery service shall be deemed to have been given upon receipt at the office of the person to whom the Notice is directed and Notices delivered by mail shall be effective when deposited in a Post Office or other depository under the care or custody of the United States Postal Service, enclosed in a wrapper with proper postage affixed and addressed, as provided below. Notice may additionally be provided by facsimile transmission, and such facsimile notice shall be effective upon the sender's receipt of confirmation of delivery to the facsimile station indicated below.

The proper address for the Association is as follows:

The Dominion Homeowners Association, Inc.
20 Dominion Drive
San Antonio, Texas 78257
Fax: 210.698.1466

The proper address for the Builder is as follows:

SEE EXHIBIT A _____

Fax: _____

Any party hereto may change the address for Notices specified above by giving the other party ten days advance written Notice of such change of address.

8. **Assignment.** The rights of the Builder under this Agreement are not assignable without the prior written consent of the Association, which consent may be granted or withheld at the Association's sole discretion.

9. **Successors and Assigns.** Subject to the provisions of Section 8 of this Agreement, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10. **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY, CONSTRUED, AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND THE OBLIGATIONS OF THE PARTIES HERETO ARE AND SHALL BE PERFORMABLE IN THE COUNTY WHEREIN THE PROPERTY IS LOCATED.

11. **No Oral Modification.** This Agreement may not be supplemented, modified, or amended, except by an agreement in writing signed by both the Association and Builder. The parties may waive any of the conditions contained herein or any of the obligations of the other party hereunder, but any such waiver shall be effective only if in writing and signed by the party waiving such conditions or obligations.

12. **Time of Essence.** Time is of the essence of this Agreement.

13. **Attorneys' Fees.** In the event it becomes necessary for either party hereto to file a suit to enforce this Agreement or any provisions contained herein, the party prevailing in such action shall be entitled to recover, in addition to all other remedies or damages, reasonable attorneys' fees and court costs incurred by such prevailing party in such suit.

14. **Entire Agreement.** This Agreement, including the exhibits hereto, constitutes the entire agreement among the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection therewith. No representation, warranty, covenant, agreement, or condition not expressed in this Agreement shall be binding upon the parties hereto or shall be effective to interpret, change, or restrict the provisions of this Agreement.

15. **Partial Invalidity.** If any clause or provision of this Agreement is or should ever be held to be illegal, invalid, or unenforceable under any present or future law applicable to the terms hereof, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and that in lieu of each such clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

16. **Counterpart Execution.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of all persons required to bind any party appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

[signature page immediately follows]

EXECUTED to be effective as of the date first set forth above.

ASSOCIATION:

THE DOMINION HOMEOWNERS ASSOCIATION, a Texas corporation

By: _____

Print Name: _____

Print Title: _____

Date: _____

BUILDER: _____

Signature: _____

Print Name: _____

Date: _____

EXHIBIT A

BUILDER INFORMATION

Builder Name: _____

Builder Address: _____

Builder Office Phone: _____

Builder Cell Phone: _____

Builder Fax: _____

Location of Property: _____

Other homes within the Dominion that Builder has constructed:

Builder Website: _____

Builder References: _____

Builder Insurance Agent: _____

EXHIBIT B

CONSTRUCTION RULES

1. UNDER NO CIRCUMSTANCES SHALL ANY TREE REMOVAL OR SITE CLEARING COMMENCE PRIOR TO THE ISSUANCE OF A BUILDING PERMIT BY THE ACC UNLESS PRIOR WRITTEN APPROVAL HAS BEEN OBTAINED FROM THE ACC.
2. Due to the serious impact of oak wilt on aesthetics and property values, all live oak tree cuts (either as a result of clearing the lot or trimming) must immediately be sealed. Trees are highly valued by The Dominion. No construction debris shall be kept, stored, or placed around any tree trunk and whatever measures necessary must be taken for tree preservation.
3. All homes must be built in strict accordance with the plans approved by the ACC and in accordance with then current City of San Antonio Building Codes. Changes to the approved plans must be submitted to and approved by the ACC before proceeding.
4. Construction Hours are as follows:

Monday - Friday	7:00 a.m. - 6:30 p.m.
Saturday	8:00 a.m. - 6:00 p.m.
Sunday	NO WORK PERMITTED

No work is permitted on the following holidays:

New Years Day
Memorial Day
4th of July
Labor Day
Thanksgiving Day
Christmas Day
5. Construction activity at The Dominion is allowed on weekdays only between the hours of 7:00 a.m. and 6:30 p.m. Construction activity that does not generate excessive noise may also occur on Saturdays between 8:00 a.m. and 6:00 p.m. No construction is allowed on Sundays.
6. Each home site must have a clearly defined construction access which must not encroach on protected site features such as tree root zones, rock outcroppings, and natural damage swales. Owners and Builders must take steps to stabilize this access prior to construction to control dust, mud, and erosion.
7. The Builder agrees to make reasonable effort to control dust from the construction site. Builders should use cover materials or provide sufficient irrigation to eliminate any fugitive dust, to include an enclosed rock cutting station or use of a wet saw when cutting rock.
8. The Construction Activity Zone is the area in which all activities related to building a home must occur. No construction may take place outside of this area at any time.

