

**AGREEMENT AND PLAN OF MERGER
FOR SANGER CIRCLE AND SANGER TRAIL**

This **AGREEMENT AND PLAN OF MERGER FOR SANGER CIRCLE AND SANGER TRAIL**, is made as of _____, 2018 (the “Plan of Merger”), by and between **SANGER CIRCLE HOMEOWNERS’ ASSOCIATION, INC.**, a Texas nonprofit corporation (“Sanger Circle”), and **SANGER TRAIL HOA**, a Texas nonprofit corporation (“Sanger Trail”).

RECITALS:

WHEREAS, Sanger Circle is a Texas nonprofit corporation formed to serve as the homeowners association for the Sanger Circle subdivision (the “Circle Subdivision”) as established by the Declaration of Covenants, Conditions and Restrictions for Sanger Circle Homeowners’ Association, Inc., recorded on or about December 18, 2015, as Instrument No. 2015-144891 of the Real Property Records of Denton County, Texas (the “Circle Declaration”); and

WHEREAS, Sanger Trail is a Texas nonprofit corporation formed to serve as the homeowners association for the Sanger Trails subdivision (the “Trails Subdivision”) as established by the Declaration of Restrictions, Covenants and Conditions of Sanger Trails, recorded on or about September 21, 2004, as Instrument No. 2004-124621 of the Real Property Records of Denton County, Texas (the “Trails Declaration”); and

WHEREAS, Article Four, Paragraph 4(j) of the Articles of Incorporation of Sanger Circle Homeowners’ Association, Inc. (the “Circle Articles”) provides that Sanger Circle may participate in mergers and consolidates with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger shall have the assent of the Owners representing the requisite number of votes of voting Members in Sanger Circle as provided in the Declaration; and

WHEREAS, Article Seven, Section 7.15(c) of the Circle Declaration provides that, in the event any person or entity other than the Declarant desires to add or annex additional residential and/or common areas to the scheme of the Circle Declaration, such annexation proposed must have prior written consent and approval of the majority of the outstanding votes within each voting class of Sanger Circle; and

WHEREAS, Section 10.001(a) of the Texas Business Organizations Code authorizes a domestic entity to effect a merger by complying with the applicable provisions of the Texas Business Organizations Code; and

WHEREAS, the respective members of Sanger Circle and Sanger Trail have each determined that it is in the best interest of their respective nonprofit corporations to combine their respective corporations and membership and merge with each other, with only Sanger Circle emerging as the surviving entity from the merger; and

WHEREAS, the respective members of Sanger Circle and Sanger Trail have each determined that it is in the best interest of their respective subdivisions to consolidate their respective deed restrictions such that the two subdivisions will be governed by one instrument to be entitled “Consolidated and Amended Declaration of Covenants, Conditions and Restrictions for Sanger Circle” to be recorded in the Real Property Records of Denton County, Texas (the “Consolidated Declaration”); and

WHEREAS, in furtherance of such combination, the members of Sanger Circle and Sanger Trail have each adopted this Plan of Merger and approved the merger (the “Merger”) of Sanger Trail into Sanger Circle and the consolidation of the Circle Declaration and the Trails Declaration (the “Consolidation”) in accordance under the terms and conditions set forth herein and in accordance with the Texas Business Organizations Code.

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Merger of Corporations and Consolidation of Restrictions.
 - a. Upon the terms and subject to the conditions set forth in this Plan of Merger, at the Effective Date (as defined below), Sanger Trail shall be merged with and into Sanger Circle whereupon the separate existence of Sanger Trail will cease and Sanger Circle shall be the surviving corporation in the merger (the “Surviving Corporation”).
 - b. Upon the terms and subject to the conditions set forth in the Plan of Merger, at the Effective Date (as determined below) the Trails Declaration and the Circle Declaration shall be consolidated and combined under the Consolidated Declaration.
 - c. As soon as practicable after satisfaction or waiver of the conditions to obligations of the parties to consummate the Merger, Sanger Circle and Sanger Trail will file a certificate of merger (the “Certificate of Merger”) with the Secretary of State for the State of Texas and make all other filings or recordings required by applicable law in connection with the Merger and Consolidation.
 - d. The Merger shall be effective at the later of such time as (i) the Certificate of Merger is duly filed with the Secretary of State, or (ii) the Consolidated Declaration is duly recorded in the Real Property Records of Denton County, Texas (the “Effective Date”). It is contemplated that the Effective Date will be on or about February 7, 2018.
 - e. From and after the Effective Date, title to all real estate and other property owned by, and all rights, powers and interests of Sanger Trail shall be vested in the Surviving Corporation and the Surviving Corporation shall have all rights, obligations and liabilities of Sanger Trail, including, without limitation, all rights under the Consolidated Declaration.