9. EPA & TCEQ required runoff control features, i.e. silt fencing, must be maintained during the entire period of construction.
10. All construction personnel shall park only on paved surfaces taking care not to obstruct traffic. Enough space must be maintained on the roadways for emergency vehicle access at all times. No parking is permitted at any time on Dominion Drive. Violators will be ticketed.
11. Construction crews may not park on or otherwise use neighboring home sites or common areas unless they have written permission from the owner. All vehicles should be parked on side streets adjacent to job site.
12. No construction vehicles or equipment may be kept overnight on a lot or on any street without the express permission of the Association.
13. All construction sites shall be kept free and clear of litter and construction debris at all times.
14. Temporary construction fencing must be installed at side and rear property lines prior to the commencement of construction. An open area is permitted to allow for deliveries to the site.
15. A portable chemical toilet and construction dumpster (or alternate approved by the ACC) is required to be on site prior to framing. Both shall be as far as possible from the street and neighboring residents and the doors of the toilet shall be placed facing the lot interior. Builders are responsible for providing adequate sanitary facilities for their construction workers on each home site at all times. Portable toilets may not be shared between job sites.
16. All construction personnel shall adhere to the posted speed limits. Speed limits are 20 m.p.h. unless otherwise posted. Violators will be issued two warnings. In the event of a third violation, violators will be denied entry for a period of three months.
17. Consumption of alcoholic beverages or the use of a controlled substance by construction personnel on The Dominion property is strictly prohibited. Anyone violating this regulation shall be immediately escorted off Dominion property and barred from The Dominion for a period of six months.
18. Playing of loud music by construction personnel is strictly prohibited. The use of radios or other audio equipment must not be audible beyond the property perimeter of any home site in The Dominion. Violators will be issued two warnings. In the event of a third violation, violators will be denied entry for a period of six months. Repeated violations of this provision will result in the total prohibition of any on-site use of radios or audio equipment during construction and/or result in the construction site being shut down.
19. The possession or discharge of any type of firearm by construction personnel anywhere on The Dominion property is prohibited. Builders, sub contractors, vendors or employees thereof, and visitors to The Dominion are prohibited from the carrying of weapons, concealed or otherwise, regardless of whether the person has a license to carry a weapon, concealed or otherwise, from the State of Texas or any other authority. The Association hereby disclaims any and all liability from any harm and/or injury, personal, economic or otherwise, that may occur due to a violation of this policy.

20. All construction material shall be stored only on the lot where the house is being constructed. Use of adjacent properties for storage is prohibited without the express written approval of the property owner. A copy of such approval must be sent to the Association.
21. No dumping or burning is permitted within The Dominion. Violators will be prosecuted.
22. During excavation, filling or stockpiling of soils on a lot, care must be taken to prevent erosion or wash-off of the soil. Temporary soil retention structures may be required.
23. Concrete trucks may washout only in areas designated by the Owner/Builder within the boundaries of that lot. All concrete washout, from both trucks and portable mixers, must occur within the building envelope of the home site. Wash-out in road rights-of-way, setbacks, natural areas or on adjacent properties is strictly prohibited.
24. No one under the age of 16 years or pets shall be permitted at any construction site, except those children and/or pets of the Owner or the Owner's guests.
25. Only signs expressly approved by the ACC are permitted on any site.
26. Construction signs are limited to one sign per home site, which must conform to neighborhood standard. Builder name and telephone number only is allowed.
27. Changing of oil or discharge of any petrochemical substance is not allowed. Vehicles that leak oil must not be brought onto The Dominion property.
28. All building materials, equipment, and machinery required to construct a residence on any home site at The Dominion must be delivered to and remain within the Construction Activity Zone of each home site, clear of all property lines. Material delivery vehicles may not drive across adjacent home sites or common areas to access a construction site or drop deliveries in a roadway right- of- way without specific approval from the ACC.
29. Owners and Builders shall clean up all refuse and debris daily. A commercial dumpster must remain on site at all times during active construction for the purpose of containing waste materials or packaging. Refuse containers must be emptied on a timely basis to avoid overflow of refuse. Owner and Builders are prohibited from dumping, burying, or burning refuse or brush anywhere on the home site or in The Dominion.
30. Builders shall insure that tall grass and noxious weeds are periodically cut during constructions to maintain a good appearance and to minimize their spread through the development.
31. Dirt, mud, or debris resulting from activity or washout on each construction site must be removed daily from roadways.
32. All applicable OSHA regulations and guidelines must be observed at all times.
33. No on-site fires are allowed.

34. No pets, particularly dogs, may be brought onto the property by anyone other than the Owner. If the Owner brings a pet to the site, that animal must be properly contained within the home site.
35. The Owner and Builder will be held financially responsible for the cost of any damage, site restoration/revegetation or refuse/brush removal on any and all adjacent properties or roadway rights-of-way resulting from the trespass or negligence by their employees or subcontracted agents.