2. Surviving Corporation.

- a. The Certificate of Formation of the Surviving Corporation in effect at the Effective Date shall be the Certificate of Formation of the Surviving Corporation until amended in accordance with applicable law.
- b. Prior to the Effective Date, the officers and directors of the respective parties shall continue to serve in their respective capacities. On or prior to February 7, 2018, the members of Sanger Circle and Sanger Trail shall elect the officers and directors of the Surviving Corporation, in accordance with the dedicatory instruments for Sanger Circle, to begin service as of the Effective Date.
- c. As of the Effective Date, all the active members of Sanger Circle and all the active members of Sanger Trail shall become members of the Surviving Corporation by virtue of the Merger and without any action on the part of the member thereof.

3. Representations and Warranties.

- a. Sanger Trail represents and warrants to Sanger Circle that:
 - i. Sanger Trail is duly organized, validly existing and in good standing under the laws of the State of Texas.
 - ii. Sanger Trail has made available to Sanger Circle complete and correct copies of its Articles of Incorporation, Bylaws and the Trails Declaration, and any other dedicatory instruments of Sanger Trail.
 - iii. Sanger Trail has made available to Sanger Circle copies of its financial statements for the years 2013-date (the "Sanger Trail Financial Statements").
 - iv. Since the date of the last financial statement provided to Sanger Circle, Sanger Trail has conducted its operations in the ordinary course and there has not been any change in the financial condition, properties, or results of operations of Sanger Trail except those changes that, individually or in the aggregate, have not had and are not reasonably likely to have a material adverse effect on it.
 - v. Except as disclosed in the Sanger Trail Financial Statements, there are no (A) criminal, civil or administrative actions, suits, claims, hearings, investigations or proceedings pending, or, to the knowledge of Sanger Trail's officers and directors (the "Sanger Trail Officers and Directors"), threatened against it, or (B) obligations or liabilities, whether or not accrued, contingent or otherwise, or any other facts or circumstances known to the Sanger Trail Officers and Directors that would reasonably be expected to result in any adverse claims against Sanger Trail.

- b. Sanger Circle represents and warrants to Sanger Trail that:
 - i. Sanger Circle is duly organized, validly existing and in good standing under the laws of the State of Texas.
 - ii. Sanger Circle has made available to Sanger Trail complete and correct copies of its Certificate of Formation, Bylaws and the Circle Declaration, and any other dedicatory instruments of Sanger Circle.
 - iii. Sanger Circle has made available to Sanger Trail copies of its financial statements for the years 2013-date (the “Sanger Circle Financial Statements”).
 - iv. Since the date of the last financial statement provided to Sanger Trail, Sanger Circle has conducted its operations in the ordinary course and there has not been any change in the financial condition, properties, or results of operations of Sanger Circle except those changes that, individually or in the aggregate, have not had and are not reasonably likely to have a material adverse effect on it.
 - v. Except as disclosed in the Sanger Circle Financial Statements, there are no (A) criminal, civil or administrative actions, suits, claims, hearings, investigations or proceedings pending, or, to the knowledge of Sanger Circle’s officers and directors (the “Sanger Circle Officers and Directors”), threatened against it, or (B) obligations or liabilities, whether or not accrued, contingent or otherwise, or any other facts or circumstances known to the Sanger Circle Officers and Directors that would reasonably be expected to result in any adverse claims against Sanger Circle.

4. Covenants.

- a. Sanger Trail covenants and agrees after the date hereof and until the Effective Date:
 - i. The business of Sanger Trail shall be conducted in the ordinary and usual course.
 - ii. Sanger Trail shall not enter into any new contracts or commitments that will extend beyond the Effective Date without the consent of Sanger Circle.
 - iii. Sanger Trail and its directors and officers shall use their best efforts to take any and all other actions necessary to consummate the Merger and Consolidation contemplated herein.
 - iv. All costs and expenses incurred by a party in connection with this Plan of Merger shall be paid by the party incurring the expense.
- b. Sanger Circle covenants and agrees after the date hereof and until the Effective Date:
 - i. The business of Sanger Circle shall be conducted in the ordinary and usual course.

- ii. Sanger Circle shall not enter into any new contracts or commitments that will extend beyond the Effective Date without the consent of Sanger Trail.
- iii. Sanger Circle and its directors and officers shall use their best efforts to take any and all other actions necessary to consummate the merger contemplated herein.
- iv. All costs and expenses incurred by a party in connection with this Plan of Merger shall be paid by the party incurring the expense.

5. Conversion of Membership Interests.

Each Owner of a Lot in Sanger Trail (as defined by the Trail Declaration) shall become a member of Sanger Circle upon the Effective Date. Each member shall be entitled to one vote or membership interest for each Lot owned by such member in the Surviving Corporation. In total, there shall be 296 membership interests in the Surviving Corporation as of close of business on January 17, 2018. All parties are aware that the number of membership interests will continue to change as more phase are added by the Declarant.

6. The Class "B" Member.

Pursuant to Article Three, Section 3.2 of the Circle Declaration, Sanger Circle has two classes of membership, with the Class "B" Member being the Declarant under the Circle Declaration, Sanger Circle Property, LP, a Texas limited partnership. Following the Effective Date, such Class "B" Membership shall continue under the Surviving Corporation, pursuant to the terms and conditions of the Consolidated Declaration.

7. Grandfathering.

With respect to improvements constructed on Lots in the Circle Subdivision and the Trails Subdivision prior to the adoption and recordation of the Consolidated Declaration, those improvements currently in compliance with the Circle Declaration or the Trails Declaration, as applicable to such Lot, shall be deemed to be in compliance under the Consolidated Declaration. All improvements constructed or modified after the adoption and recordation of the Consolidated Declaration must comply with all terms contained in the Consolidated Declaration.

8. Assessments.

The obligation to pay regular annual Assessments provided for in the Trails Declaration commenced as to the Lots originally subject to the Trails Declaration no earlier than September 21, 2004. The obligation to pay regular annual Assessments provided for in the Circle Declaration commenced as to the Lots originally subject to the Circle Declaration no earlier than July 1, 2014. Each Owner of any Lot in the Surviving Corporation shall pay to the Association: (i) annual assessments or charges; and (ii) special assessments for capital improvements following the adoption and recordation of the Consolidated Declaration. Any amounts owed to Sanger Trails by any Owner shall transfer to the Surviving Corporation, with the Surviving Corporation having full

right to pursue such delinquency. All assessments levied by the Surviving Corporation following the Effective Date will be levied and collected in accordance with the Consolidated Declaration.

9. Bank Accounts and Other Property of Sanger Trail.

Upon the Effective Date, Sanger Trail shall transfer to Sanger Circle all bank accounts, including checking accounts, savings accounts, and CDs, and accounts receivable, as well as any real or personal property owned by Sanger Trail.

10. Enforcement.

From and after the Effective Date, the Surviving Corporation shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges imposed by the provisions of the Consolidated Declaration, as well as the Bylaws, and Certificate of Formation of the Surviving Corporation.

11. Termination.

This Plan of Merger may be terminated and the Merger and Consolidation abandoned any time before the approval of the Plan of Merger and of the Consolidation by the respective members of both Sanger Trail and Sanger Circle.

12. Amendments.

This Plan of Merger may be amended with the approval of the membership of Sanger Trail and of the membership of Sanger Circle at any time.

13. Extension; Waiver.

At any time prior to the Effective Date, the board of directors of either Sanger Trail or Sanger Circle may (a) extend the time for the performance of any of the obligations or other acts of the other party hereto, (b) waive any inaccuracies in the representations and warranties of the other party contained herein or in any document or instrument delivered pursuant hereto, and (c) waive compliance by the other party with any of the agreements or conditions contained herein. Any such extension or waiver by a party shall be valid only if set forth in writing and delivered on behalf of such party.

IN WITNESS WHEREOF, the parties hereto, pursuant to the authority given them by their respective members, have caused this Plan of Merger to be signed by their respective authorized officers as of the day and year first above written.

SANGER CIRCLE HOMEOWNERS' ASSOCIATION, INC.,
a Texas nonprofit corporation

By: _____
Name: _____
Its: _____

SANGER TRAIL HOA,
a Texas nonprofit corporation

By: _____
Name: _____
Its: _____